



## leadership beyond finance

Chief Accountant  
Ontario Securities Commission  
20 Queen St W,  
Toronto, ON M5H 3S8

September 17, 2021

Dear Cameron McInnis

**Re: Comments on the Amendment to National Instrument 51-102 Continuous Disclosure Obligations and Other Amendments and Changes Relating to Annual and Interim Filings of Non-Investment Fund Reporting Issuers and Seeking Feedback on a Proposed Framework (the Amendment to National Instrument 52-102)**

The Committee on Corporate Reporting (CCR) of Financial Executives International Canada (FEI Canada) is pleased to respond to the request for comment on the *Amendment to National Instrument 52-102*.

FEI Canada is the all-industry professional membership association for senior financial executives. With 12 chapters and over 1600 members, FEI Canada provides professional development, networking opportunities, thought leadership and advocacy services to its members. The association membership, which consists of Chief Financial Officers, Audit Committee Directors and senior executives in the Finance, Controller, Treasury and Taxation functions, represents a significant number of Canada's leading and most influential corporations.

CCR is one of several thought leadership committees of FEI Canada. CCR is devoted to improving the awareness of issues and educating FEI members on the implications of the issues it addresses and is focused on continually improving the standards and regulations impacting corporate reporting.

CCR and FEI Canada would like to thank you for the opportunity to comment on the Amendment. FEI broadly supports the Amendment and believes these changes will be helpful in streamlining disclosure requirements and addressing current gaps/burdens in disclosures. Detailed responses to specific questions in the Amendment are provided in the Appendix to this letter.

Once again, thank you for the opportunity to respond to this amendment.

Sincerely,

**Celine Arsenault**

Chair – Committee on Corporate Reporting

## Appendix - Proposed Amendments to National Instrument 51-102 and Feedback on the Framework

### PART-9 Comments on Specific Questions

The table below outlines feedback on the Specific Questions as outlined in Part-9 of the document.

Specific Questions	Responses
<i>Re: Question relating to additional disclosure for venture issuers without significant revenue</i>	
1. Do you think this requirement should apply more broadly or more narrowly? For example, should we extend this disclosure requirement to non-venture issuers that have significant projects not yet generating revenue as well? Why or why not?	<p>We believe a more appropriate approach is to reduce disclosures in Financial Statements (F/S), MD&amp;A and Annual Information Form and this should be extended to all issuers, venture and non-venture alike. For example, this can be achieved by removing duplicate disclosures, or removing requirements for disclosure of multi-period historical data that can be available in past filings, etc.</p> <p>Removing or exempting certain issuers based on market capitalization or lack of revenue may not be appropriate and may cause more confusion for market participants. For instance, some of these issuers may be participating in business combinations, RTOs or may have significant expense items on their income statement.</p>
<i>Re: Question relating to Risk Factors</i>	
2. Would it be beneficial for reporting issuers if we provided further clarity on what "seriousness" means and how to determine the "seriousness" of a risk?	<p>Most of the reporting issuers, if not all, are formally or informally, utilizing various forms of risk assessment methodologies in their respective organizations. Risk rating on the basis of impact and probability (likelihood) is a common practice. We agree that the following steps will be useful:</p> <ul style="list-style-type: none"> <li>• grouping similar risks together;</li> <li>• disclosing generic risks under the heading "general risks"; and</li> </ul> <p>We believe the seriousness of the risk may be defined as the "expected outcome" of impact and probability (likelihood) assessments, which will be well understood by the issuers. The term seriousness itself is a vague term and should be more closely aligned with concepts of risk assessment.</p> <p>We also suggest that any reference to limiting the risk section of a report to page numbers (~15) is not appropriate and open to manipulation through use of font sizing and spacing.</p>
<i>Re: Questions relating to the requirement to name authors of technical reports</i>	
4. What challenges, if any, do reporting issuers face in obtaining technical	We believe a Short Form Prospectus is an important document and obtaining a Technical Report author

