

Corporate Securities Law

July 9, 2014

Proposed Amendments to Venture Issuer Disclosure Requirements

Earlier this year, the Canadian Securities Administrators (CSA) published for comment proposed amendments (the “**Proposed Amendments**”) to: (i) National Instrument 51-102 *Continuous Disclosure Obligations* (“**NI 51-102**”), (ii) National Instrument 41-101 *General Prospectus Requirements* (“**NI 41-101**”), and (iii) National Instrument 52-110 *Audit Committees* (“**NI 52-110**”). The Proposed Amendments affect venture issuers with securities listed on venture exchanges such as the TSX Venture Exchange and the Canadian Securities Exchange (“**Venture Issuers**”). They are intended to focus disclosure on information that reflects the needs and expectations of Venture Issuer investors and eliminate disclosure that is less valuable. The Proposed Amendments are also intended to: (i) streamline disclosure requirements so that companies can focus on the operation and growth of their business, and (ii) enhance substantive governance requirements.

The Proposed Amendments retain elements from a previous CSA proposal that was withdrawn based on feedback from the Venture Issuer community.¹ As opposed to the previous CSA proposal which created a separate national instrument to deal with the continuous disclosure and corporate governance of Venture Issuers, the Proposed Amendments will be implemented through amending the national instruments making up the current regime.

The CSA will be accepting comments on the Proposed Amendments until August 20, 2014.

The Proposed Amendments

Amendments to NI 51-102

Quarterly Highlights. Currently, Venture Issuers must file a quarterly MD&A. The Proposed Amendments would allow Venture Issuers without significant revenues to fulfill this requirement by preparing and filing a streamlined disclosure document, referred to as a “Quarterly Highlight,” in each of their first three quarters. Venture Issuers could omit disclosure of several elements required in the MD&A, including disclosure of overall performance, quarterly results, capital resources, off-balance sheet arrangements, transactions between related parties and financial instruments. The Quarterly Highlight would focus the disclosure on a short discussion about the Venture Issuers’ operations and liquidity in a maximum of two pages. Alternatively, Venture Issuers permitted to prepare Quarterly Highlights could continue to comply with existing MD&A requirements.

Business Acquisition Reports. Currently, Venture Issuers must file a business acquisition report (BAR) within 75 days of completing a significant acquisition that includes audited financial statements for the most recent financial years and pro forma financial statements inclusive of the acquisition. The Proposed Amendments contemplate changing the threshold for a significant acquisition from 40% to a 100% of the value of the consolidated assets of the Venture Issuer based on the asset or investment test and eliminating the requirement for pro forma financial statements.

Executive Compensation Disclosure. Currently, all issuers (venture or otherwise) must file executive compensation disclosure using Form 51-102F6 *Statement of Executive Compensation* (“**51-102F6**”). The Proposed

¹ The CSA had previously proposed the creation of National Instrument 51-103 *Ongoing Governance and Disclosure Requirements for Venture Issuers* to establish a separate continuous disclosure and corporate governance regime for Venture Issuers. The CSA withdrew the proposal as feedback from the Venture Issuer community indicated that the benefits of the new regime were outweighed by the burden that would have been caused by the transition.

Goodmans^{LLP} Update

Amendments contemplate a new executive compensation disclosure form for Venture Issuers (the “**Venture Form**”). The Venture Form would, among other things:

1. reduce from five to three the number of executives for whom disclosure is required (the “**NEOs**”). This means disclosure would have to be provided for the CEO, the CFO and the highest paid remaining executive if that executive’s total compensation is more than \$150,000;
2. reduce the number of years required for disclosure of past executive compensation from three to two; and
3. eliminate the requirement to calculate and disclose the grant date fair value of stock options and other share-based awards in the summary compensation table and instead requires detailed information about stock options and other share-based awards issued, held and exercised by the NEOs.

Venture Issuers would retain the right to continue to comply with 51-102F6 rather than switching to the Venture Form.

Amendments to NI 52-110

Currently, Venture Issuers are exempt from the independence requirements for an audit committee member. The Proposed Amendments contemplate that a Venture Issuer be required to have at least three members on its audit committee the majority of whom must be independent of the issuer (i.e., not an executive officer, employee or control person of the issuer). Venture Issuers listed on the TSX Venture Exchange must currently meet a similar requirement under exchange policies.

Amendments to NI 41-101

Audited Financial Statements. The Proposed Amendments contemplate reducing the number of years required for audited financial statements submitted with a prospectus in connection with an initial public offering (IPO). Issuers who will be Venture Issuers on completion of an IPO, will only need audited financial statements for the last two years as opposed to the last three.

Description of Business and History. Currently, Venture Issuers must describe the business and history of their companies for the last three years. The Proposed Amendments contemplate reducing this requirements to the last two years.

Conforming to Proposed Continuous Disclosure Amendments. The Proposed Amendments to the prospectus disclosure requirements also include amendments that correspond with those described above, including: (i) allowing Venture Issuers to use Quarterly Highlights, (ii) allowing Venture Issuers to comply with the executive compensation disclosure requirements of the Venture Form, and (iii) only requiring BAR level disclosure in a Venture Issuer’s prospectus where the acquisition is significant at the 100% interest level.

Please contact any member of our Corporate Securities Group should you wish to discuss the implications of these proposed changes.