

*Note: [09 Jun 2023] – Withdrawal and Replacement of ASC Policy 51-601 arising from NI 13-103. Refer to Schedule 4 of the ASC Notice dated 30 May 2023.*

## **Alberta Securities Commission Policy 51-601**

### ***Reporting Issuers List***

#### **Part 1 Introduction**

1. The Alberta Securities Commission (ASC) publishes a list of reporting issuers that is updated each business day. Interested persons can refer to the list of reporting issuers to determine whether an Alberta reporting issuer has been noted in default of certain requirements of Alberta securities laws or its securities are the subject of a general cease trade order.

#### **Part 2 List of Reporting Issuers**

2. The ASC maintains a list of reporting issuers that identifies:
  - (a) issuers that are reporting issuers in Alberta;
  - (b) Alberta reporting issuers that have been noted in default of certain requirements of Alberta securities laws;
  - (c) Alberta reporting issuers whose securities are the subject of a general cease trade order;
  - (d) Alberta reporting issuers for which management of the reporting issuer is the subject of a management cease trade order;
  - (e) Alberta reporting issuers whose securities are the subject of a general cease trade order by another securities regulatory authority in Canada;
  - (f) Alberta reporting issuers whose securities are the subject of a halt trade order;
  - (g) Alberta reporting issuers whose securities are the subject of a halt trade order by another securities regulatory authority in Canada.
3. The list of reporting issuers is available on the ASC website ([www.albertasecurities.com](http://www.albertasecurities.com)) under “Issuer Regulation” - “Reporting Issuer List”. The list is compiled as of the close of business each business day and best efforts are made to publish it on the ASC website by 11:00 am the following business day. If the list is unavailable, for example due to technical issues, a notice will be posted on the website indicating that fact. Users can contact the ASC for information when the list is unavailable.

4. Every effort is made to ensure the accuracy of this list. A reporting issuer that does not appear on this list or that has inappropriately been noted in default should contact the ASC promptly.

### **Part 3 Basis for Noting in Default**

5. The list of reporting issuers identifies those instances in which a reporting issuer has been noted in default for certain compliance deficiencies.
6. The absence of a default notation on the list of reporting issuers does not ensure that the reporting issuer is in full compliance with all of its obligations under Alberta securities laws because, amongst other things:
  - (a) not all types of deficiency may lead to a default notation;
  - (b) the list will not reflect undetected deficiencies;
  - (c) the list will not reflect deficiencies which, though detected, have not yet resulted in a reporting issuer being noted in default as the issuer may be given advance notice of the deficiency and a time-limited opportunity to remedy the deficiency before being noted in default.
7. ASC staff will generally consider a reporting issuer to be in default if the issuer:
  - (a) does not file a continuous disclosure document required by Alberta securities laws;
  - (b) makes disclosure that does not comply with Alberta securities laws; or
  - (c) does not pay a fee required by Alberta securities laws.
8. The Appendix to this Policy identifies significant deficiencies in respect of Alberta securities laws that, when detected by ASC staff, may result in the reporting issuer being noted in default on the list of reporting issuers. The Appendix will be updated periodically.
9. Section 1 of the Appendix sets out a list of failures to file significant continuous disclosure that will, when detected by ASC staff, generally result in the reporting issuer being noted in default on the list of reporting issuers without prior notification.
10. Section 2 of the Appendix describes significant deficiencies in the content of a required continuous disclosure filing.

Before noting a reporting issuer in default on the list of reporting issuers for a deficiency contemplated in section 2 of the Appendix, ASC staff will notify a reporting issuer of its

intention to do so. The issuer will have the opportunity, within a specified time period, either to remedy the deficiency or to satisfy ASC staff that there was no deficiency.

If the issuer remedies the deficiency or satisfies ASC staff that there was no deficiency, ASC staff will take no further action and the issuer will not be noted in default on the list of reporting issuers. Otherwise, ASC staff will note the issuer in default on the list of reporting issuers after the specified time period lapses. The default may result in an order under section 33.1 of the *Securities Act* (Alberta) (the **Act**) that trading and purchasing cease in respect of each security of the issuer.

11. Section 3 of the Appendix identifies the failure to pay a fee required under Alberta securities laws as a ground of default. Such a default will also generally result in the reporting issuer being noted in default on the list of reporting issuers without prior notification.
12. Section 4 of the Appendix identifies the failure to comply with any other requirement related to continuous disclosure as a ground of default. The failure to file continuous disclosure prescribed by Alberta securities laws, and not specifically identified in section 1 of the Appendix, once detected by ASC staff, will generally result in a reporting issuer being noted in default on the list of reporting issuers without prior notification. A failure to deliver information and documents reasonably relevant to a disclosure review, as required by the Executive Director pursuant to subsection 60.2(2) of the Act, will also generally result in a reporting issuer being noted in default on the list of reporting issuers without prior notification.

Other failures to comply with requirements related to continuous disclosure under section 4 of the Appendix will be treated in the manner provided in section 10 of this Policy.

13. A notation of default on one or more of the specific grounds listed in the Appendix will be identified in the list of reporting issuers by a code referring to the item number in the Appendix.
14. Once the reporting issuer has addressed to the satisfaction of ASC staff a deficiency for which it has been noted in default, ASC staff will no longer consider the reporting issuer to be in default on that ground. The corresponding notation of the default will be removed from the list of reporting issuers when the website list is updated the next business day.

