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**NEW BRUNSWICK SECURITIES COMMISSION LOCAL POLICY 51-601**  
***REPORTING ISSUERS LIST***

**1. Introduction**

1.1 Effective 15 December 2006, the New Brunswick Securities Commission (NBSC or the Commission) posted on its website a reporting issuers list, which includes a reporting issuer's default status, if any, and any outstanding cease trade orders issued against the reporting issuer. Interested persons can refer to the reporting issuers list to determine whether a New Brunswick reporting issuer has been noted in default of certain requirements of New Brunswick securities laws or its securities are the subject of a general cease trade order issued by the NBSC. This list is updated weekly.

**2. Reporting Issuers List**

2.1 The NBSC maintains a reporting issuers list that identifies:

- (a) issuers that are reporting issuers in New Brunswick;
- (b) New Brunswick reporting issuers that have been noted in default of certain requirements of New Brunswick securities laws; and
- (c) New Brunswick reporting issuers whose securities are the subject of a general cease trade order by the NBSC.

2.2 The reporting issuers list is updated on the NBSC website weekly. The Commission's website address is [www.nbsc-cvmnb.ca](http://www.nbsc-cvmnb.ca).

2.3 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 NBSC promptly.

2.4 In the event of technical difficulties or circumstances beyond the Commission's

control, the Commission may, alternatively, only publish a list of defaulting reporting issuers whose Principal Regulator is New Brunswick.

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

- 3.1 The reporting issuers list identifies those instances in which a reporting issuer has been noted in default for certain compliance deficiencies.
- 3.2 The absence of a default notation on the reporting issuers list does not ensure that the reporting issuer is in full compliance with all of its obligations under New Brunswick securities laws because, among other things:
  - (a) not all types of deficiencies may lead to a default notation;
  - (b) the reporting issuer list will not reflect undetected deficiencies;
  - (c) the reporting issuer list will not reflect deficiencies which, though detected, have not yet resulted in a reporting issuer being noted in default as the reporting issuer may be given advance notice of the deficiency and a time-limited opportunity to remedy the deficiency before being noted in default.
- 3.3 The NBSC will generally consider a reporting issuer to be in default if the reporting issuer:
  - (a) does not file a continuous disclosure document required by New Brunswick securities laws;
  - (b) makes disclosure that does not comply with New Brunswick securities laws;  
or
  - (c) does not pay a fee required by New Brunswick securities laws.
- 3.4 Appendix A to this Policy identifies significant compliance deficiencies under New Brunswick Securities laws that, when detected and determined to be deficient by NBSC staff, may result in the reporting issuer being noted in default on the reporting issuers list. Appendix A will be updated periodically.
- 3.5 Section 1 of Appendix A sets out a list of failures to file significant continuous disclosure that will, when detected and determined to be a default by NBSC staff, generally result in the reporting issuer being noted in default on the reporting issuers list without prior notification.
- 3.6 Section 2 of Appendix A describes significant deficiencies in the content of a required continuous disclosure filing and section 4 of Appendix A describes deficiencies relating to failure to comply with any other requirement related to continuous disclosure.

A reporting issuer will generally be notified in advance of any intention to treat the reporting issuer as being in default of a deficiency contemplated in sections 2 and 4 of Appendix A and the reporting issuer may request a hearing before the Commission on this matter. If the default is not clear and if a Commission hearing is requested within 10 days of that notification, the reporting issuer will generally not be noted in default, pending the Commission hearing.

If the default is clear then, even if the reporting issuer requests a Commission hearing, the reporting issuer could be noted in default during the period before the hearing.

If a default is clear and significant then, even if the reporting issuer requests a Commission hearing, the reporting issuer could be noted in default during the period before the Commission hearing. Such a determination would be made by the Executive Director and would be made only after appropriate consideration of all the facts and circumstances. This would include allowing the reporting issuer an opportunity to present its views on the issue (in writing and in person) and to discuss those views with NBSC staff, as well as an opportunity to be heard by the Executive Director. When such a determination is made by the Executive Director, written reasons will be provided to the reporting issuer after which time the reporting issuer can seek from the Commission a hearing and review of the Executive Director's decision.

If the reporting issuer remedies the deficiency or satisfies NBSC staff that there was no deficiency, NBSC staff will take no further action and the reporting issuer will not be noted in default on the reporting issuers list.

If the issuer acknowledges the deficiency but does not remedy it within the specified period, NBSC staff will note the issuer in default on the reporting issuers list.

