

CSA Provides Delivery Relief for AGM Materials Due to Canada Post Strike

On November 15, 2024, all postal service in Canada by Canada Post was suspended as a result of labour action by the Canadian Union of Postal Workers; a disruption that has resulted in significant collateral effects for Canada's various reporting issuers. Many reporting issuers often rely on Canada Post to meet their delivery obligations under applicable Canadian securities legislation, as alternatives such as courier delivery can be cost-prohibitive and electronic delivery is only possible with prior shareholder consent and provided email addresses.

Recognizing that the suspension of postal service may impact a reporting issuer's ability to deliver meeting and proxy related materials to shareholders, on December 4, 2024, the Canadian Securities Administrators (CSA) published Coordinated Blanket Order 51-931 Temporary Exemption from requirements in National Instrument 51-102 *Continuous Disclosure Requirements* and National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer* to send certain meeting materials during a postal strike (Order 51-931). Order 51-931 addresses specific challenges faced by Canadian reporting issuers and, in doing so, seeks to provides temporary relief from the requirement to deliver meeting materials for meetings where each matter is an "annual matter," and certain electronic filing requirements are fulfilled.

Order 51-931 Limited to "Annual Matters"

The conditions in Order 51-931 include a requirement that each matter at a meeting would be considered an "annual matter," which includes the matters typical at an annual general meeting of shareholders. The following are each an annual matter for the purposes of Order 51-931:

- receiving and considering financial statements as well as the accompanying report of the auditor;
- fixing the number of directors to be elected and electing directors;
- appointing auditors and authorizing the directors to fix the remuneration to be paid to the auditor;
- approval and ratification of security-based compensation plans, such stock option or omnibus equity incentive plans; and
- non-binding advisory votes that do not obligate the reporting issuer to take specific action, such as shareholder advisory votes on the reporting issuer's approach to executive compensation.

Conversely, a reporting issuer cannot rely on Order 51-931 if a matter at the meeting:

- requires a special resolution under the reporting issuer's corporate law;
- requires minority approval under Multilateral Instrument 61-101 *Protection of Minority Security Holders in Special Transactions*;
- engages a shareholder's right of dissent or appraisal under the reporting issuer's corporate law; or
- has been, to the best of the reporting issuer's knowledge, contested by a shareholder, or would reasonably be considered to be a contentious matter.

The CSA advised these matters were excluded as they may have a significant impact on a shareholder's ownership and economic rights. Reporting issuers can make requests for relief from the delivery requirements in connection with a meeting for any of the above-noted matters. Such requests will be considered by regulators on a case-by-case basis.

SEDAR+ and Other Filing Requirements



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Related Practice Areas

- Capital Markets & Securities
- Capital Markets & Securities — Canada

Reporting issuers relying on the relief in Order 51-931 must ensure meeting materials are filed on SEDAR+ and the issuer's website. A news release with prescribed information about the meeting and how shareholders can access materials and submit voting instructions must be issued and filed on SEDAR+, and reporting issuers must also post the same information in a prominent location on their websites. An issuer that does not have a website cannot rely on the relief in Order 51-931.

The news release must include the date, time, and location of the meeting, a description of matters to be discussed at the meeting, the deadline for submitting votes, how electronic versions of meeting materials can be accessed, and a statement that the issuer is relying on the relief from the delivery requirements under Order 51-931. The news release must also include an explanation of how registered holders and beneficial owners can request from the issuer or intermediaries, as applicable, a proxy or voting information form, the individual control number required to vote, and information on how to submit proxies to the issuer or voting instructions to intermediaries.

Reporting issuers intending to rely on the relief under Order 51-931 should carefully review the conditions set out in the order. A copy of Order 51-931 is available [here](#). Order 51-931 provides relief from certain delivery obligations under securities legislation only, it does not provide relief from the delivery requirements under corporate law. Order 51-931 expires on January 31, 2025, after which the relief cannot be utilized and the typical delivery obligations under securities legislation will apply.

For further information or assistance utilizing the relief in Order 51-931, please contact the authors Nicholas Krishan at nkrishan@cozen.com or Alex Farkas at afarkas@cozen.com.