#### **Part 4 Cease Trade Orders**

15. The list of reporting issuers will identify certain cease trade orders that prohibit trading or purchasing in Alberta of securities of a reporting issuer.
16. If an order has been issued under section 33.1, subsection 198(1) or subsection 198(2) of the Act prohibiting trading in securities of a reporting issuer, the existence of that order

will be noted on the list of reporting issuers beside the name of the issuer as “ASC CTO” without prior notification.

17. As of July 1, 2015, if an order has been issued by a securities regulatory authority in Canada prohibiting any person or company from trading or purchasing securities or specified securities of a reporting issuer and that order arose as a result of a finding or admission of a contravention of laws respecting the trading in securities or derivatives, or conduct contrary to the public interest, that cease trade order will also apply in Alberta as a result of section 198.1 of the Act, with such modifications as the circumstances require (a **Reciprocal CTO**). In this case, the existence of the Reciprocal CTO will be noted on the list of reporting issuers beside the name of the issuer as “Reciprocal CTO” without prior notification.
18. Management cease trade orders issued against management of an issuer are noted on the list of reporting issuers beside the name of the issuer as a “ASC MCTO.”. It should be understood that a management cease trade order is directed at the management and insiders of a reporting issuer and is not made generally in respect of the securities of the reporting issuer..
19. If a management cease trade order is issued by another securities regulatory authority in Canada, the existence of that order will be noted on the list of reporting issuers beside the name of the issuer as “Reciprocal MCTO.”
20. Orders that prohibit or restrict trading or purchasing in Alberta in the securities of an issuer by specified persons or companies will not appear on the list of reporting issuers. To determine whether a person or company is subject to such an order, consult the ASC website under “Proceedings, Decisions & Orders - Enforcement”.

## **Part 5 Filing Considerations For Reporting Issuers**

21. A reporting issuer may be noted in default if it fails to file a required document within the prescribed time period. Reporting issuers should review the applicable provisions of securities legislation including National Instrument 51-102 *Continuous Disclosure Obligations* and National Instrument 81-106 *Investment Fund Continuous Disclosure (NI 81-106)* to determine applicable filing requirements. Reporting issuers may also wish to refer to the *Interpretation Act* (Alberta) for information on the computation of time in relation to filing deadlines.
22. A reporting issuer is responsible for creating and maintaining a profile under National Instrument 13-103 *System for Electronic Data Analysis and Retrieval (NI 13-103)* and a issuer profile supplement under National Instrument 55-102 *System for Electronic Disclosure by Insiders (NI 55-102)*. Reporting issuers are reminded that the ASC relies on the contact information in the issuer’s SEDAR+ profile to serve any notices or orders issued under section 33.1 of the Act.

## **Part 6 Sample Notation**

23. A notation of default on the list of reporting issuers will be identified in the list under the heading “Nature of Default”. The notation will use coding corresponding to the relevant description in the Appendix:

Example: ABC Inc. Cease Traded 1a, 1b, 3

Nature of default:	1a	failure to file annual financial statements
	1b	failure to file interim financial report
	3	failure to pay a fee required by Alberta securities laws

## **Part 7 National List of Reporting Issuers**

24. Information from the ASC’s list of reporting issuers is uploaded each business day to SEDAR+, the filing system contemplated by NI 13-103. This information is consolidated with information from the other securities regulatory authorities to form a national list of reporting issuers.

## APPENDIX

### Key Deficiencies Resulting in Notation of Default

1. The reporting issuer has failed to file the following continuous disclosure prescribed by Alberta securities laws:
  - (a) annual financial statements;
  - (b) interim financial report;
  - (c) annual or interim management's discussion and analysis (MD&A) or an annual or interim management report of fund performance (MRFP);
  - (d) annual information form (AIF);
  - (e) certification of annual or interim filings under National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (NI 52-109);
  - (f) proxy materials or a required information circular;
  - (g) issuer profile supplement on the *System for Electronic Disclosure By Insiders* (SEDI);
  - (h) material change report;
  - (i) written update as required after filing a confidential report of a material change;
  - (j) business acquisition report;
  - (k) annual oil and gas disclosure prescribed by National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities* (NI 51-101) or technical reports for a mineral project required under National Instrument 43-101 *Standards of Disclosure for Mineral Projects* (NI 43-101);
  - (l) mandatory news releases;
  - (m) corporate governance disclosure as required by National Instrument 58-101 *Disclosure of Corporate Governance Practices*;
  - (n) audit committee disclosure as required by National Instrument 52-110 *Audit Committees*;

- (o) disclosure in a reporting issuer's MD&A relating to disclosure controls and procedures and their effectiveness that is referred to in a certificate filed under NI 52-109.
- 2. The reporting issuer's continuous disclosure is deficient because of any of the following:
    - (a) financial statements of the reporting issuer, or the auditor's report accompanying the financial statements, do not comply with the requirements of National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102), NI 81-106 or National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*;
    - (b) the reporting issuer has acknowledged that its financial statements, or the auditor's report accompanying the financial statements, may no longer be relied upon;
    - (c) the reporting issuer's AIF, MD&A, MRFP, information circular, or business acquisition reports do not contain information for each of the content items required by NI 51-102 or NI 81-106;
    - (d) the reporting issuer's technical disclosure or other reports do not comply with the disclosure requirements of NI 43-101 or NI 51-101.
  - 3. The reporting issuer has failed to pay a fee required by Alberta securities laws.
  - 4. The reporting issuer has failed to comply with any other requirement related to continuous disclosure.