



## Q & A ON NEW INSIDER REPORTING REQUIREMENTS

### HIGHLIGHTS

- ▶ Acceleration of filing deadline for insider reports;
- ▶ Introduction of the concept of *reporting insider*, and
- ▶ Simplification of disclosure requirements for stock-based compensation arrangements.

### What are the key changes to the reporting regime?

#### Accelerated filing deadline for subsequent insider reports

The deadline for the filing of a subsequent report by a reporting insider will be reduced from 10 to 5 calendar days effective October 31, 2010. The deadline of 10 calendar days still applies to the filing of the initial report.

#### Introduction of the concept of reporting insider

Under the new regime contained in National Instrument 55-104, a core group of “reporting insiders” are now required to file insider reports. The concept of “reporting insider” includes directors and certain officers of the reporting issuer itself, of any significant shareholder of the issuer, or of a “major subsidiary”.

“Reporting insider” also includes any individual who receives or has access in the ordinary course to undisclosed material information and who has or can have significant power or influence over the issuer.

For the purposes of National Instrument 55-104 and of the concept of “reporting insider”, a subsidiary is a “major subsidiary” if it accounts for 30% of the consolidated assets or revenues of the issuer.

The thresholds applicable to “significant shareholders” remain the same and still require beneficial ownership of or control or direction over securities of an issuer carrying more than 10% of the voting rights attached to all of the issuer’s outstanding voting securities. However, in determining the 10% threshold, one must now also include any securities convertible within 60 days into voting securities held by the shareholder.

#### Simplification of the requirements for stock-based compensation arrangements

The issuer may now file an “issuer grant report” when granting options under compensation arrangements. This will exempt the directors and officers of the issuer, upon certain conditions, from the need to file an insider report for the acquisition of these securities, and allow them to file an alternative activity or status report, on an annual basis, instead.

To benefit from this exemption, the reporting insider must ensure that the issuer has disclosed the material terms of the compensation arrangement and confirm that the issuer grant report contains all the required information.

## When will the new regime take effect?

On April 30, 2010. However, a transition period is provided for the accelerated 5-day filing deadline, which will only come into effect on October 31, 2010.

## What measures should issuers take in response to the new regime?

Issuers should ascertain the individuals to whom the new definition of “reporting insider” applies and, in particular, those persons who receive or have access to undisclosed material information and who have or can have significant power or influence over the issuer.

The accelerated 5-day filing deadline will not take effect until October 31, 2010. However, we strongly encourage reporting insiders to begin complying with the shortened filing deadline immediately in order to foster sound practices and ensure a smooth transition.

## Be careful!

In the event of a failure to file, an administrative penalty of \$100 will apply for each business day during which the insider is in default, up to a maximum of \$5,000.

For assistance in filing your insider reports or further information, please do not hesitate to contact one of the members of our securities law team. The contact information for all our securities law specialists is available on our website at <http://lavery.ca/legal-services-expertise/securities-law/>.

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