

1.1.2 CSA Notice 51-322 Reporting Issuer Defaults

CANADIAN SECURITIES ADMINISTRATORS NOTICE 51-322 REPORTING ISSUER DEFAULTS

Purpose of notice

The Canadian securities regulatory authorities have developed a harmonized list of deficiencies that will generally result in a reporting issuer being noted in default of the securities laws of a particular jurisdiction. This notice describes those deficiencies.

Categories of default

The circumstances under which the securities regulatory authorities will consider a reporting issuer to be in default are:

1. The reporting issuer has failed to file the following continuous disclosure prescribed by securities laws:
 - (a) annual financial statements;
 - (b) interim financial statements;
 - (c) annual or interim management's discussion and analysis (MD&A) or annual or interim management report of fund performance (MRFP);
 - (d) annual information form (AIF);
 - (e) certification of annual or interim filings under Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (MI 52-109);
 - (f) proxy materials or a required information circular;
 - (g) issuer profile supplement on the System for Electronic Disclosure By Insiders (SEDI);
 - (h) material change report;
 - (i) written update after filing a confidential report of a material change;
 - (j) business acquisition report;
 - (k) annual oil and gas disclosure prescribed by National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities* (NI 51-101) or technical reports for a mineral project required under National Instrument 43-101 *Standards of Disclosure for Mineral Projects* (NI 43-101);
 - (l) mandatory news release;
 - (m) corporate governance disclosure as required by National Instrument 58-101 *Disclosure of Corporate Governance Practices*;
 - (n) audit committee disclosure as required by Multilateral Instrument 52-110 *Audit Committees* or BC Instrument 52-509 *Audit Committees*; or
 - (o) disclosure in an issuer's MD&A relating to disclosure controls and procedures and their effectiveness that is referred to in a certificate filed under MI 52-109.
2. The reporting issuer's continuous disclosure is deficient because:
 - (a) the financial statements of the reporting issuer, or the auditor's report accompanying the financial statements, do not comply with the requirements of National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102), National Instrument 81-106 *Investment Fund Continuous Disclosure* (NI 81-106) or National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency*;
 - (b) the reporting issuer has acknowledged that its financial statements, or the auditor's report accompanying the financial statements, may no longer be relied upon;

- (c) the reporting issuer's AIF, MD&A, MRFP, information circular or business acquisition reports do not contain information for each of the content items required by NI 51-102 or NI 81-106; or
 - (d) the reporting issuer's technical disclosure or other reports do not comply with the disclosure requirements of NI 43-101 or NI 51-101.
3. The reporting issuer has failed to pay a fee required by securities laws.
4. The reporting issuer has failed to comply with any other requirement related to continuous disclosure.

Lists of defaulting reporting issuers

Certain securities regulatory authorities maintain lists that identify those reporting issuers that have been noted in default in the relevant jurisdiction. The lists identify the name of the reporting issuer, and the nature and description of the default. The lists, together with the harmonized categories of default and nomenclature used to identify each category, can be found on the following websites:

www.bcsc.bc.ca
www.albertasecurities.com
www.sfsc.gov.sk.ca
www.msc.gov.mb.ca
www.osc.gov.on.ca
www.lautorite.qc.ca
www.nbsc-cvmnb.ca
www.gov.ns.ca/hssc

Certain securities regulatory authorities have also published policies or notices containing information relating to defaults by reporting issuers. These local policies or notices are:

Alberta:	Alberta Securities Commission Policy 51-601 – <i>Reporting Issuers List</i>
Saskatchewan:	Saskatchewan Policy Statement 51-601 – <i>Reporting Issuers in Default</i>
Manitoba:	Manitoba Securities Commission Local Policy 51-601 – <i>Reporting Issuers List</i>
Ontario:	Ontario Securities Commission Policy 51-601 – <i>Reporting Issuer Defaults</i>
Quebec:	AMF Notice on Reporting Issuer Defaults
New Brunswick:	New Brunswick Securities Commission Policy 51-601 – <i>Reporting Issuers List</i>

Questions

Please refer your questions to any of the following individuals:

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