

The Ontario Securities Commission

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The Ontario Securities Commission Administers the Securities Act of Ontario (R.S.O. 1990, c. S.5) and the Commodity Futures Act of Ontario (R.S.O. 1990, c. C.20)

The Ontario Securities Commission

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Chapter 1

Notices / News Releases

1.1	Notices		<u>SCHEDULED OSC HEARINGS</u>
1.1.1	Current Proceedings Before The Ontario Securities Commission DECEMBER 9, 2005 CURRENT PROCEEDINGS BEFORE ONTARIO SECURITIES COMMISSION -----	TBA	Yama Abdullah Yaqeen s. 8(2) J. Superina in attendance for Staff Panel: TBA
		TBA	Cornwall et al s. 127 K. Manarin in attendance for Staff Panel: TBA
	Unless otherwise indicated in the date column, all hearings will take place at the following location: The Harry S. Bray Hearing Room Ontario Securities Commission Cadillac Fairview Tower Suite 1700, Box 55 20 Queen Street West Toronto, Ontario M5H 3S8	TBA	Robert Patrick Zuk, Ivan Djordjevic, Matthew Noah Coleman, Dane Alan Walton, Derek Reid and Daniel David Danzig s. 127 J. Waechter in attendance for Staff Panel: TBA
	Telephone: 416-597-0681 Telecopier: 416-593-8348 CDS TDX 76 Late Mail depository on the 19 th Floor until 6:00 p.m. -----	TBA	John Illidge, Patricia McLean, David Cathcart, Stafford Kelley and Devendranauth Misir S. 127 & 127.1 K. Manarin in attendance for Staff Panel: TBA
	<u>THE COMMISSIONERS</u>		
	W. David Wilson, Chair — WDW Paul M. Moore, Q.C., Vice-Chair — PMM Susan Wolburgh Jenah, Vice-Chair — SWJ Paul K. Bates — PKB Robert W. Davis, FCA — RWD Harold P. Hands — HPH David L. Knight, FCA — DLK Mary Theresa McLeod — MTM Carol S. Perry — CSP Robert L. Shirriff, Q.C. — RLS Suresh Thakrar, FIBC — ST Wendell S. Wigle, Q.C. — WSW	TBA	Hollinger Inc., Conrad M. Black, F. David Radler, John A. Boulton and Peter Y. Atkinson s.127 J. Superina in attendance for Staff Panel: SWJ/RWD/MTM

TBA	James Patrick Boyle, Lawrence Melnick and John Michael Malone s. 127 and 127.1 Y. Chisholm in attendance for Staff Panel: TBA	January 17, 2006 10:00 a.m.	Portus Alternative Asset Management Inc., Portus Asset Management Inc. Boaz Manor, Michael Mendelson, Michael Labanowich and John Ogg s.127 & 127.1 M. MacKewn in attendance for Staff Panel: TBA
December 12, 2005 10:00 a.m.	Olympus United Group Inc. s.127 M. MacKewn in attendance for Staff Panel: TBA	January 31, 2006 10:00 a.m.	Mega-C Power Corporation, Rene Pardo, Gary Usling, Lewis Taylor Sr., Lewis Taylor Jr., Jared Taylor, Colin Taylor and 1248136 Ontario Limited S. 127 T. Hodgson in attendance for Staff Panel: TBA
December 12, 2005 10:00 a.m.	Norshield Asset Management (Canada) Ltd. s.127 M. MacKewn in attendance for Staff Panel: TBA	January 31, 2006 10:00 a.m.	Firestar Capital Management Corp., Kamposse Financial Corp., Firestar Investment Management Group, Michael Ciavarella and Michael Mitton s. 127 J. Cotte in attendance for Staff Panel: TBA
December 16, 2005 10:00 a.m.	Portus Alternative Asset Management Inc., and Boaz Manor s. 127 M. MacKewn in attendance for Staff Panel: TBA	February 21, 2006	Fulcrum Financial Group Inc., Secured Life Ventures Inc., Zephyr Alternative Power Inc., Troy Van Dyk and William L. Rogers s. 127 and 127.1 G. Mackenzie in attendance for Staff Panel: TBA
January 9, 2006 1:30 p.m.	Joseph Edward Allen, Abel Da Silva, Chateram Ramdhani and Syed Kabir s.127 J. Waechter in attendance for Staff Panel: RLS/ST/DLK	March 1 and 2, 2006 10:00 a.m.	Richard Ochnik and 1464210 Ontario Inc. s. 127 and 127.1 M. Britton in attendance for Staff Panel: TBA
January 11, 2006 10:00 a.m.	Jose L. Castaneda s.127 T. Hodgson in attendance for Staff Panel: TBA		

