

THE MANITOBA SECURITIES COMMISSION
MSC RULE 2010-22
(Section 149.1, *The Securities Act*)

AMENDMENT INSTRUMENT FOR
NATIONAL INSTRUMENT 44-101
SHORT FORM PROSPECTUS DISTRIBUTIONS

Although this amendment instrument amends section headers in National Instrument 44-101, section headers do not form part of the instrument and are inserted for ease of reference only.

- 1. National Instrument 44-101 Short Form Prospectus Distributions is amended by this Instrument.*
- 2. Subsection 1.1 is amended, in the definition of “short form eligible exchange”, by replacing “Canadian Trading and Quotation System Inc.” with “Canadian National Stock Exchange”.*
- 3. Paragraph 4.3(2)(a) is replaced with the following:*
 - (a) U.S. AICPA GAAS, the unaudited financial statements may be reviewed in accordance with the review standards issued by the American Institute of Certified Public Accountants,*
 - (a.1) U.S. PCAOB GAAS, the unaudited financial statements may be reviewed in accordance with the review standards issued by the Public Company Accounting Oversight Board (United States of America),.*
- 4. The general instructions of Form 44-101F1 are amended*
 - (a) in instruction (3), by deleting “This concept of materiality is consistent with the financial reporting notion of materiality contained in the Handbook.”,*
 - (b) in instruction (8), by replacing “the Handbook” with “Canadian GAAP applicable to publicly accountable enterprises”, and*
 - (c) in instruction (14), by replacing “disclose the currency in which the financial information is disclosed” with “display the presentation currency”.*
- 5. Section 1.6.1 of Form 44-101F1 is amended by deleting “reporting”.*
- 6. Section 6.1 of Form 44-101F1 is amended*
 - (a) in paragraph (1)(c), by replacing “interim financial statements of the issuer have” with “an interim financial report of the issuer has”,*
 - (b) in subparagraph 2(b)(i), by deleting “issued”,*
 - (c) in paragraphs (2)(b) and (d), by replacing “annual or interim financial statements” wherever it occurs with “annual financial statements or interim financial report”,*
 - (d) in paragraph (2)(c), by replacing “annual or interim financial statements” with “annual financial statements or interim financial report; and”,*
 - (e) in paragraphs (2)(c) and (d), by deleting “long-term” wherever it occurs,*
 - (f) in paragraph (2)(d), by replacing “prospectus; and” with “prospectus.”,*

(g) by repealing paragraph (2)(e),

(h) by repealing subsection (3), and

(i) in subsection (4), by replacing “earnings required” with “numerator required”.

7. The instructions under item 6 of Form 44-101F1 are amended

(a) in instruction (2), by replacing “entity’s earnings (the numerator) by its interest” with “entity’s profit or loss attributable to owners of the parent (the numerator) by its borrowing costs”,

(b) in instruction (3),

(i) in paragraph (a), by replacing “net income before interest” with “profit or loss attributable to owners of the parent before borrowing costs”,

(ii) by repealing paragraph (c),

(iii) by replacing paragraph (d) with the following:

(d) for distributions of debt securities, the appropriate denominator is borrowing costs, after giving effect to the new debt securities issue and any retirement of obligations, plus the borrowing costs that have been capitalized during the period,;

(iv) in subparagraph (e)(i), by replacing “annual interest requirements, including the amount of interest that has” with “annual borrowing cost requirements, including the borrowing costs that have”, and

(v) in paragraph (f), by adding “securities” after “effect of the debt”,

(c) in instruction (4),

(i) by replacing “interest obligations on all long-term debt” with “borrowing cost obligations on all financial liabilities”,

(ii) by replacing paragraph (a) with the following:

(a) the issuance of all financial liabilities and, in addition in the case of an issuance of preferred shares, all preferred shares issued, since the date of the annual financial statements or interim financial report,;

(iii) in paragraph (b), by adding “and” after “distributed,”,

(iv) by replacing paragraph (c) with the following:

