

ALBERTA SECURITIES COMMISSION
Notice 51-703 *Flood related late interim and annual filings*

June 27, 2013

As a result of the recent flooding in Alberta, which resulted in the mandatory evacuation of the Calgary downtown core, the business operations of many Alberta-based issuers and their advisors have been significantly affected since Friday, June 21, 2013. ASC Staff (**Staff**) has received inquiries from these issuers as to whether the upcoming interim filing¹ and annual filing² deadlines will be extended as a result of the flooding.

In light of the recent events, Staff intends to delay taking regulatory action for five business days if an issuer with a head office in Alberta (**AB Issuer**) is unable, due to flood related issues, to comply with one of the following deadlines:

- annual filing deadline of June 28, 2013; and
- interim or annual filing deadline of July 2, 2013.

Regulatory action in Alberta includes:

- noting the issuer in default on the ASC's daily reporting issuer list³;
- initiating the process to issue a cease trade order against that issuer⁴; and
- requiring payment of a late filing fee.

If the AB Issuer makes the required filing on or before the fifth business day following the date of the required filing, Staff will not pursue the regulatory action referred to above in respect of that filing. However, if an issuer fails to make the required filing on or before the fifth business day following the date of that required filing, in the absence of formal discretionary relief, Staff anticipate initiating typical regulatory action.

As an example, if an AB Issuer has a February year end and does not file its annual filing by the June 28, 2013 deadline, Staff will not take regulatory action based solely on that default before July 8, 2013. If the issuer files its annual filing by July 8, 2013, it would not, on the basis solely

¹ An interim filing includes the interim financial report and associated management's discussion and analysis required under National Instrument (NI) 51-102 *Continuous Disclosure Obligations*, the certification required under NI 52-109 *Certification of Annual and Interim Filings* and in the case of an investment fund, interim financial statements and associated management report of fund performance (MRFP) required under NI 81-106 *Investment Fund Continuous Disclosure*.

² An annual filing includes the annual financial statements, associated management's discussion and analysis and the annual information form, if applicable, required under NI 51-102 *Continuous Disclosure Obligations*, the certification required under NI 52-109 *Certification of Annual and Interim Filings*, the annual filing requirements under NI 51-101 *Standards of Disclosure for Oil and Gas Activities*, if applicable, and in the case of an investment fund, the annual financial statements, associated MRFP and annual information form required under NI 81-106 *Investment Fund Continuous Disclosure*.

³ See ASC Policy 51-601 *Reporting Issuers List* for more information on default notations.

⁴ See National Policy 12-203 *Cease Trade Orders for Continuous Disclosure Defaults* for information on the cease trade process.

of that particular late filing, be listed as an issuer in default and the cease trade process would not be initiated.

The five business day delay in regulatory action contemplated above does not apply to timely disclosure, such as the disclosure of material changes.

Staff has confirmed with staff of the other securities regulatory authorities in Canada that they will recommend delaying taking regulatory action for the five business days contemplated above. However, a late filing fee may be required in some jurisdictions.

Although Staff do not propose to take regulatory action against an AB Issuer in the circumstances and timeframe described above, an issuer that has missed a filing deadline will still technically be in default of securities laws while a filing remains unfiled. Among other things, this default will disqualify an issuer from filing a prospectus until the default is rectified. If an issuer requires formal discretionary relief from a filing requirement, the issuer may apply for a decision to extend the filing due date, and in the circumstances described above, Staff are prepared to recommend such an extension. However, issuers are advised that such an application would need to be made as soon as possible.

Reporting issuers that have determined that they will not comply with a filing deadline should also refer to section 4.3 of National Policy 12-203 *Cease Trade Orders for Continuous Disclosure Defaults* for information on making a default announcement.

Questions

Please refer any questions you may have regarding this notice to:

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