

### 1.1.4 OSC Staff Notice 51-711 - Refilings and Corrections of Errors

#### OSC STAFF NOTICE 51-711 (amended May 2005)

#### REFILINGS AND CORRECTIONS OF ERRORS

*This is an amended version of Staff Notice 51-709, Refilings And Corrections of Errors as a Result of Regulatory Reviews, which has now been withdrawn.*

This staff notice discusses our expectations for disclosure by issuers that have failed to comply with periodic and timely disclosure requirements, including issuers that identify errors in documents that they have filed with the Commission. It also describes how we maintain a public list of refilings and errors.

#### Company Disclosure

When an issuer, to correct an error in how it has complied with disclosure requirements

- (i) amends and refiles a document previously filed with the Commission,
- (ii) files a document that should have been filed at an earlier date, or
- (iii) implements an accounting or disclosure change on a retroactive basis in order to correct an error in a previously filed document

it is our view that these are significant events that should be clearly and broadly disclosed to the market in a timely manner. This responsibility is the same whether the correction is made in the context of a staff review or at any other time.

Specifically, when an issuer identifies a material error in a document that it has filed with the Commission, this will generally represent a material change that should be immediately communicated to the market place by way of a news release and report of the material change in accordance with section 75 of the Act. Even where the correction may not represent a material change, we take the view that investors should be informed immediately by way of a news release.

In our view, it is not appropriate to withhold disclosure of the error until the next required filing or the next earnings press release, even if the issuer requires more time to investigate and quantify all aspects of the error.

From the time the issuer identifies a material error until it is remedied, the issuer will generally be in default of its requirements under the Act and regulations. Under the guidance contained in OSC Policy 51-601, *Reporting Issuer Defaults*, such an issuer will be recorded on the list of defaulting reporting issuers until the default is remedied. OSC Policy 57-603 *Defaults by Reporting Issuers in*

*Complying with Financial Statement Filing Requirements* sets out our expectations for disclosure by the issuer during the period of the default.

All news releases should be released in a way that ensures they are widely and publicly disseminated, and copies should be concurrently provided to the Commission. Any documents that are amended and refiled should be clearly labeled as "revised" or "restated", should identify and describe the nature of the revisions and should be filed under the applicable "amended" document type on SEDAR.

Also, in our view, the news release and the refiled document should be made prominent in the section of the Company's website where financial results are available, and a copy of the news release and the refiled document should be delivered to all shareholders who received a copy of the original document.

Any documents that are being filed for the first time to correct a non-filing at an earlier date should clearly label the document as remedying a previous non-filing and should describe the circumstances surrounding the late filing of the document.

#### Public List on OSC Website

On October 25, 2002, we started posting a [Refilings and Errors list](#) on the Commission's Web site (<http://www.osc.gov.on.ca>). This list includes issuers that, after a staff review,

- (1) restate and refile financial statements;
- (2) implement accounting or disclosure changes on a retroactive basis, where the changes represent the correction of an error in the information as originally filed;
- (3) amend and refile other continuous disclosure documents; or
- (4) file documents to correct a non-filing at an earlier date.

Any deficiency in an issuer's disclosure record that is identified during a staff review and that leads to one of these events will result in that issuer being placed on the [Refilings and Errors list](#). In this regard, it makes no difference whether (i) the deficiency was identified by staff or by the issuer and its advisors during the review process, or (ii) the Commission ordered the filing or refile or the issuer took this step voluntarily. A staff review is considered to begin when an issuer receives a comment letter from staff and ends when the issuer is notified that staff has completed its review.

Once placed on the [Refilings and Errors list](#), an issuer's name will be kept on the list for a period of three years from the date of refile or filing to correct an error. After the three-year period, the issuer's name will be archived.

Questions or comments concerning this notice should be provided to:

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May 27, 2005