

Contact:

Ian Russell

Senior Vice President, Industry Relations & Representation

(416) 865-3036

irussell@ida.ca

For distribution to relevant parties within your firm

BULLETIN #3399

March 2, 2005

Industry Relations & Representation Relief from Certain Amendments to National Instrument 54-101

The Association has received an exemption, on its Members' behalf, pursuant to section 9.2 of National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer* (NI 54-101) in connection with certain amendments (the Amendments) to NI 54-101, which came into force on February 9, 2005. The exemption was granted on February 23, 2005 by decision under the Mutual Reliance Review System (the Decision).

Please note that **Quebec, Prince Edward Island and the Northwest Territories are not parties to the exemption granted under the Decision.** The Autorité des marchés financiers (AMF) has passed a blanket order discussed in further detail below, as the Amendments did not come into force in Quebec on February 9, 2005. The relief is not required in P.E.I. or the Northwest Territories as NI 54-101 has not been adopted in P.E.I., but is supported in principal, and NI 54-101 has been adopted as a policy only in the Northwest Territories and, not as a rule.

The result of the Decision is as follows:

- Members may continue to rely on their clients' instructions received pursuant to Section 3.2 in the unamended Form 54-101F1 (the Unamended Form) after July 1, 2002 (the date NI 54-101 came into effect) and prior to February 9, 2005 (the date the Amendments came into force). Additionally, Members will not be required to obtain new instructions from such clients in the future. The Amended NI 54-101 deals with instructions received from clients prior to July 1, 2002 under NP 41 *Shareholder Communication Procedures* and incorporates prior relief obtained by the Association on behalf of its Members which eliminates any requirement to obtain new instructions from those clients.
- Members may continue to use the Unamended Form from February 23, 2005, (the Decision's date), until January 1, 2006 when obtaining instructions from new clients and will not be required to obtain new instructions from such clients following January 1, 2006.

- Without the exemption granted under the Decision, Members would have been required to begin using the amended Form 54-101F1 (the Amended Form) as of February 9, 2005. Relief from having to use the Amended Form was not granted for the period from February 9, 2005 until February 23, 2005, the Decision's date. However, it is understood that staff of the securities commissions are prepared not to take any action in respect of any breaches by Members between February 9 and February 23.
- As of January 1, 2006, when obtaining instructions from new clients, Members must use the Amended Form.
- To make the relief workable with the other Amendments to NI 54-101, the Decision also deems a client's instructions to receive only materials relating to non-routine business (or to decline to receive materials relating to routine business), given in the Unamended Form, to be instructions to receive only proxy-related materials that are sent in connection with a special meeting. As a result, although Members may continue to use the Unamended Form prior to January 1, 2006, the materials clients will receive will change in accordance with the Amendments.

In Quebec, as noted above, the Amendments did not come into force on February 9, 2005 and so the relief granted in the Decision was not required. Instead, in the interest of harmonizing Quebec's regulations with the rest of Canada's, and taking into consideration the Association's application, the AMF passed a decision on February 9, 2005 (Decision 2005-PDG-0044) which among other things, permits Members to choose whether to use the Amended or Unamended Form until the Amendments come into force in Quebec. In a notice accompanying the AMF's decision, the AMF confirmed that it will consider granting transitional relief if the Amendments are brought into force before January 1, 2006 and that it views instructions to receive only materials relating to non-routine business to be the equivalent of instructions to receive only materials relating to proxies sent for special meetings.

Kenneth A. Nason
Association Secretary