



# National Instrument 54 -101 Communicating with Beneficial Owners

## **An Issuer's Perspective**

Nicole Sanches, Investor Relations

Yukon-Nevada Gold Corp.

# Important Dates

Determine the Record Date, Mailing Date & Meeting Date for the Annual General Meeting

- a record date for notice of the meeting, which shall be no fewer than 30 and no more than 60 days before the meeting date
- mailing date: at least four business days before the twenty-first day before the date fixed for the meeting, in the case of proxy-related materials that are to be sent on by the proximate intermediary by prepaid mail other than first class mail

# Get the Ball Rolling

- Through a transfer agent, send notification to all depositories, securities regulatory authority and exchanges in Canada that the issuer is listed on.
- At the same time issuer requests the depository to send to the reporting issuer a report of intermediary & CDS participants
- Fill out form NI 54 – 101 F9 requesting NOBO list
- Transfer agent sends a request to the Company to send materials to U.S. intermediaries & Broadridge in Canada for the OBO listing.

# Mailing

- Three days after the Record Date final numbers of Registered Shareholders & Beneficial Shareholders are sent to the issuer and detailed instructions for the printers.
- Documents included in the mailing are Letter from President, Information Circular, Notice of Meeting, Annual Financial Statements, Management Discussion & Analysis, Proxy or Voting Instruction Form, Annual Report and Financial Statement Request Form.
- Letter from transfer agent confirming mailing.

# Voting Issues

Next phase collecting the proxies for the very important voting at the special shareholders meeting on the merger of YGC Resources Ltd. & Queenstake Resources Ltd.

Depository Trust Company out of New York mailed the company the Omnibus Proxy list of our U.S. shareholders, around 10 million shares out of 63 million.

Confirmation of mailing of materials received in a timely manner by shareholders in Europe is hard to track.

# Institutional Shareholder Services - ISS

“ISS offers the industry's broadest set of proxy voting policies and recommendation-based research choices, designed to meet the varied needs of institutional investors and their clients.” ([www.issproxy.com](http://www.issproxy.com))

Institutional Shareholder Services voted against the stock option agreement.

Queenstake contacted the largest intermediary and brought the issue to their attention and the intermediary voted in favor of the stock option agreement.

Voted in at the meeting through ballots. Stock option plan passed.

# Voting Day

- AGM set up simple, room for 20 people with a head table
- Registration Table outside for Transfer Agent/Scrutineer. Anyone is allowed to attend as long as they register with the Transfer Agent, but only registered shareholders & properly appointed proxy holders are allowed to vote. One shareholder brought his voting form, but it was supposed to be handed in 48 hours before the vote. He was unable to vote that day.
- Plan of Arrangement and Stock Option Plan voted in favour. All deadlines were met, but at a cost.

# Lessons Learned

- Read the National Instrument and related documents.
- Stay in the loop, be informed.
- Find a good printer, save costs.
- Set a schedule but be aware that it is changeable. If dates need to be changed, the easiest date to change is the record date.





# NI 54-101 Communication with Beneficial Shareholders

**Challenges for the Issuer**  
**David Masse – CGI Group Inc.**

# There's a problem...

- Most individual shareholders in Canada hold their shares through intermediaries and are therefore « beneficial » shareholders
- The courts, including the Supreme Court of Canada, have held that beneficial holders are not entitled to be treated for all purposes like registered shareholders
- Regulators, issuers and their transfer agents continue to struggle with the resulting disparities
- Corporate law reform and securities regulation have moved towards levelling the playing field

# ... and it's a doozy

- Notion of « beneficial ownership » far from clear
- Potential for overvoting, « empty » votes, « light » votes, record date arbitrage, etc.
- Beneficial ownership now definitely the rule rather than the exception
- Multiplicity of players, stakeholders and vested interests

# TOP THREE ISSUES

- Equality
- Fairness
- Transparency

# EQUALITY

- Canadian Coalition for Good Governance encourages issuers to bring the VIF and proxy form into closer alignment to simplify voting for individual directors: NOBO mailing
- Use an omnibus legal proxy to level the field
- 54-101 deals primarily with proxy related materials and doesn't clearly allow communication with NOBOs generally
- The current system does not currently apply to all beneficiaries in the same way, for instance CGI's share purchase plan participants

# TRANSPARENCY

- The problem of remote shareholders
  - For instance, Share Purchase Plan participants overseas
- What do you say to the beneficial shareholder at the AGM registration desk?
- What do you say to the beneficial shareholder when there's a ballot?

