

Is the printed prospectus dead? CSA to implement access model for non-investment fund prospectuses

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Non-investment fund reporting issuers will no longer be required to deliver, send or provide a physical or electronic copy of their prospectuses to purchasers under a new access model coming into force April 16, 2024.

What you need to know

- The Canadian Securities Administrators (CSA) have published [final amendments to the various National Instruments](#) that govern prospectus filings and their related Companion Policies to implement an access model for prospectus filings (the Access Model).
- Pursuant to the Access Model, the prospectus delivery obligation will be satisfied by the (i) filing of a prospectus on SEDAR+; and (ii) issuance and filing of a news release indicating that the prospectus is accessible through SEDAR+ and that an electronic or paper copy can be obtained upon request.
- When relying on the Access Model, a prospectus will be considered delivered or sent on the date that the prospectus is filed on SEDAR+ and a news release including prescribed disclosure is issued and filed. A purchaser's request for an electronic or paper copy of the final prospectus or any amendment will not affect the calculation of the period of time during which the purchaser may exercise their rights of rescission or withdrawal.
- The Access Model will not be available for rights offerings, medium-term note programs and other continuous distributions under a shelf prospectus, nor will the Access Model apply to continuous disclosure documents. However, the CSA has indicated that an access model for continuous disclosure is being considered.
- The Access Model will come into force on April 16, 2024, subject to obtaining all necessary approvals.

Highlights of amendments

The Access Model allows, but does not require, non-investment fund reporting issuers and dealers to satisfy the prospectus delivery requirement by filing a prospectus on

SEDAR+ and notifying investors and potential investors that the prospectus is accessible by issuing and filing a press release that includes certain prescribed information.

The Access Model also provides that purchaser rights of rescission will begin on the later of the date that access to the prospectus has been provided in accordance with the applicable National Instrument and the date on which the purchaser has entered into an agreement to purchase the security. A purchaser's request for an electronic or paper copy of the final prospectus or any amendment will not affect the calculation of the period of time during which the purchaser may exercise their rights.

Prospectus distributions in general

In the case of long-form prospectuses prepared and filed in accordance with National Instrument 41-101 *General Prospectus Requirements* and short form prospectuses prepared and filed in accordance with National Instrument 44-101 *Short Form Prospectus Requirements*, the requirement to deliver, send or provide access to the final prospectus and any amendment may be satisfied or exempted if:

- the document is filed on SEDAR+ and a receipt is issued and posted on SEDAR+ for the document; and
- after the receipt is posted for the document, a news release is issued and filed on SEDAR+ that states:
 - in the title of the news release, that the document is accessible through SEDAR+;
 - that access to the document is provided in accordance with securities legislation relating to procedures for providing access to a prospectus and any amendment;
 - that the document is accessible at www.sedarplus.com;
 - the securities that are offered under the document; and
 - prescribed language to the effect that an electronic or paper copy of the document may be obtained without charge.

With respect to access to the preliminary prospectus and any amendment, the requirements will be met or exempted if the document has been filed on SEDAR+, and a receipt has been issued and posted on SEDAR+ for the document.

Shelf Distributions and Post-Receipt Pricing (PREP)

Similarly, National Instrument 44-102 *Shelf Distributions* and National Instrument 44-103 *Post-Receipt Pricing* will be amended to allow for alternative procedures to provide access to prospectuses in shelf distributions and supplemented PREP prospectuses. While these procedures will generally follow those noted above, the CSA has acknowledged that, given the nature of shelf and PREP offerings, issuers may issue a news release disclosing material information with respect to an offering prior to the filing of a final prospectus. As a result, in the case of shelf and supplemented PREP prospectuses, the Access Model permits the issuer to include prescribed disclosure in a press release issued within two days before the date the prospectus is filed.

Background

Canadian securities legislation generally requires that prospectuses be delivered, sent or provided to purchasers and prospective purchasers when soliciting expressions of interest and booking orders to purchase securities. The Access Model published in the Notice modernizes this delivery requirement and follows a series of CSA consultations.

In January 2020, the CSA published [CSA Consultation Paper 51-405 Consideration of an Access Equals Delivery Model for Non-Investment Fund Reporting Issuers](#) to solicit views on whether an access model should be introduced in the Canadian market, for both prospectus filings and certain continuous disclosure documents.

A revised access model proposal was published by the CSA in April 2022 in [Proposed Amendments and Proposed Changes to Implement an Access Equals Delivery Model for Non-Investment Fund Reporting Issuers](#) which reflected a number of comments received in response to the initial proposal. Most notably, the revised proposal did not require issuers to post prospectuses and other disclosure documents to their own websites.

The Access Model that will come into force in April 2024 does not include continuous disclosure documents and the CSA has indicated that it anticipates publishing a revised access model for such documents. For the time being, the Access Model is intended to reduce issuers' printing and mailing costs associated with prospectuses and reflect the manner in which investors are generally accessing information.

While the Access Model is being implemented by way of amendments to the applicable National Instruments, in British Columbia, Québec and New Brunswick, the Access Model is structured as an exemption from the delivery obligation to better align with the legislative authority in those jurisdictions. Regardless of the manner of implementation, the outcome is intended to be the same across the country.

Next steps

As noted above, the final amendments to the relevant National Instruments will come into force on April 16, 2024, subject to all necessary approvals being obtained. For further information, please see [CSA Notice of Publication of Amendments and Changes to Implement an Access Model for Prospectuses of Non-Investment Fund Reporting Issuers](#) (January 11, 2024).

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