- 3.7 Section 3 of Appendix A identifies the failure to pay a fee required under New Brunswick securities laws as a ground of default. Such a default will also generally result in the reporting issuer being noted in default on the reporting issuers list without prior notification.
- 3.8 A default notation on one or more of the specific grounds listed in Appendix A will be identified on the reporting issuers list by a code referring to the item number in Appendix A.
- 3.9 Once the reporting issuer has addressed the deficiency to the satisfaction of NBSC staff for which it has been noted in default, NBSC staff will no longer consider the reporting issuer to be in default on that ground. The corresponding default notation will be removed from the reporting issuers list when the website list is next updated.

#### **4. Cease Trade Orders**

- 4.1 The reporting issuer's list will identify certain cease trade orders that prohibit all trading in New Brunswick of a reporting issuer's securities.
- 4.2 If an order has been issued under subsection 184(1)(c) of the *Securities Act* prohibiting all trading in securities or specified securities of a reporting issuer, the existence of a cease trade order will be noted on the reporting issuer's list beside the reporting issuer's name without prior notification.
- 4.3 Other orders that may prohibit or restrict trading in New Brunswick in the reporting issuer's securities by specified individuals or reporting issuers will not appear on the reporting issuer's list. To determine whether an individual or reporting issuer is the subject of this other type of cease trade order (for example, a cease trade order issued against management or insiders of a reporting issuer), consult the NBSC website. Because a management and insider cease trade order is directed at the management and insiders of the reporting issuer and not the reporting issuer's securities, this type of cease trade order is not noted on the reporting issuer's list against the name of the reporting issuer.
- 4.4 An excellent source for cease trade orders is the National CTO Database which can be viewed on the Canadian Securities Administrators website at [www.csa-acvm.ca](http://www.csa-acvm.ca).

#### **5. Filing Consideration For Reporting Issuers**

- 5.1 A reporting issuer may be noted in default if it fails to file a required document within the prescribed time period. National Instrument 13-101 *System for Electronic Document Analysis and Retrieval* (the SEDAR instrument) provides for the electronic transmission of documents to the NBSC for filing. The date of filing a document in electronic format for the purpose of New Brunswick securities laws is determined in accordance with section 2.7 of the SEDAR instrument. Reporting issuers should review the provisions of the SEDAR instrument to determine applicable filing requirements.
- 5.2 A reporting issuer is responsible for creating and maintaining a current filer profile under the SEDAR instrument and a current issuer profile supplement under National Instrument 55-102 *System for Electronic Disclosure by Insiders* (SEDI). Reporting issuers should review requirements for filing a filer profile under the SEDAR instrument, an issuer profile supplement under SEDI and any amendments to the filer profile or issuer profile supplement.

#### **6. Sample Notation**

- 6.1 A default notation on the reporting issuer's list will be identified in the list under the heading "Nature of Default". The notation will use coding corresponding to the relevant description in Appendix A:

Example: ABC Inc.	1a, 1b, 3	Period	Cease Traded
Nature of default:	1a	failure to file annual financial statements	
	1b	failure to file interim financial statements	
	3	failure to pay a fee required by New Brunswick securities laws	

**7. Certificate of No Default**

7.1 As a transitional provision, the New Brunswick Securities Commission will continue to issue Certificates of No Default until 31 March 2007.

**8. Effective Date**

8.1 This Policy is effective 15 December 2006.

**APPENDIX A**  
**to Local Policy 51-601**

**Key Deficiencies Resulting in Default**

1. The reporting issuer has failed to file the following continuous disclosure prescribed by New Brunswick securities laws:
  - (a) annual financial statements;
  - (b) interim financial statements;
  - (c) annual or interim management's discussion and analysis (MD&A) or annual or interim management report of fund performance (MRFP);
  - (d) annual information form (AIF);
  - (e) certification of annual or interim filings under Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (MI 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 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 release;
  - (m) corporate governance disclosure as required by National Instrument 58-101 *Disclosure of Corporate Governance Practices*;
  - (n) audit committee disclosure as required by Multilateral Instrument 52-110 *Audit Committees* or BC Instrument 52-509 *Audit Committees*; or
  - (o) disclosure in an issuer's MD&A relating to disclosure controls and procedures and their effectiveness that is referred to in a certificate filed under MI 52-109.

2. The reporting issuer's continuous disclosure is deficient because:
  - (a) the 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), National Instrument 81-106 *Investment Fund Continuous Disclosure* (NI 81-106) or National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency*;
  - (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; or
  - (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 New Brunswick securities laws.
4. The reporting issuer has failed to comply with any other requirement related to continuous disclosure.