



THE MANITOBA
SECURITIES
COMMISSION

MSC Notice 2008-23

Notice of Rule and Publication for Comment

Proposed Local Rule 41-502 *Prospectus Delivery Requirements* (MSC Rule 2008-11)

On Wednesday, June 18, The Manitoba Securities Commission (“MSC”) made as a rule Local Rule 41-502 *Prospectus Delivery Requirements* (MSC Rule 2008-11) under subsection 2(d) of the *Rule Making Procedure Regulation*, Man. Reg. 246/97, which allows the Commission to make a rule without complying with the normal publication requirements of section 1 where the Commission considers that it is in the public interest to enact the rule without delay because

- (i) there is an urgent need for the rule, and
- (ii) without the rule being made, there is a substantial risk of material harm to investors or to the integrity of the capital markets.

Concurrently with giving notice that the rule has been made, the Commission is requesting comments on proposed Local Rule 41-502, with the intention of making it a permanent rule.

We welcome your comments on the proposed rule. Please submit your comments in writing on or before August 18, 2008. If you are not sending your comments by email, please include a diskette containing the submissions (in Windows format, Word). Comments can be forwarded to:

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The Manitoba Securities Commission
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Any comments received will not be held as confidential, and may be published by the Commission.

June 18, 2008

THE MANITOBA SECURITIES COMMISSION
MSC Rule No. 2008-11

(Section 149.1, *The Securities Act*)

LOCAL RULE 41-502
PROSPECTUS DELIVERY REQUIREMENT

PART 1 – PROSPECTUS DELIVERY REQUIREMENT

Obligation to deliver prospectus

1.1 A person or company that

- (a) receives an order or subscription for a security that is offered in the course of a primary distribution to the public and to which section 37 of the Act applies;
- (b) is not acting as agent of the purchaser; and
- (c) has not previously sent to the purchaser the prospectus or amended prospectus for the security, whichever is the last required to be filed with the commission;

must send the prospectus or amended prospectus to the purchaser not later than midnight on the second day, excluding Saturdays and holidays, after entering into an agreement of purchase and sale respecting the order or subscription. The prospectus or amended prospectus must be sent by prepaid mail or delivery.

Withdrawal from purchase

1.2 An agreement of purchase and sale referred to in section 1.1 is not binding upon the purchaser if the person or company from whom the purchaser purchased the security receives written or telegraphic notice evidencing the intention of the purchaser not to be bound by the agreement of purchase and sale not later than midnight on the second day, exclusive of Saturdays and holidays, after receipt by the purchaser of the prospectus or amended prospectus, whichever is the last required to be filed with the commission, and in respect of which the director has issued a receipt.

Where section 1.2 does not apply

1.3 Section 1.2 does not apply if the purchaser is a registrant or if the purchaser sells or otherwise transfers beneficial ownership of the security referred to in section 1.2, otherwise than to secure indebtedness, before the expiration of the time referred to in section 1.2.

Time of receipt

1.4 For the purpose of this section, where a prospectus or amended prospectus is sent by prepaid mail, the prospectus or amended prospectus shall be deemed conclusively to be received in the ordinary course of mail by the person or company to whom it was addressed.

Receipt of prospectus by agent

1.5 The receipt of a prospectus or amended prospectus by a person or company acting as agent of or who thereafter commencing to act as agent of the purchaser with respect to the purchase of a security referred to in section 1.1 shall, for the purpose of this section, be receipt by the purchaser as of the date on which the agent received the prospectus or amended prospectus.

Receipt of notice by agent

1.6 The receipt of the notice referred to in section 1.2 by a person or company that acted as agent of the vendor with respect to the sale of a security referred to in section 1.1 shall, for the purpose of this section, be receipt by the vendor as of the date on which the agent received the notice.

Where person or company acting as agent

1.7 For the purpose of this section, a person or company shall not be considered to be acting as agent of the purchaser unless the person or company is acting solely as the agent of the purchaser with respect to the purchase and sale in question and has not received, and has no agreement to receive, compensation from or on behalf of the vendor with respect to the purchase and sale.

Onus of proof

1.8 The onus of proving that the time for giving notice under section 1.2 has expired is upon the person or company from whom the purchaser agreed to purchase the security.

Prospectus to contain statement of rights

1.9 Every prospectus shall contain a statement of the rights given to a purchaser under this section.

PART 2 – CITATION AND EFFECTIVE DATE

Citation

2.1 This Rule may be cited as MSC Rule 2008-11 or Local Rule 41-502.

Effective date

2.2 This Rule comes into force on June 18, 2008.