

# **Who's Your Daddy? Disclosure Documents in Canadian Law Practice**

**NE 2007: Law Libraries Without Borders:  
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## Canadian Securities Regulatory Authorities

### > Regulatory bodies

- Securities Commissions/Securities Regulatory Authorities in 10 Provinces and 3 Territories
- No Canadian federal securities regulatory authority
- Some mutual reliance and harmonization through national rules and policies
- Current proposals include single securities regulator vs. passport system

## Sources of Canadian Securities Regulation

- Securities legislation and corresponding regulations in each jurisdiction
- National and Multilateral Instruments, Rules and Policies
- Local Policies and Rules
- Blanket Orders
- Registrars Orders

## Where are they found?

- > SEDAR
- > SEDI
- > DisclosureNet
- > GSI
- > Issuer's Website
- > Other Commercial or Free Sites

## Why are these filed on SEDAR?

- Continuous and Timely Disclosure Obligations (NI 51-102 and NI 81-106)
  - Continuous – periodic and regular
  - Timely Disclosure - triggered by an occurrence or event
- Offering Related Filing Obligations
  - Actual offering documents
  - Related documents

## Continuous Disclosure Filings

- Continuous Disclosure Filings
  - Financial Statements
  - MD&A
  - AIFs
  - Material Contracts
    - NI 51-102, s.12 requires filing of
      - Constating documents
      - Documents affecting rights of securityholders
      - Material contracts
      - Filed with AIF or Material Change Report
      - May be redacted or confidential

## Continuous Disclosure Filings Dissected

- MD&A – Form 51-102F1
  - Overall financial performance
  - Selected Annual Information
  - Transactions with related parties
  - Financial instruments and other instruments
- AIF – Form 51-102F2
  - Narrative history of business
  - Corporate and Capital Structure
  - Directors and officers
  - Legal proceedings
  - Description of Material Contracts
  - Audit Committee disclosure (composition, mandate, fees, etc.)

## Timely Disclosure Filings

- Business Acquisition Reports
- Material Change Reports
- Change in year-end, corporate structure, auditor, status etc.
- Reverse Take-over
- Restricted Security Disclosure
- Material Contracts

## Transaction specific filings

- Private Placement/Exempt Offering
  - Agency/Underwriting Agreement
  - Subscription Documents
    - Subscription Agreement
    - Warrant Indentures
    - Escrow Agreements, etc.
  - Other

## Transaction specific filings

- Prospectus Offering
  - Long Form
  - Short Form
  - CPC (Capital Pool)
  - Base Shelf
  - Base Supplement
  - PREP (Post Receipt Pricing)
  - MJDS

## Transaction specific filings

- Prospectus Offering – Related Documents
  - Underwriting/Agency Agreement
  - Material Contract/Agreement
  - Prospectus Filing Documents
  - Other

## Transaction specific filings – Dissecting a prospectus

### > Form 41-501F1

- Corporate structure
- Narrative description of the business
- Description of securities
- Principal shareholders
- Directors and Officers
- Executive compensation
- Risk factors
- Material contracts
- Financial statements

## Transaction specific filings

### > Take-over Bid/Merger

- Circulars

  - Offeror's Circular

  - Director's Circular

  - Dissident's Circular

- Merger/Documents

  - Merger Agreement

  - Lock-up/Voting/Support Agreement

  - Arrangement Agreement / Plan of Arrangement

  - Other Contracts

## Transaction specific filings

- Securityholder Meeting
  - Notice of Meeting
  - Proxy Circular (Special or Annual General Meeting)
  - Report of Voting Results

## Transaction specific filings – Dissecting a proxy circular

- Proxy Circular – Form 51-102F5 and F6
  - Information on Directors and Principal Securityholders
  - Particulars of matter before the meeting
  - Corporate Governance Disclosure
    - Board and Committee mandates, narrative descriptions, etc.
  - Executive Compensation Disclosure
    - Comprehensive compensation disclosure for executive officers
    - Stock options and similar compensation arrangements
    - Termination and change of control provisions
    - Compensation of Directors
    - Narrative report on executive compensation

## Transaction specific filings

- > Other
  - Related Party Transactions
  - Rights Offerings
  - Third Party Filings
    - Insider Reports
    - Early Warning Filings
  - Issuer Bid Filings
  - Fees Related Filings

## Why are they looking for it?

### 1. Value as Precedent

- Agreement
- Clause/Provision
- Description

## Why are they looking for it?

### 2. Competitive Intelligence

- Who's doing what?
- What did they demand/accept?
- What is the latest and greatest?

## Beware of SEDAR

- Canadian filings are not exhibits
- Filings not classified by numbers in all cases
- Search function is limited
- Document classification depends on how it was filed



# QUESTIONS & ANSWERS

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