

**NOTICE OF NATIONAL INSTRUMENT 54-102**  
***INTERIM FINANCIAL STATEMENT AND REPORT EXEMPTION***

The Commission has made, and the other members of the Canadian Securities Administrators (the CSA or we) are planning to adopt National Instrument 54-102 *Interim Financial Statement and Report Exemption* (the Instrument). The full text of this Instrument follows this Notice and is also reproduced on the Commission's website at [www.albertasecurities.com](http://www.albertasecurities.com).

This Instrument deals with the sending of interim financial statements by a reporting issuer to registered and beneficial owners of its securities and is a reformulation of the portions of National Policy Statement No. 41 *Shareholder Communication* (NP41) that pertain to supplemental mailing lists, including related blanket rulings, rules and other exemptions.

**Effective Date**

On April 9 2002, the Commission made the Instrument as a rule under section 224 of the *Securities Act* (Alberta) (the "Act"). The Instrument will come into force on July 1, 2002.

The Commission has, concurrently with making the Instrument a rule, also made as a rule National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer* (including Forms 54-101F1 through 54-101F9) (NI 54-101) and adopted Companion Policy 54-101CP *Communication with Beneficial Owners of Securities of a Reporting Issuer*, all of which collectively replace the provisions of NP41 pertaining to communication with beneficial owners of securities of a reporting issuer.

Each of the Instrument and NI 54-101 is, or is expected to be, also implemented as a rule in each of British Columbia, Manitoba, Newfoundland, Nova Scotia, Ontario and Quebec, as Commission regulation in Saskatchewan and as a policy in all other jurisdictions represented by the CSA.

**Purpose of Instrument**

The Instrument provides to a reporting issuer an exemption from the requirement in securities legislation to send interim financial statements or reports<sup>1</sup> to holders of the issuer's securities if the reporting issuer satisfies alternative requirements of the Instrument related to: (i) the release and filing of a news release containing a summary of the information contained in the statement or report (if the reporting issuer is not a mutual fund), (ii) the filing of the statement or report with the securities regulatory authority, (iii) the filing of the statement or report on all exchanges on which securities of the reporting

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<sup>1</sup> In Alberta, section 150 of the Securities Act, refers only to interim financial statements and not reports.

issuer are listed, and (iv) the sending of the statement or report to persons or companies on a supplemental list that is established by the reporting issuer in accordance with the Instrument.

The exemption in the Instrument is substantially similar to the arrangement currently in place under NP41 and its related Blanket Order 88/03/09 – *National Policy Statement No. 41 and Certain Reporting Issuers* (Blanket Order 88/03/09).

### **Previous Version Published for Comment**

The Instrument was published for comment on February 27, 1998 (the 1998 Proposal). Following publication, we received three comments and all comments were considered. The names of the commenters, a summary of their comments and our responses are contained in Appendix “A” and Appendix “B” to this Notice. We thank all of those who made comments.

### **Summary of Changes to Instrument**

The Instrument has been revised from the 1998 Proposal, but is essentially the same. We are of the view that republication of the Instrument for comment is not required.

The following changes have been made:

- Paragraph 1.1(1) has been changed to include a definition of “supplemental list”;
- Section 1.2 has been deleted as it merely restates general principles of agency law;
- Paragraph 2.1(a) has been revised to eliminate from the conditions to the exemption the condition that a news release be issued in the case of a reporting issuer that is a mutual fund and to clarify that a reporting issuer must comply with the timing requirements of securities legislation for filing and sending interim financial statements to be entitled to rely on the exemption;
- Section 2.2 clarifies that a reporting issuer relying on the exemption must send the interim financial statements to the holders set out in the supplemental list;
- Part 3 has been added to provide for transitional arrangements for a reporting issuer that has sent a return card to its security holders in accordance with NP 41 before the coming into force of the Instrument; and
- Part 4 has been added to provide for the effective date.

## **Rescission of NP41**

Effective the date the Instrument and NI 54-101 come into force, NP41 and Blanket Order 88/03/09 will be rescinded.

### **Questions**

Questions may be referred to:

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**Appendix “A”**

**National Instrument 54-102**

**List of Commenters**

Canadian Depository for Securities Limited

Fiducie Desjardins

Canadian Bankers Association

## **Appendix “B”**

### **National Instrument 54-102**

#### **Summary of Comments Received and CSA Response**

##### **Background**

This is a summary of the comments received by the CSA during the comment period following the publication of the 1998 Proposal.

The CSA received submissions from three commenters (listed in Appendix “A”). The CSA have considered the comments received.

Below are the summarized versions of the submissions with the CSA response.

##### **Comments Regarding the Rule and CSA Response**

###### **NI 54-101**

Reporting issuers should be required to send all securityholder materials, including interim financial statements, in accordance with the procedures established under the related NI 54-101.

##### **CSA Response**

The CSA disagree with this proposal and reiterates the position expressed on the same point in its response to comments on NI 54-101.

Compliance with the procedures set out in NI 54-101 is mandatory for reporting issuers that send proxy-related materials to beneficial owners. However, as explained in section 2.1 of the Companion Policy 54-101CP *Communication with Beneficial Owners of Securities of a Reporting Issuer*, nothing precludes a reporting issuer from using the procedures set out in NI 54-101 for sending other securityholder materials.

##### **Request Form**

The exemption regarding interim financial statements for reporting issuers who are not required to hold an annual meeting should apply if a reporting issuer sends to its securityholders a response card annually. It should not be required that the response card be sent with the annual report or annual financial statements.

### **CSA Response**

The CSA disagree and is of the view that the effective operation of this exemption is best facilitated by requiring that the request form be sent with the annual financial statements or annual report.

### **News Release**

Mutual fund reporting issuers should be exempted from the requirement to issue a press release to be able to use the exemption for delivering interim financial statements.

### **Response**

The CSA agree and a corresponding change has been made.