



# Securities Transfer Association of Canada

**Richard M. Barnowski**  
Secretary-Treasurer

March 3, 2006

British Columbia Securities Commission  
Alberta Securities Commission  
Saskatchewan Financial Services Commission – Securities Division  
Manitoba Securities Commission  
Ontario Securities Commission  
Autorité des marchés financiers  
New Brunswick Securities Commission  
Registrar of Securities, Prince Edward Island  
Nova Scotia Securities Commission  
Newfoundland and Labrador Securities Commission  
Registrar of Securities, Northwest Territories  
Registrar of Securities, Yukon Territory  
Registrar of Securities, Nunavut

c/o Rosann Youck  
Chair of the Continuous Disclosure  
Harmonization Committee  
British Columbia Securities Commission  
PO Box 10142, Pacific Centre  
701 West Georgia Street  
Vancouver, British Columbia  
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Anne-Marie Beaudoin, Secretary  
Autorité des marchés financiers  
Stock Exchange Tower  
800 Victoria Square  
P.O. Box 246, 22<sup>nd</sup> Floor  
Montréal, Québec  
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Dear Ms. Youck:

**Re: Notice of Proposed Amendments to National Instrument 51-102 Continuous Disclosure Obligations**

This letter is submitted in response to the request for comments issued on December 9, 2005 by the Canadian Securities Administrators (“CSA”) in respect of proposed amendments to National Instrument 51-102 Continuous Disclosure Obligations. This submission is provided to you by the Securities Transfer Association of Canada (“STAC”).

The members of STAC provide security transfer and related services to Canadian publicly traded issuers. Our services include both the offering of financial statement mailing to securityholders

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and securityholder meeting services such as proxy mailing, tabulation and scrutineering for several thousand such meetings annually.

We have two specific comments on the proposed amendments.

## **1. Request form**

The CSA specifically requested comment on the proposal to remove the requirement for issuers to deliver an annual request form.

STAC agrees that the CSA should remove the requirement and is of the view that no alternative approach needs to be proposed to replace it. Accordingly, STAC recommends that amendments as drafted be implemented.

The request form approach, with its negative solicitation, created concerns for most issuers as their incorporating statutes generally contained a positive solicitation requirement on annual financial statement delivery for their registered shareholders. While the negative solicitation was the most cost-effective and practical approach, it did require many issuers to create, mail and track two separate request forms – one for their beneficial owners and one for their registered shareholders.

For cost control reasons, many issuers would deliver the request form to their securityholders with their annual meeting materials. Accordingly, for the 1% - 2% that would respond requesting receipt of the issuer's annual financial statements, delivery would pertain to the annual financial statements being mailed the following year. Issuers were required to incur the expense of maintaining this mailing list for a year and delivering the required financial statements, even to holders who may have ceased to be a shareholder in the interim. Additionally, new holders of the same security would have not been provided with an opportunity to request the issuer's annual financial statements.

STAC believes that alternatives are currently available to both registered securityholders and beneficial owners who wish to obtain copies of an issuer's financial statements. For those with Internet access, the copies filed on SEDAR are readily accessible. For beneficial owners, copies can also be obtained on request through their financial intermediary or directly by contacting the issuer. Registered securityholders, as noted previously, will generally receive copies of an issuer's annual financial statements in compliance with incorporating statutes. Copies can also be obtained on request by contacting either the issuer or its transfer agent.

## **2. Delivery of financial statements**

Comment was specifically requested by the CSA on the proposed change that would mandate the same '10 days after filing' deadline for financial statement delivery regardless if an issuer is sending the statements to all its securityholders or on request.

STAC believes that the proposed amendment removes the ambiguity in interpretation that was permitted under section 4.6. We understand that the CSA believes that prompt access to paper

copies of financial statements once they are filed is important and that access should not be affected by the issuer relying on an exemption. However, we would urge the CSA to reconsider the delivery timing of 10 days after the filing deadline – especially as it pertains to annual financial statements.

Compliance with incorporating statutes generally requires issuers to deliver copies of their annual financial statements to all of their registered securityholders, not just those few that have requested copies. Given the volumes required and printer and mailhouse capacity limits, 10 days after filing is not sufficient time to print, bind, ship to the mailing agent, enclose and mail – especially for the substantial number of issuers with December 31 year ends. Many of these issuers have significant numbers (in the hundreds of thousands) of registered holders to whom delivery of the material is required.

This short timeframe may also create logistical problems for issuers in securing locations for their AGMs. For cost-conscious issuers, delivery of their annual financial statements together with their proxy materials to their registered securityholders is the preferred option. This has the impact, however, of shortening the timing within which they can schedule their AGM and comply with National Instrument 54-101 and their incorporating statutes. As there is a finite number of meeting locations that can handle large meeting numbers, issuers could face difficulties in obtaining appropriate meeting space.

Given the alternative avenues that securityholders have to obtain copies of an issuer's financial statements after their filing, STAC recommends that the delivery timing in the amendments be extended to 30 days after filing.

Thank you for your consideration of these comments. We trust that the foregoing is of assistance to the CSA and should you require further assistance or clarification, we invite you to contact us.

Yours truly

**SECURITIES TRANSFER ASSOCIATION OF CANADA**

Per:

A handwritten signature in black ink, appearing to be a stylized 'S' or similar character.

Cc: STAC members