# FAIRNESS

- “I own 15,000 shares and you say I can’t vote at the meeting??”
- Legal omnibus proxy
  - Does it delegate discretion back to the beneficiaries in the meeting room in relation to amendments of matters on the agenda? What about matters not on the agenda?
  - Depending on the way it is worded, may remove discretion from management for all beneficial votes, not just those present at the meeting
- Level the playing field in keeping with participants’ reasonable expectations

<sup>'s</sup>  
"if it ain't broke<sup>n</sup>, don't fix it"

- The disparities between registered and beneficial shareholders deserve to be addressed with renewed vigour
- A more encompassing solution that levels the playing field ought to be crafted



# US Proxy Update

June 2007

Charles Rossi  
Executive Vice President  
Computershare

CERTAINTY | INGENUITY | ADVANTAGE

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# NYSE Proxy Working Group Recommendations

- › PWG recommendations to NYSE June 2006
  - › Amend Rule 452 to eliminate broker discretionary voting on the election of directors
  - › Further educate investors about the proxy voting system
    - › “Widespread ignorance” per Investor Attitudes Study by Opinion Research Corp for NYSE in April 2006
  - › Support regulatory efforts to improve the ability of issuers to communicate with beneficial owners
  - › Evaluate the effectiveness and necessity of Broker Discretionary Voting on all issues presented for a shareholder vote
  - › Engage an independent third party to analyze and make recommendations regarding the structure and the amount of fees paid by issuers
  - › Request that the SEC study the role of Proxy Voting Advisory Services who making decisions over shares in which they do not own or have an economic interest.

# NYSE Proxy Working Group Sub-Committees

- › Established three subcommittees
  - › The Communication and Proxy Process Sub-Committee
  - › The Investor Education Sub-Committee
  - › The Cost and Pricing Sub-Committee
- › Reports due Summer 2007

## Notice and Access Rule - Overview

- › Issuers can elect to mail a “Notice of Internet Availability of Proxy Materials” rather than a full set of materials to shareholders
- › Cost saving opportunity for issuers – print/mail
- › Key items:
  - › Post proxy materials on publicly-accessible website
  - › Mail notice at least 40 calendar days before shareholder meeting
    - › Specific language and requirements apply to notice, web site, etc.
  - › Provide shareholders a free set of materials (hard copy or by e-mail) within three business days of request
  - › Capture and retain paper copy preferences for future mailings
  - › Provide a means via the notice for shareholders to vote
- › Effective for mailings beginning July 1, 2007

# Notice And Access Rules - Overview

- › Use of the notice and access alternative
  - › Voluntary - issuers make the decision
  - › Can elect to use for part of base – e.g. beneficial holders only
- › Notice design, distribution and fulfillment
  - › Issuer/TA controls registered
  - › Brokers/Broadridge control street
- › The following proxy related rules are not impacted:
  - › E-delivery consents
  - › Householding rules
  - › Voting and tabulation processes
  - › Content requirements for proxy materials
  
- › NYSE has declined to set prices for street delivery – “market forces” will dictate pricing

## Summary of Proposed Mandate – Universal Internet Availability

- › Proxy materials must be made available via Internet
- › Guidelines (web site, notice, etc.) similar to rules for notice and access
- › Issuers may send full set of proxy materials with the notice of Internet availability
- › Proposed effective dates:
  - › January 1, 2008 for accelerated filing issuers (\$700 mil market value)
  - › January 1, 2009 for all companies
- › Proposal available at [www.sec.gov/rules/proposed/2007/34-55147.pdf](http://www.sec.gov/rules/proposed/2007/34-55147.pdf)
- › Comments due to SEC by March 30, 2007

## Looking forward

- › Will the SEC take a more active role in oversight?
- › Will issuers have access to non-objecting beneficial holders?
- › Will “mirror-voting” replace broker discretionary voting?
- › Will the US proxy distribution market become more transparent?

