

Goodmans^{LLP} Update

Canadian Securities Regulators Extend Deadlines for Delivery of Certain Security Holder Materials

On May 1, 2020, the Canadian Securities Administrators (CSA) issued [blanket relief orders](#) (the “**Blanket Relief**”) extending the deadlines for public companies to file and/or send certain materials to their security holders. The Blanket Relief addresses potential challenges public companies face in complying with certain of these requirements during the COVID-19 pandemic, and in particular removes potential obstacles to delaying annual general meetings as permitted by recent orders from Canadian governments and stock exchanges.

Background

Canadian securities laws require public companies to send their financial statements and related management’s discussion and analysis (MD&A) to shareholders within certain timelines. Companies generally comply with these requirements by either (i) annually sending shareholders a form allowing them to request copies of these materials, and then sending the materials to those security holders who request them within a specified time period (the so-called “send-on-request” approach), or (ii) sending annual financial statements and MD&A to all shareholders within 140 days of the company’s financial year-end (in which case the company is not required to send security holders a request form). Most companies mail the annual request form or the financial statements and MD&A (depending on which approach they are taking) together with the meeting materials for their annual meeting.

Canadian securities laws also require public companies to file their executive compensation disclosure within 140 days of their financial year-end (the deadline is 180 days for companies listed on certain venture exchanges, including the TSX Venture Exchange). Most companies satisfy this requirement by including this disclosure in the information circular for their annual meeting.

Most Canadian public companies hold their annual meetings within six months of their financial year end (due to stock exchange requirements), which makes it relatively easy to comply with the financial statement delivery and executive compensation disclosure requirements described above. However, companies that delay their annual meetings due to the COVID-19 pandemic may not be in a position to send their information circulars to shareholders within the timelines required to satisfy these requirements.

The Blanket Relief is intended to remove this potential obstacle for companies who wish to delay their annual meetings due to COVID-19. The Blanket Relief also recognizes that even for companies not delaying their annual meetings, it may be challenging to meet the deadlines for sending financial statements and MD&A under the send-on-request approach while employees are working remotely and/or following physical distancing requirements and other public health recommendations.

Financial Statements and MD&A

The Blanket Relief allows issuers utilizing the send-on-request approach to satisfy delivery requirements for requests received before December 31, 2020, by sending the applicable financial statements and MD&A “as

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soon as reasonably practicable” after the normal deadline. Since the request form only needs to be sent “annually” (and not by any specific date), issuers can simply send their next request form along with their 2020 meeting materials in the ordinary course.

For issuers electing to send their annual financial statements and MD&A to all shareholders in lieu of the send-on-request approach, the Blanket Relief permits them to do so at any time on or before December 31, 2020. This allows issuers to deliver their annual report concurrently with their 2020 meeting materials, regardless of when in 2020 the annual meeting is held.

Executive Compensation Disclosure

The Blanket Relief provides relief from the normal filing deadline for executive compensation disclosure if the following requirements are met:

- before the deadline that would otherwise apply under applicable securities laws or as soon as reasonably practicable thereafter, the issuer issues (and files on SEDAR) a news release that discloses it is relying on this exemption,
- on or before December 31, 2020, the issuer either (i) sends to its shareholders (and files) its information circular for its next annual meeting containing its executive compensation disclosure, or (ii) files a separate document containing the executive compensation disclosure,
- the issuer has filed its annual financial statements and MD&A for its most recently completed financial year before it sends its next information circular or files its executive compensation disclosure in a separate document as described above, and
- if the issuer initially files its executive compensation disclosure in a separate document, it includes that disclosure in the next information circular it sends to its shareholders.

Accordingly, the Blanket Relief permits issuers that delay their annual meeting to continue to prepare executive compensation disclosure as part of the process of preparing their information circular for their annual meeting.

For further information regarding these developments and how they impact your company, please contact any member of our [Corporate Finance and Securities Group](#).

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