

**Nova Scotia Securities Commission**  
**Rule 58-101**  
**Disclosure of Corporate Governance Practices**

-and-

**National Instrument 58-101**  
**Disclosure of Corporate Governance Practices**

-and-

**National Policy 58-201**  
**Corporate Governance Guidelines**

WHEREAS:

1. Pursuant to section 150 of the *Securities Act*, R.S.N.S. 1989, chapter 418, as amended (the "Act"), the Nova Scotia Securities Commission (the "Commission") has power to make rules subject to compliance with the requirements of the Act;
2. Pursuant to section 19 of the Act, the Commission has power to issue and publish policy statements;
3. National Instrument 58-101 Disclosure of Corporate Governance Practices and National Policy 58-201 Corporate Governance Guidelines, copies of which are attached hereto and are hereinafter called the "Rule" and "Companion Policy" respectively, have been adopted as a rule by one or more of the Canadian securities regulatory authorities; and
4. The Commission is of the opinion that the attainment of the purpose of the Act is advanced by this Instrument.

NOW THEREFORE the Commission hereby:

- (a) pursuant to the authority contained in section 150 of the Act and subject to compliance with the requirements of section 150A of the Act, approves the Rule and makes the

same a rule of the Commission except insofar as the Rule contains coming into force or effective date provisions;

(b) pursuant to the authority contained in section 19 of the Act and subject to publication in the *Royal Gazette*, issues the Companion Policy as a policy statement of the Commission except insofar as the Companion Policy contains coming into force or effective date provisions; and

(c) declares that the rule approved and made pursuant to clause (a) and the policy statement issued pursuant to clause (b) shall both take effect on **September 26, 2005**, unless the Governor in Council disapproves the rule or returns it to the Commission in accordance with subsection 150A(3) of the Act in which event the rule and the policy statement shall not be effective until the rule is approved by the Governor in Council.

IN WITNESS WHEREOF this Instrument has been signed by the Chair and Vice-Chair of the Commission, being the members of the Commission prescribed by the Chair pursuant to subsection 15(3) of the Act to attend the hearing of this matter and the quorum with respect to this matter, on the 13<sup>th</sup> day of July, 2005.

"H. Leslie O'Brien"  
H. Leslie O'Brien

"R. Daren Baxter"  
R. Daren Baxter

Attachments

**NATIONAL INSTRUMENT 58-101**  
***DISCLOSURE OF CORPORATE GOVERNANCE PRACTICES***

**PART 1      DEFINITIONS AND APPLICATION**

**1.1      Definitions —**

In this Instrument,

“AIF” has the same meaning as in National Instrument 51-102 *Continuous Disclosure Obligations*;

“CEO” means a chief executive officer;

“code” means a code of business conduct and ethics;

“executive officer” has the same meaning as in National Instrument 51-102;

“marketplace” has the same meaning as in National Instrument 21-101 *Marketplace Operation*;

“MD&A” has the same meaning as in National Instrument 51-102;

“MI 52-110” means Multilateral Instrument 52-110 *Audit Committees*, as enacted or adopted by the securities regulatory authority in each jurisdiction in Canada except British Columbia;

“SEDAR” has the same meaning as in National Instrument 13-101 *System for Electronic Document Analysis and Retrieval (SEDAR)*;

"significant security holder" means, in relation to an issuer, a security holder that

- (a) owns or controls 10% or more of any class of the issuer's voting securities, or
- (b) is able to affect materially the control of the issuer, whether alone or by acting in concert with others;

“subsidiary entity” has the meaning set out in MI 52-110;

“U.S. marketplace” means an exchange registered as of the effective date of this Instrument as a ‘national securities exchange’ under section 6 of the 1934 Act, or the Nasdaq Stock Market; and

“venture issuer” means an issuer that, at the end of its most recently completed financial year, does not have any of its securities listed or quoted on the Toronto Stock Exchange, a U.S. marketplace, or a marketplace outside of Canada and the United States of America.

## **1.2 Meaning of Independence —**

- (1) In a jurisdiction other than British Columbia, a director is independent if he or she would be independent within the meaning of section 1.4 of MI 52-110.
- (2) In British Columbia, a director is independent if
  - (a) a reasonable person with knowledge of all the relevant circumstances would conclude that the director is independent of management of the issuer and of any significant security holder, or
  - (b) the issuer is a reporting issuer in a jurisdiction other than British Columbia, and the director is independent under subsection (1).

## **1.3 Application —**

This Instrument applies to a reporting issuer other than:

- (a) an investment fund or issuer of asset-backed securities, as defined in National Instrument 51-102;
- (b) a designated foreign issuer or SEC foreign issuer, as defined in National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers*;
- (c) a credit support issuer or exchangeable security issuer that is exempt under sections 13.2 and 13.3 of National Instrument 51-102, as applicable; and
- (d) an issuer that is a subsidiary entity, if
  - (i) the issuer does not have equity securities, other than non-convertible, non-participating preferred securities, trading on a marketplace, and
  - (ii) the person or company that owns the issuer is
    - (A) subject to the requirements of this Instrument, or
    - (B) an issuer that has securities listed or quoted on a U.S. marketplace, and is in compliance with the corporate governance disclosure requirements of that U.S. marketplace.

## **PART 2 DISCLOSURE AND FILING REQUIREMENTS**

### **2.1 Required Disclosure —**

- (1) If management of an issuer, other than a venture issuer, solicits a proxy from a security holder of the issuer for the purpose of electing directors to the issuer's board of directors, the issuer must include in its management information circular the disclosure required by Form 58-101F1.

- (2) An issuer, other than a venture issuer, that does not send a management information circular to its security holders must provide the disclosure required by Form 58-101F1 in its AIF.

## **2.2 Venture Issuers —**

- (1) If management of a venture issuer solicits a proxy from a security holder of the venture issuer for the purpose of electing directors to the issuer's board of directors, the venture issuer must include in its management information circular the disclosure required by Form 58-101F2.
- (2) A venture issuer that does not send a management information circular to its security holders must provide the disclosure required by Form 58-101F2 in its AIF or annual MD&A.

## **2.3 Filing of Code —**

If an issuer has adopted or amended a written code, the issuer must file a copy of the code or amendment on SEDAR no later than the date on which the issuer's next financial statements must be filed, unless a copy of the code or amendment has been previously filed.

# **PART 3 EXEMPTIONS AND EFFECTIVE DATE**

## **3.1 Exemptions —**

- (1) The securities regulatory authority or regulator may grant an exemption from this rule, in whole or in part, subject to any conditions or restrictions imposed in the exemption.
- (2) Despite subsection (1), in Ontario, only the regulator may grant an exemption.

## **3.2 Effective Date —**

- (1) This Instrument comes into force on June 30, 2005.
- (2) Despite subsection (1), sections 2.1 and 2.2 only apply to management information circulars, AIFs and annual MD&A, as the case may be, which are filed following an issuer's financial year ending on or after June 30, 2005.