

# Equity Transcript



## Proxy Protocol

In September 2005, the Securities Transfer Association of Canada (STAC) completed a review and update of its Proxy Protocol.

The Proxy Protocol is an industry wide guideline used by all transfer agents for the validation of proxies and voting instructions issued in connection with security holder meetings. It is only a guideline and if there is any uncertainty as to the validity of a proxy, the scrutineer will refer any questions to the Chair of the meeting.

Since the original Proxy Protocol was issued in March, 1991, there have been numerous technological and regulatory advancements that affect the way meetings are conducted. The Proxy Protocol addresses the issue of telephone and internet voting. Under the protocol, if the shareholder is given the option of voting by electronic means, they must be given adequate instructions and a unique identification number or identifier, to facilitate this form of voting. Additionally, the issuer must use the same tabulation method as for the registered shareholders and is obliged to upload electronic votes daily.

The Protocol also addresses National Instrument 54-101 (Communications with Beneficial Shareholders) and provides for two alternative ways of appointing beneficial owners to vote their securities in person at the meeting or by completing the voting instruction form.

**The two ways are:**

1. The beneficial owner can write in their own name in the voting instruction form therein providing them the right to vote, or,
2. Management of the Issuer can execute an omnibus form of proxy appointing the beneficial owner with the right to directly vote their own shares.

These alternatives which were not contemplated in the National Instrument 54-101 ensure that non-objecting beneficial owners ("NOBO's") are treated as if they were registered shareholders.

With the introduction of NI 54-101, we have become more concerned about the issue of over-voting. When a transfer agent accepts the responsibility to mail annual meeting and proxy materials to an issuer's NOBO's, it is also taking on the responsibility of reconciling the total number of votes received from the NOBO's for a particular financial institution, to that financial institution's total voting position, as evidenced by their holding within the depository (CDS). Over-voting occurs, when the total number of votes received and tabulated for NOBO's represented by a financial institution, exceeds its depository position. The securities industry represented by the transfer agents, financial institutions and ADP are discussing ways in which voting records are reconciled prior to meeting date to ensure that overvoting does not occur.

The Proxy Protocol can be found by visiting our website [www.equitytransfer.com](http://www.equitytransfer.com) in the "For Clients" section.

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EQUITY TRANSFER SERVICES



## NI 54-101 Beneficial Shareholder Communication – A Success

The Spring of 2005 represented the first proxy season where transfer agents were able to mail annual meeting and proxy materials to an issuer's Non-Objecting Beneficial Shareholders (NOBO's). At Equity Transfer, we found most of our clients opting for this service.

We found that NOBO's were less confused about the process as they were treated more like a registered shareholder than before. Now they were able to attend meetings without being designated by their financial institution. In addition, the security holders, both NOBO and Registered, received their materials at the same time, further reducing questions about the mailing process.

Issuers saw additional benefits from the new process as they were able to obtain a better tracking of the voting as it occurred. This process gives the issuer the timely opportunity to initiate remedial action, in cases where it was anticipated that

quorum would not be met, or where the issuer needed to solicit proxies for other reasons.

### Alternative Use for NOBO List

In reviewing NI 54-101, we do not see any barrier from an issuer using a NOBO list to increase shareholder loyalty. In the past, many shareholders were ignored from direct information distribution because their names did not appear on the shareholders' register.

Issuers may consider using their last NOBO list, or requisitioning a new NOBO list, to assist in a general mailing to security holders during the year for informational purposes; for example, to directly distribute important press releases. This will ensure all shareholders are directly "in the loop" and current on news.

It should be noted however that the NOBO list can only be used for corporate matters and not to solicit the sale of products and services.

### 25% of Equity Clients Sign on to Press Release Service

In June of this year, Equity introduced a channel partnership with CCNMatthews wherein all Equity clients were offered a preferential price for press releases under the new Equity Press Release Service.

To date about 25% of our clients have taken advantage of this offer and are receiving discounts on all their press releases.

Last year, about 60% of Canadian Public companies utilized CCNMatthews to distribute their press releases.



### National Instrument 45-102: Restricted Securities

NI 45-102 requires restrictive legends to be placed on securities issued to certain security holders who purchased their securities at a discount to market. In general, there is a four month hold period from the date of issuance.

To assist financial intermediaries in lodging restricted securities in book form, the Canadian Depository for Securities introduced a program which called for the transfer agent to issue a physical certificate to CDS with a second CUSIP number which designated the security being restricted pursuant to NI 45-102. The transfer agent industry took exception to this practice, as the transfer agent was unable to state that the securities were being treated as restricted, as required. The securities were part of one registered position, which could be transferred within a brokerage house between clients or between financial institutions, without the knowledge of the transfer agent. As a result, the issuer and transfer agent cannot certify that the securities are truly restricted.

