

## Canadian Securities Administrators Provide 45-day Extension for Certain Filing and Delivery Requirements

*Andrea FitzGerald*

**March 26, 2020**

As a result of the challenges the COVID-19 pandemic is creating for many market participants, the Canadian Securities Administrators (CSA) have implemented relief from certain periodic filing and delivery requirements through local blanket orders (the Orders) that are substantially harmonized across the country.<sup>1</sup>

The Orders provide temporary blanket relief allowing issuers to extend their normal periodic filing and delivery deadlines (that fall within the period from March 23, 2020 through June 1, 2020) by an additional 45 days (the Exemption). Any issuer relying on the Exemption must ensure that the applicable filing or delivery of the documents is made on or before the 45th day following the normal filing deadline.

The Orders cover annual and interim filings and deliveries, such as financial statements, management's discussion and analysis (MD&A), annual information forms and certain technical disclosure for mining and oil and gas issuers, as well as filings related to certain corporate events and transactions, exempt distributions and annual filings of designated credit rating organizations (a full list of all applicable documents is provided in the Orders).

### Annual and Interim Filings and Deliveries

In order for an issuer to rely on the Exemption for its annual and interim filings, there is a rolling 30-day press release disclosure requirement and the issuer must ensure that management and other insiders are subject to applicable insider trading and black-out policies through the exemption period, which policies must reflect the principles referenced in the Orders.

Upon determining that it will rely on the Exemption for any applicable filing or delivery deadline, the issuer must issue and file on SEDAR, as soon as reasonably practicable in advance of its normal filing/delivery deadline, a press release disclosing:

- (i) each applicable requirement for which it is relying on the Exemption;
- (ii) that its management and other insiders are subject to an insider trading black-out policy;
- (iii) the estimated date by which the required disclosure is expected to be filed, sent and/or delivered (as applicable); and

(iv) an update of any material business developments of the issuer since the date of the issuer's most recently filed financial statements, or confirmation that there have been no material business developments since that date.

The issuer must subsequently issue and file on SEDAR a press release disclosing any update of material business developments of the issuer since the date of the last press release required under the Exemption, or confirmation that there have been no material business developments since that date:

- (i) as soon as reasonably practicable and no later than 30 days after the first day of the 45-day extension period (i.e., the first day following the normal filing deadline date); and
- (ii) if the issuer has not yet filed each document for which it is relying on the Exemption, no later than 30 days after the date of the last press release issued in connection with the Exemption.

It is important to note that an issuer relying on the Exemption for any annual or interim filing and/or delivery is not permitted to file a preliminary or final prospectus for an offering of securities until it has filed all documents for which it is relying on the Exemption. This restriction applies to all offering prospectuses, including base shelf prospectuses.

Also, for any issuer wanting to rely on the Exemption for the delivery of its annual financial statements or annual MD&A, it is important to note that such documents are required to be delivered before or in conjunction with the delivery of the issuer's management information circular for its next annual meeting of securityholders (AGM) at the latest. Accordingly, this requirement must be kept in mind for any issuer considering a postponement of their 2020 AGM in accordance with the temporary blanket relief provided by the Canadian stock exchanges. An issuer postponing its AGM may end up in a situation where it is required to send its annual financial statements and MD&A to shareholders upon the expiry of the 45-day extension, in advance of the date it is required to mail its proxy materials. In addition, if an issuer is relying on the Exemption for sending an annual request form to shareholders (i.e., for financial statements), the annual request form must be sent before the record date for the issuer's next AGM.

## **Filings Related to Corporate Events and Transactions and Exempt Distributions**

Issuers wanting to take advantage of the Exemption for the filing or sending of other continuous disclosure documents related to corporate events and transactions are required to issue and file on SEDAR, as soon as reasonably practicable in advance of its filing deadline, a press release that discloses each applicable statutory requirement for which it is relying on the Exemption. There are certain other disclosures and provisions applicable to a designated rating organization.

## Extension of Base Shelf Prospectus Lapse Date

Issuers who have a final base shelf prospectus filed for which the 25-month lapse date will occur between now and June 1, 2020, may rely on the Exemption to extend the lapse date by an additional 45 days so long as the issuer is not also relying on the Exemption for its annual and interim filing and delivery requirements. If an issuer chooses to rely on the Exemption to extend the lapse date of its final base shelf prospectus, it must file on SEDAR as soon as reasonably practicable in advance of the lapse date a press release disclosing the specific statutory requirement for which it is relying on the Exemption.

## Temporary Blanket Relief in Other Canadian Jurisdictions

Many of the local securities regulators provide in their Orders that where an issuer makes a reference in a press release to an equivalent exemption granted by a securities regulatory authority in another jurisdiction of Canada that is that issuer's principal regulator, such reference will be deemed to constitute a reference to the relevant exemptions in its Order. Issuers should refer to the specific Order granted by their principal regulator to ensure compliance.

The CSA expects to publish a "Frequently Asked Questions" shortly that will provide further guidance related to the blanket relief.

Copies of the Orders granted in Ontario, British Columbia and Alberta can be found at the links below. Issuers should refer to the website of their principal securities regulator for the applicable Order.

- Ontario
- British Columbia
- Alberta

---

<sup>1</sup> See <https://www.securities-administrators.ca/aboutcsa.aspx?id=1886>.