THE UPDATE

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Corporate Securities

JANUARY 13, 2004

NEW CONTINUOUS DISCLOSURE RULES

Overview

In December 2003, the Canadian Securities Administrators ("CSA") published National Instrument 51-102 – *Continuous Disclosure Obligations* (the "Rule"), which, among other things, provides a nationally harmonized and simplified set of continuous disclosure requirements for reporting issuers other than investment funds. In addition to the Rule, the CSA also published Companion Policy 51-102CP, which provides guidance as to the manner in which the CSA will interpret and apply the Rule. The Rule establishes consistent disclosure standards across Canada for reporting issuers in respect of financial statements, management's discussion and analysis ("MD&A"), reporting of material changes, reporting of significant business acquisitions, annual information forms ("AIFs"), executive compensation disclosure, shareholder meeting materials, disclosure in respect of restricted shares and other filing requirements.

Timing

It is expected that the Rule will be adopted in all jurisdictions and, with the necessary government approvals, will come into force on March 30, 2004. The requirements in the Rule concerning annual and interim financial statements (except change in year-end, change in corporate structure and change of auditor requirements), MD&A and AIFs will apply for financial years commencing on or after January 1, 2004. The requirements relating to business acquisition reports will apply to significant acquisitions if the relevant agreement was entered into after March 30, 2004. The requirements relating to proxy solicitation and information circulars will apply from and after June 1, 2004. All other requirements will apply as of March 30, 2004.

Summary of Significant Changes to Existing Continuous Disclosure Requirements

Filing Deadlines – Filing deadlines for annual and interim financial statements and related MD&A will be shortened. Reporting issuers that are not venture issuers will be required to file annual financial statements and related MD&A within 90 days after the end of their most recently completed financial year and interim financial statements and related MD&A within 45 days after the end of each quarter.

A venture issuer is an issuer whose securities are not listed or quoted on the Toronto Stock Exchange, a national security exchange or NASDAQ in the United States, or a market outside Canada or the U.S. Venture issuers will be required to file annual financial statements and related MD&A within 120 days after the end of their most recently completed financial year and interim financial statements and related MD&A within 60 days after the end of each quarter.

Disclosure of Auditor Review of Financial Statements – If an auditor has not performed a review of a reporting issuer's interim financial statements or has been engaged to perform a review of a reporting issuer's interim financial statements but was unable to complete the review, the interim financial statements must be accompanied by a notice indicating that the

interim financial statements have not been reviewed by an auditor or that the auditor was unable to complete a review of the interim financial statements and the reasons therefor, respectively. If an auditor has performed a review of the interim financial statements and has expressed a reservation in the auditor's interim review report, the interim financial statements must be accompanied by a written review report by the auditor.

Delivery – Mandatory delivery of financial statements and MD&A to all securityholders will be eliminated under the Rule. A reporting issuer will be required to send annually a request form to its securityholders and to deliver copies of financial statements and related MD&A only to those securityholders that have requested them. Reporting issuers will have to disclose annually in their AIFs and information circulars the manner by which securityholders may obtain the financial statements and MD&A and that they are available free of charge to a requesting securityholder.

Significant Acquisitions – Reporting issuers will be required to file a business acquisition report within 75 days after completion of a significant business acquisition. (No equivalent report is contemplated in respect of significant dispositions.) The business acquisition report must disclose, among other things, the type and amount of consideration paid and identify the source of funds used – including a description of any financing – in connection with the acquisition. The business acquisition report will have to include financial statements of the acquired business and *pro forma* financial statements of the reporting issuer giving effect to significant acquisitions that have been completed but are not reflected in the reporting issuer's most recent annual financial statements. An acquisition of a business will generally be considered significant for the purposes of the Rule and require the filing of a business acquisition report if the income or assets of the acquired business exceed 20% of the assets or income of the reporting issuer calculated using the audited financial statements of each of the reporting issuer and the acquired business for its most recently completed financial year. A business acquisition report will not be required in certain circumstances if the reporting issuer has already filed an information circular in respect of the acquisition.

MD&A – All reporting issuers, including issuers that currently have exemptions based on size in some jurisdictions, will be required to file MD&A in respect of both annual and interim financial statements. A reporting issuer's board of directors must approve the MD&A in respect of annual financial statements. Either the board of directors or the audit committee must approve the MD&A in respect of interim financial statements.

Discussion of Forward-Looking Information in MD&A – MD&A will have to contain a discussion of any forward-looking information disclosed in prior MD&A if, in light of intervening events and without that discussion, the earlier disclosure could mislead. The CSA has indicated that forward-looking statements may be considered misleading when they are unreasonably optimistic or aggressive, or lack objectivity, or are not adequately explained.

Disclosure Relating to Liquidity and Capital Resources and Non-Independent Relationships in MD&A – MD&A will have to contain disclosure relating to liquidity (including particulars in respect of lease payments) and capital resources (including off-balance sheet arrangements), and relationships and transactions with persons or entities that derive benefits from their non-independent relationship with the issuer or its related parties. Some issuers with December 31 year ends are voluntarily including the enhanced MD&A in their annual MD&A for 2003 (which must be filed by May 19, 2004) so as to provide a consistent level of disclosure in those materials and in the MD&A for the first quarter ended March 31, 2004 (which must be filed by May 15, 2004).

AIFs – A reporting issuer that is not a venture issuer must file an AIF and copies of all material incorporated by reference in the AIF and not previously filed within 90 days of the end of its financial year.

Executive Compensation – The disclosure of executive compensation in information circulars will have to always include the Chief Financial Officer ("CFO"), as well as the Chief Executive Officer ("CEO"). In addition to disclosure for the CFO and CEO, a reporting issuer will have to now disclose the compensation of each of its three other most highly compensated executive officers, keeping the number of officers for whom compensation disclosure must be provided at five.

Annual Filings – The requirement to make an annual filing in lieu of an information circular (Form 28 in most jurisdictions) will be eliminated. The AIF will include supplementary disclosure items for issuers that do not distribute information circulars.

Material Documents – An issuer will have to file constating documents, including articles of incorporation and by-laws, material voting trust agreements available to the issuer, and other instruments that create or materially affect the rights of securityholders. In addition, reporting issuers will have to file copies of all material contracts not entered into in the ordinary course of business. Issuers will be permitted to remove portions of material contracts that would be seriously prejudicial to the issuer to disclose or would violate confidentiality provisions. Contracts entered into before January 1, 2002 will not have to be filed.

Hold Periods – In light of the harmonized, enhanced continuous disclosure rules under the Rule, effective March 30, 2004, under a revised Multilateral Instrument 45-102 – *Resale of Securities*, the hold period for private placement securities will be four months for all reporting issuers. Previously, only "qualifying issuers" (having securities listed on a specified exchange and a current AIF filed) had a four-month hold; private placement securities of more junior issuers were subject to a 12-month hold period.

Continuous Disclosure and Other Exemptions Related to Foreign Issuers – Concurrent with release of the Rule, the CSA published National Instrument 71-102 – *Continuous Disclosure and Other Exemptions Related to Foreign Issuers* which provides broad relief from certain continuous disclosure obligations prescribed in the Rule for foreign reporting issuers, as defined, in order to increase their access to Canadian capital markets.

Please contact any member of the Goodmans securities team to discuss the new Rule.

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