Effective September 14th, 2005, the above noted process will no longer be available from CDS. A recent amendment to the National Instrument requires the transfer agent to register the security in the name of the beneficial owner, either in book or physical form.

## Paperless Legals

On October 3, 2005, Canadian transfer agents adopted paperless legal transfer processing. The U.S. transfer agents adopted the process in July of this year and Canadian transfer agents have followed suit to ensure consistency in the North American market.

The objective of Paperless Legals is to reduce paperwork associated with certain "Legal" transfers. Legal transfers require a completed stock power to transfer ownership and supporting corporate resolutions, partnership agreements, trust agreements, marriage certificates, estate documentation, etc. to evidence the authority of the person(s) to sign. Under the paperless legals program, the latter documentation will be eliminated where the signature has been guaranteed by a Medallion stamp. The adoption of this program will reduce the cost of securities processing and will ensure faster turnaround times.

In short, all that will be required to support the "legal transfer" of a securities certificate is the financial intermediary's SEMP, STAMP or NYSE MSP "medallion" stamp affixed to the stock power on the back of the certificate or a separate stock power form attached to the certificate.

The medallion stamp warrants that, at the time of signing:

- a) the signature was genuine;
- b) the signer was an appropriate person to endorse;
- c) the signer had legal capacity to sign.

The guarantor is expected to retain the required documentation. Thus, a single set of the paperwork stays with the guarantor and does not need to be copied, notarized and sent to the transfer agent.

The Paperless Legals process will apply to all requests for transfers received, except deposits to CDS via CDSX, which have been covered under a separate agreement with the transfer agents since October 1, 2004.

### Exceptions to Paperless Legal Program

There are some exceptions to this program. The following are most note-worthy:

#### High Value Transfers

Depending on the strength of the financial institution, large value transactions exceeding \$4,000,000 may require supporting documentation.

#### Restricted Securities

The Paperless Legal Program does not eliminate the requirement to provide opinion letters, seller's letters or broker's letters as set forth in Rule 144 of the US Securities Act of 1933.

#### Non-Medallion Guarantees

Legal transfers with signatures not guaranteed under one of the medallion guarantee programs (SEMP, STAMP, NYSE MSP) will continue to require supporting legal documentation,

with the exception of those with a Signature and Authority to Sign Guarantee from a Schedule I Canadian chartered bank acceptable to the transfer agent.

**For further detail and information, please visit our website.**

### DisclosureNet Service Now Available and Free for Equity Clients

DisclosureNet is a powerful new SEDAR search engine and alert system developed by XP Innovations Inc.

The product provides rapid access to all filed documents for Canadian public companies and is invaluable to the CEO and CFO in searching for precedents and preparing Financial Statements, MD&A's and Offering Circulars.

Equity Transfer has purchased a bulk licence on behalf of all of its clients and this deal is exclusive for the transfer agency industry. The cost of the service is included in our base service offering price. For more details call Stephen Headford at 416.361.0930 ext. 232

## Our Sponsorship of Canadian Athletes



Our parent company Grey Horse Capital Corporation, and Equity Transfer Services Inc. are proud financial sponsors of several world class athletes who are training hard to represent Canada at international competitions.

One of our Athletes is Olympian Barney Williams. Barney is a 28 year old native of Victoria B.C. who is currently in his second year at Oxford University in England and is the Captain of the Boat Club. Barney and his crew are currently training hard to defend last year's Great Race victory against Cambridge University.

Barney was a member of the men's four who won the gold medal at the 2003 World Champion and captured the Olympic Silver Medal at the 2004 Games in Athens.

The 2004 Olympic race is now legendary, as the Canadian men's four missed winning the gold by eight one hundredths of a second, to the British men's four stroked by Matthew Pinsent.

We are proud of Barney's dedication, effort and determined objective to represent Canada again and to bring home a gold medal.

## Staff Announcements

**Stephen Headford** has joined Equity Transfer Services as Vice-President, Business Development. He will be responsible for our marketing programs and creating value-added partnerships such as the Equity Transfer News Release and DisclosureNet services.

**Beau Cairns** has joined Equity Transfer Services as Assistant to the Vice-President. He has assumed primary responsibility for Escrow Releases, Employee Share Purchase Plans and will also assist Filitsa Spanogiannis in the administration of Common Share Purchase Warrants, Rights Offerings and other financing.

**Rosa Vieira**, Senior Client Officer and **Anna Hooper**, Mailroom Clerk have returned from their maternity leaves.

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