Specific Questions	Responses
report author consents for short form prospectus offerings?	consent is an essential part of the due diligence and disclosure process. Further we believe that most companies that qualify for Short Form Prospectus approval are up to date in their Technical Reports and therefore obtaining author's consent is not a challenging step.
5. If the requirement to name the technical report authors in the AIF (and as a result, provide consents for short form prospectus offerings) were removed, would reporting issuers continue to obtain approval of prospectus disclosure from technical report authors or would they rely more on internal or external non-author QPs?	<p>We believe as part of a sound system of internal controls over disclosures, management and board of directors will continue to obtain approval of prospectus disclosure from technical report authors.</p> <p>Further, we believe that relying on internal or external non-author QPs will still require those QPs to perform their necessary reviews before signing off, and therefore does not necessary result in the issuer saving significant time and costs in the process.</p>
6. If reporting issuers were to rely on internal or external non-author QPs for purposes of providing consents for short form prospectus offerings, in your view, would investor protection be impacted? Would relying on an internal QP for consent purposes (where an external QP authored the original report) raise potential conflict of interest concerns?	We believe that all QPs are professionals and abide by the code of ethics issued by their respective professional associations / institutes. An internal or external non-author QP providing consent would therefore not raise potential conflict of interest, as long as the professional abides by the rules laid out of by their respective professional associations / institutes.
<i>Question relating to impact of refiling on auditor's report</i>	
7. Considering that the annual disclosure statement will include annual financial statements, MD&A and, where applicable, AIF, do you think there will be an impact, including on auditing requirements, if a reporting issuer amends or re-files only one of these documents, or re-files the annual disclosure statement in its entirety?	<p>We believe that combining the financial statements, MD&amp;A and AIF into a single annual disclosure statement will pose certain problems, as discussed below:</p> <ul style="list-style-type: none"> <li>• Section 4(1) (revised) requires the annual financial statements be audited. However, there is no reference to an audit requirement for the MD&amp;A and AIF and only a "consistency" check is performed by the auditors to ensure that information disclosed conforms with the financial statements. This is consistent with current practice, but it could be helpful to issuers if the revised regulations confirmed the status quo.</li> <li>• Combining audited and un-audited information in single document (i.e., annual disclosure statement) may cause confusion to readers. In addition, combining these documents may increase audit scope and related costs.</li> <li>• Restating and reporting prior period information within a combined document may be a challenge.</li> </ul>

Specific Questions	Responses
<i>Question relating to proposed amendments to Form 41-101F1 Information Required in a Prospectus and Form 44-101F1 Short Form Prospectus</i>	
8. To align the continuous disclosure and prospectus regimes, we are proposing to remove certain prospectus disclosure requirements. Are there any concerns with the removal of this information from a prospectus? Please explain.	There are no concerns with the removal of the information from a prospectus.
<i>Questions relating to semi-annual reporting for certain venture issuers on a voluntary basis</i>	
9. Should we pursue the Proposed Semi-Annual Reporting Framework for voluntary semi-annual reporting for venture issuers that are not SEC issuers? Please explain.	<p>We have two point of views on this proposal:</p> <ul style="list-style-type: none"> <li>• The revised reporting framework should not be voluntary as this might cause confusion among users. Lack of comparability may force most of the issuers to stay with the quarterly reporting frequency, thus providing little or no relief for most issuers.</li> <li>• We propose that instead of entirely skipping a reporting quarter, the companies on the venture exchange may report semi-annually (F/S and MD&amp;A), with Q1 and Q3 Operational Updates or Business Reviews. For further information and examples, please refer to the reporting framework in Australia.</li> </ul>
<p>10. Are there specific types of venture issuers for which semi-annual reporting would not be appropriate? For instance, should semi-annual reporting be limited to venture issuers below a certain market capitalization or those not generating significant revenue? Please explain.</p> <p>11. Would the proposed alternative disclosure requirements under the Proposed Semi-Annual Reporting Framework provide adequate disclosure to investors? Would any additional disclosure be required? Is any of the proposed disclosure unnecessary given the existing requirements for material change reporting and the timely disclosure requirements of the venture exchanges? Please explain.</p> <p>12. Do you have any other feedback relating to the Proposed Semi-Annual Reporting Framework?</p>	<p>We understand that the intent of regulators to reduce regulatory reporting burden is an important goal. However, for the reasons outlined in the response to Question 1 and Question 9 above, we do not recommend that semi-annual reporting should be allowed, on an opt-in basis.</p> <p>As highlighted above, a reduction in reporting requirements can be achieved through (i) reduced disclosures or (ii) a hybrid approach including first/third quarter reporting in the form of Operational Updates or Business Reviews that would apply equally to all venture issuers. Full F/S and MD&amp;A could be reported for H1 and H2 period ends.</p>
<i>Questions relating to transition provisions</i>	

Specific Questions	Responses
<p>13. Do you think the proposed transition provisions are sufficiently clear? If not, how can we make them clearer?</p> <p>14. Do you think the transition provisions in the amending instrument for NI 51-102 would provide reporting issuers with sufficient time to review the Proposed Amendments and prepare and file an annual disclosure statement for a financial year ending on, for example, December 31, 2023 if the final amendments are published in September 2023? Do you think more time should be afforded to smaller reporting issuers (such as venture issuers)?</p>	<p>We believe that the current transition timeline is not sufficient to provide issuers the time to understand and apply the new rules. We also suggest that the new framework should be effective from the first quarter of the reporting year, and instead of the year-end when the issuers are busy with annual audits. Assessing and applying new reporting requirements close to such a busy time of the year may be very inconvenient for the issuers.</p>

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