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The SEC Adopts New Rules Regarding Mining Disclosure

November 16, 2018 – Cross-Border Counselor
by James Guttman

On October 31, 2018, the United States Securities and Exchange Commission (the "SEC") announced that it adopted rules to modernize mining property disclosure in order to harmonize SEC disclosure requirements with international standards. The SEC had proposed rules in June 2016 which received numerous comments and as a result a number of changes were made to the original proposed rules.

A high level summary of the final rules and changes compared to the proposed rules can be found here: www.sec.gov/news/press-release/2018-248

The final rules provide for a two-year transition period so that a registrant will not be required to begin to comply with the new rules until its first fiscal year beginning on or after January 1, 2021.

The new rules permit Canadian issuers who file reports with the SEC in accordance with the multijurisdictional disclosure system ("MJDS") to continue to comply with the standards set forth in National Instrument 43-101 ("NI 43-101"). This includes issuers who file annual reports on Form 40-F or registration statements on Form F-10, Form 40-F or Form F-7. However, Canadian issuers who are not MJDS eligible (i.e. those who file annual reports on Form 20-F or who file registration statements on Form F-1, F-3 or F-4 that refer to the annual report on Form 20-F), or issuers who file using U.S. domestic issuer forms, will need to comply with the new rules and will not be able to include disclosure solely compliant with NI 43-101.

Dorsey will provide a more comprehensive analysis on the new rules in the coming weeks and will be conducting a webinar to discuss the new rules in early 2019.

The full rules are available here: www.sec.gov/rules/final/2018/33-10570.pdf

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