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**BY E-MAIL AND REGULAR MAIL**

November 4, 2002  
File No.: 014308 0000

Peter Brady, Esq.  
Chair of Continuous Disclosure  
Harmonization Committee  
British Columbia Securities Commission  
PO Box 10142, Pacific Centre  
701 West Georgia Street  
Vancouver, BC V7Y 1L2

- and -

Denise Brosseau, Secretary  
Commission des valeurs mobilières du Québec  
Stock Exchange Tower, PO Box 246  
800 Victoria Square, 22nd Floor  
Montreal, Québec H4Z 1G3

Dear Sirs:

**Re: Proposed National Instrument 51-102**

We are writing, on behalf of ADP Investor Communications, to supplement our October 15, 2002 response to the request for comments by the Canadian Securities Administrators in respect of Proposed National Instrument 51-102. We apologize for the delay in submitting this supplementary response.

The purpose of this letter is to raise a technical concern as to the interaction of Proposed National Instrument 51-102, National Instrument 54-101 and corporate law requirements. Simply put, our concern is that the provision in Proposed National Instrument 51-102 which would eliminate mandatory delivery of financial statements to securityholders, other than those that request them, runs contrary to the underlying premise of National Instrument 54-101 and might lead to the differential treatment of registered and beneficial securityholders.

As you are aware, the obligation to deliver financial statements under the *Canada Business Corporations Act* (for example) is only to registered shareholders. Accordingly, if the Canadian Securities Administrators dispense with the requirement to deliver financial statements to securityholders as a matter of securities law, there may be no obligation to deliver such materials to beneficial owners.

National Instrument 54-101 obliges reporting issuers to send “proxy-related materials” to beneficial owners. “Proxy-related materials” are defined as “securityholder material relating to a meeting that the reporting issuer is required under corporate law or securities legislation to send to the registered holders of the securities”.

Subsection 159(1) of the *Canada Business Corporations Act* (the requirement for delivering financial statements) says in part,

“A corporation shall ... send a copy of the documents referred to in Section 155 (i.e., the annual financial statements) to each shareholder, except to a shareholder who has informed the corporation in writing that he or she does not want a copy of those documents.”

Presumably, then, financial statements are “proxy-related materials” except to the extent that Proposed National Instrument 51-102 determines otherwise. At the least, there appears to be an inconsistency which should be rectified. At a more fundamental level, there appear to be conflicting policy objectives (potential cost-savings for issuers versus the desire to treat beneficial owners on the same basis as registered holders to the extent possible) which should be reconciled. Needless to say, reporting issuers may have a view on a policy initiative which would revert to a bifurcated universe of distinguishing beneficial and registered owners.

To the extent the Canadian Securities Administrators have considered these technical and policy concerns, the notice of request for comments does not explicitly address them.

Sincerely,

Edward J. Waitzer

EJW:ln

cc: S. Britton  
A. Cornford