

CSA Staff Notice 42-303

Prospectus Requirements

Introduction

This Notice provides guidance to issuers filing a prospectus on or after March 30, 2004. Issuers may apply for relief from certain requirements of the prospectus rules provided they comply with the corresponding requirement in National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102) and National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency* (NI 52-107). The prospectus rules include National Instrument 44-101 *Short Form Prospectus Distributions* (NI 44-101), National Instrument 44-102 *Shelf Distributions*, National Instrument 44-103 *Post-Receipt Pricing*, and the local long form prospectus requirements of each jurisdiction.

Background

The CSA published advance notice of the adoption of NI 51-102 and NI 52-107, collectively “the Instruments”, on December 19, 2003 and January 16, 2004, respectively. The Instruments are expected to come into force on March 30, 2004.

The Instruments and the prospectus rules include certain similar requirements. For example, NI 51-102 requires an issuer to file a business acquisition report that contains historical financial statements of an acquired business if that business is significant based on the tests set out in NI 51-102. The financial statements to be filed depend on the level of significance. The prospectus rules also require an issuer to include financial statements of a significant acquisition but the levels of significance and the corresponding number of years of financial statements to be provided differ from those required under NI 51-102. Similarly, NI 52-107 provides more options for acceptable accounting principles and auditing standards for certain issuers than do the prospectus rules.

CSA staff believe that, in some circumstances, an issuer preparing a prospectus should be permitted to rely on the level of disclosure that it has provided to satisfy its continuous disclosure obligations. In some instances, such as an initial public offering or an offering under the Multijurisdictional Disclosure System (MJDS), more disclosure in a prospectus, including additional years of financial statements, may be warranted. We have published proposed amendments to NI 44-101 to make it consistent with NI 52-107. We are contemplating making additional conforming amendments to the prospectus rules to make them, among other things, consistent with NI 51-102, focussing initially on NI 44-101.

Obtaining Relief from the Prospectus Requirements

Issuers who intend to file a prospectus on or after March 30, 2004 may submit an application to the provincial and territorial securities regulatory authorities requesting relief from certain requirements of the prospectus rules that are not consistent with NI 51-102 or NI 52-107. CSA staff is generally prepared to recommend that the relief be granted if an issuer requests relief from the following prospectus requirements:

- The provisions relating to generally accepted accounting principles, generally accepted auditing standards and foreign auditors' reports on the condition that the issuer complies with NI 52-107;

- The significance tests for determining if a business acquisition is significant and the financial statements required to be included in a prospectus, on the condition that the issuer applies the significance tests set out in Section 8.3 of NI 51-102 and provides the financial statements specified in Section 8.5 of NI 51-102.

For the two requirements set out above, an issuer may submit a waiver application concurrently with filing a prospectus. With respect to all other requests for relief from the prospectus rules, issuers are encouraged to submit applications in advance of filing a preliminary prospectus. Please refer to Part 9 of National Policy 43-201 for guidance on submitting pre-filing and waiver applications under the Mutual Reliance Review System (MRRS).

Questions

Please refer your questions to any of the following people:

Kathy Tang
Securities Analyst, Corporate Finance
British Columbia Securities Commission
(604) 899-6711 or (800) 373-6393 (if calling from B.C. or Alberta)
ktang@bcsc.bc.ca

Michael Moretto
Associate Chief Accountant, Corporate Finance
British Columbia Securities Commission
(604) 899-6767 or (800) 373-6393 (if calling from B.C. or Alberta)
mmoretto@bcsc.bc.ca

Charlotte Howdle
Securities Analyst
Alberta Securities Commission
(403) 297-2990
charlotte.howdle@seccom.ab.ca

Jennifer Wong
Securities Analyst
Alberta Securities Commission
(403) 297-3617
jennifer.wong@seccom.ab.ca

Ian McIntosh
Deputy Director, Corporate Finance
Saskatchewan Financial Services Commission – Securities Division
(306) 787-5867
imcintosh@sfsc.gov.sk.ca

Bob Bouchard
Director, Corporate Finance
Manitoba Securities Commission
(204) 945-2555
bbouchard@gov.mb.ca

Sonny Randhawa
Accountant, Corporate Finance
Ontario Securities Commission
(416) 593-2380
srandhawa@osc.gov.on.ca

Marcel Tillie
Senior Accountant, Corporate Finance
Ontario Securities Commission
(416) 593-8078
mtillie@osc.gov.on.ca

Rosetta Gagliardi
Conseillère en réglementation
Autorité des marchés financiers
(514) 940-2199 ext. 2405
rosetta.gagliardi@lautorite.qc.ca

Eric Boutin
Analyste
Autorité des marchés financiers
(514) 940-2199 ext. 4447
eric.boutin@lautorite.qc.ca

Bill Slattery
Deputy Director, Corporate Finance and Administration
Nova Scotia Securities Commission
(902) 424-7355
slattejw@gov.ns.ca

March 12, 2004