

Ontario Securities Commission

Ontario Instrument 51-504

***Temporary Exemptions from Certain Requirements
to File or Send Securityholder Materials***

The Ontario Securities Commission, considering that to do so would not be prejudicial to the public interest, orders that effective on May 1, 2020, Ontario Instrument 51-504 entitled “Temporary Exemptions from Certain Requirements to File or Send Securityholder Materials” is made, such that affected persons or companies are temporarily exempted from certain requirements of Ontario securities law.

Dated this 1st day of May 2020.

“Grant Vingoe”
Acting Chair

“Timothy Moseley”
Vice Chair

Authority under which the order is made:
Act and section: *Securities Act*, subsection 143.11(2)

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Ontario Instrument 51-504

Temporary Exemptions from Certain Requirements to File or Send Securityholder Materials

Definitions

1. Terms defined in the *Securities Act* (Ontario) (the **Act**), National Instrument 14-101 *Definitions* and National Instrument 51-102 *Continuous Disclosure Obligations* (**NI 51-102**) have the same meaning in this Instrument.

2. In this Instrument:

"annual request form requirement" means the requirement in subsection 4.6(1) of NI 51-102 for a reporting issuer to send annually a request form to its securityholders, other than holders of debt instruments;

"executive compensation disclosure requirement" means the requirement in subsection 9.3.1(2.2) of NI 51-102 for a reporting issuer to file the executive compensation disclosure required under subsection 9.3.1(1) of NI 51-102 by the deadlines set out in subsection 9.3.1(2.2) of NI 51-102;

"next AGM information circular" means the information circular that a reporting issuer sends to its securityholders for its next annual meeting of securityholders; and

"send-on-request requirements" means the requirements in subsections 4.6(3) and 5.6(1) of NI 51-102 for a reporting issuer to send annual financial statements and MD&A, or interim financial reports and MD&A, to its securityholders, other than holders of debt instruments, who requested them, by the deadlines set out in subsection 4.6(3) of NI 51-102.

Background

3. As a result of the coronavirus disease 2019 (**COVID-19**) outbreak, which was declared a pandemic by the World Health Organization on March 11, 2020 and has led to a "Declaration of Emergency" under the *Emergency Management and Civil Protection Act* (Ontario) by the Lieutenant Governor of Ontario on March 17, 2020, the Ontario Securities Commission (the **Commission**) acknowledges that this pandemic may present challenges for market participants in meeting certain obligations under Ontario securities law.

4. Reporting issuers include their executive compensation disclosure in the information circular for their annual meeting of securityholders. As a result of the COVID-19 pandemic, many reporting issuers are postponing their annual meeting of securityholders.
5. Subsections 4.6(5) and 5.6(3) of NI 51-102 contain exceptions to the annual request form requirement and send-on-request requirements which allow reporting issuers to send their annual financial statements and MD&A with the information circular for their annual meeting of securityholders, provided they are sent within 140 days of their financial year end. However, it may not be practicable for reporting issuers that have postponed their annual meeting of securityholders to rely on those exceptions.
6. As a result of the COVID-19 pandemic, reporting issuers may have difficulties complying with the send-on-request requirements for requests for copies of documents in paper format when their employees are working from home and complying with, or following, physical distancing requirements and recommendations of public health authorities.
7. The Commission expects that each securities regulatory authority or regulator in jurisdictions of Canada will issue orders providing exemptions similar to those provided in this Instrument.
8. Securities legislation requires a reporting issuer to provide periodic disclosure about its business and affairs and to provide other prescribed disclosure.
9. NI 51-102 imposes the executive compensation disclosure requirement, the annual request form requirement and the send-on-request requirements on reporting issuers.
10. Under section 143.11(2) of the Act, if the Commission considers that it would not be prejudicial to the public interest to do so, the Commission may, on application by an interested person or company or on its own initiative, make an order exempting a class or classes of persons or companies, trades, intended trades, or securities from any requirement of Ontario securities law on such terms and conditions as may be set out in the order, effective for a period of no longer than 18 months after the day on which it comes into force unless extended pursuant to clause (b) of subsection 143.11(3) of the Act.
11. The Commission is satisfied, having considered the interests of reporting issuers that are impacted by the COVID-19 pandemic and the needs of investors to have timely disclosure about a reporting issuer's executive compensation, financial and business affairs that, subject to the conditions set out in this Instrument, it is appropriate to provide the exemptions from the requirements of NI 51-102.

Order

12. The Commission, considering that to do so would not be prejudicial to the public interest, orders that a reporting issuer is exempt from the executive compensation disclosure requirement, provided that
 - (1) the reporting issuer issues, and files on SEDAR, in advance of the deadline that would otherwise apply under subsection 9.3.1(2.2) of NI 51-102 or as soon as reasonably practicable thereafter, a news release that discloses that it is relying on this exemption,
 - (2) on or before December 31, 2020, the reporting issuer either
 - (a) sends to its securityholders, and files, its next AGM information circular containing the executive compensation disclosure required under subsection 9.3.1(1) of NI 51-102, or
 - (b) files a document containing the executive compensation disclosure required under subsection 9.3.1(1) of NI 51-102,
 - (3) the reporting issuer has filed annual financial statements and MD&A for its most recently completed financial year before it
 - (a) sends to its securityholders, and files, its next AGM information circular, or
 - (b) files the document referred to in (2)(b), and
 - (4) if the reporting issuer files the document referred to in (2)(b), it includes the executive compensation disclosure in that document in its next AGM information circular that it subsequently sends to its securityholders and files.
13. The Commission, considering that to do so would not be prejudicial to the public interest, orders that a reporting issuer is exempt from the annual request form requirement and the send-on-request requirements in respect of annual financial statements and MD&A, provided that the reporting issuer sends to its securityholders, other than holders of debt instruments, its annual financial statements and MD&A on or before December 31, 2020 and in accordance with NI 54-101.
14. The Commission, considering that to do so would not be prejudicial to the public interest, orders that a reporting issuer is exempt from the send-on-request requirements for requests received before December 31, 2020, provided that the reporting issuer sends a copy of the requested financial statements and MD&A to

the securityholder that made the request as soon as reasonably practicable after the applicable sending deadline set out in subsection 4.6(3) of NI 51-102.

15. A reference made in a news release to an equivalent exemption granted by a securities regulatory authority or regulator in another jurisdiction of Canada that is the reporting issuer's principal regulator, as defined in National Policy 11-207 *Failure-to-File Cease Trade Orders and Revocations in Multiple Jurisdictions*, will be deemed to constitute a reference to the relevant exemption in this Instrument.
16. This Instrument takes effect on May 1, 2020 and expires on December 31, 2020.