(c) the repayment or redemption of all financial liabilities since the date of the annual financial statements or interim financial report, all financial liabilities to be repaid or redeemed from the proceeds to be realized from the sale of securities under the short form prospectus and, in addition, in the case of an issuance of preferred shares, all preferred shares repaid or redeemed since the date of the annual financial statements or interim financial report and all preferred shares to be repaid or redeemed from the proceeds to be realized from the sale of securities under the short form prospectus., and

(v) by repealing paragraph (d),

(d) by repealing instruction (5),

(e) in instruction (6), by replacing “interest requirements, after giving effect to the issue of [the debt securities to be distributed under the short form prospectus], amounted to \$• for the 12 months ended •. [Name of the issuer]’s earnings before interest and income tax for the 12 months then ended was \$•, which is • times [name of the issuer]’s interest requirements” with “borrowing cost requirements, after giving effect to the issue of [the debt securities to be distributed under the short form prospectus], amounted to \$• for the 12 months ended •. [Name of the issuer]’s profit or loss attributable to owners of the parent before borrowing costs and income tax for the 12 months then ended was \$•, which is • times [name of the issuer]’s borrowing cost requirements”, and

(f) in instruction (7), by replacing “interest requirements for the 12 months then ended amounted to \$•. [Name of the issuer]’s earnings before interest and income tax for the 12 months ended • was \$•, which is • times [name of the issuer]’s aggregate dividend and interest requirements” with “borrowing cost requirements for the 12 months then ended amounted to \$•. [Name of the issuer]’s profit or loss attributable to owners of the parent before borrowing costs and income tax for the 12 months ended • was \$•, which is • times [name of the issuer]’s aggregate dividend and borrowing cost requirements”.

8. Paragraph 7.3(3)(b) of Form 44-101F1 is amended by replacing “income” with “profit”.

9. Paragraph 11.1(1)3 of Form 44-101F1 is amended by replacing “interim financial statements” with “interim financial report”.

10. Subsection 13.1(1) of Form 44-101F1 is amended

(a) in paragraph (c), by replacing “revenues” with “revenue”,

(b) in paragraph (g)

(i) in subparagraph (i), by replacing “sales or revenues” with “revenue”,

(ii) in subparagraph (ii), by replacing “income from continuing operations” with “profit or loss from continuing operations attributable to owners of the parent”,

(iii) in subparagraph (iii), by replacing “net earnings or loss” with “profit or loss attributable to owners of the parent”,

(iv) in subparagraph (iv), by replacing “balance sheet” with “statement of financial position”, and

(c) by adding the following instruction after paragraph (g):

INSTRUCTION

See section 1.1 of NI 41-101 for the definitions of “profit or loss attributable to owners of the parent” and “profit or loss from continuing operations attributable to owners of the parent”..

11. Subparagraph 13.2(f)(ii) of Form 44-101F1 is amended by replacing “interim and annual consolidated” with “consolidated interim financial report and consolidated annual”.

12. This Instrument only applies to a preliminary short form prospectus, an amendment to a preliminary short form prospectus, a final short form prospectus or an amendment to a final short form prospectus of an issuer

which includes or incorporates by reference financial statements of the issuer in respect of periods relating to financial years beginning on or after January 1, 2011.

13. Despite section 12, an issuer may apply the amendments set out in this Instrument to a preliminary short form prospectus, an amendment to a preliminary short form prospectus, a final short form prospectus, or an amendment to a final short form prospectus of the issuer, which includes or incorporates by reference financial statements of the issuer in respect of periods relating to a financial year that begins before January 1, 2011 if the immediately preceding financial year ends no earlier than December 21, 2010 and if the issuer is relying on the exemption in section 5.3 of National Instrument 52-107 Acceptable Accounting Principles and Auditing Standards.

14. This Instrument comes into force on January 1, 2011.

15. This Instrument may be cited as MSC Rule 2010-22.