10:00 a.m. **Philip Services Corp. et al**
s. 127
February 6 to March 10, 2006 (except Tuesdays)
K. Manarin in attendance for Staff
Panel: PMM/RWD/DLK
April 10, 2006 to April 28, 2006 (except Tuesdays and not Good Friday April 14)
May 1 to May 19; May 24 to May 26, 2006 (except Tuesdays)
June 12 to June 30, 2006 (except Tuesdays)
March 2 & 3, 2006 **Christopher Freeman**
10:00 a.m. s. 127 and 127.1
P. Foy in attendance for Staff
Panel: TBA
April 3 to 7, 2006 **Momentas Corporation, Howard Rash, Alexander Funt, Suzanne Morrison and Malcolm Rogers**
10:00 a.m. s. 127 and 127.1
P. Foy in attendance for Staff
Panel: TBA

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Global Privacy Management Trust and Robert Cranston
Andrew Keith Lech
S. B. McLaughlin
Livent Inc., Garth H. Drabinsky, Myron I. Gottlieb, Gordon Eckstein, Robert Topol

1.1.2 Request for Comment - Proposed Amendments to NI 51-102 Continuous Disclosure Obligations, Related Forms and Companion Policy, NI 52-107 Acceptable Accounting Principles, Auditing Standards and Reporting Currency, and NI 71-102 Continuous Disclosure and Other Exemptions Relating to Foreign Issuers and Companion Policy

NOTICE OF REQUEST FOR COMMENT

PROPOSED AMENDMENTS TO NATIONAL INSTRUMENT 51-102 CONTINUOUS DISCLOSURE OBLIGATIONS, FORM 51-102F1, FORM 51-102F2, FORM 51-102F3, FORM 51-102F4, FORM 51-102F5, FORM 51-102F6 AND COMPANION POLICY 51-102CP CONTINUOUS DISCLOSURE OBLIGATIONS

PROPOSED AMENDMENTS TO NATIONAL INSTRUMENT 52-107 ACCEPTABLE ACCOUNTING PRINCIPLES, AUDITING STANDARDS AND REPORTING CURRENCY

AND

PROPOSED AMENDMENTS TO NATIONAL INSTRUMENT 71-102 CONTINUOUS DISCLOSURE AND OTHER EXEMPTIONS RELATING TO FOREIGN ISSUERS AND COMPANION POLICY 71-102CP CONTINUOUS DISCLOSURE AND OTHER EXEMPTIONS RELATING TO FOREIGN ISSUERS

The Commission is publishing in today's Bulletin a Notice requesting comment on proposed amendments (the Proposed Amendments) to

- National Instrument 51-102 *Continuous Disclosure Obligations*, its related forms and companion policy,
- National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency*, and
- National Instrument 71-102 *Continuous Disclosure and Other Exemptions relating to Foreign Issuers* and its related companion policy.

The Notice and the Proposed Amendments are published in Chapter 6 of the Bulletin.

1.1.3 CSA Staff Notice 51-316 - Continuous Disclosure Review of Smaller Issuers

CSA STAFF NOTICE 51-316 - CONTINUOUS DISCLOSURE REVIEW OF SMALLER ISSUERS

Purpose of Notice

Staff in the jurisdictions represented by the Canadian Securities Administrators (CSA or we) are publishing this notice to summarize some of the deficiencies we see most frequently when we review the continuous disclosure (CD) record of smaller issuers. By alerting issuers to some of these problems, we hope they will avoid some common disclosure deficiencies.

For the purpose of the notice, we focused on those issuers with assets under \$5 million; however, we believe the guidance in this notice may be useful to larger issuers.

Overview

This notice addresses common deficiencies we found within the following four CD areas:

1. Financial Statements

This notice focuses on the most common financial statement deficiencies arising from a failure to comply with the following Generally Accepted Accounting Principles (GAAP):

- Enterprises in the Development Stage (Accounting Guideline (AcG)-11)
- Revenue Recognition (Emerging Issues Committee Abstract (EIC)-141)
- Interim Financial Statements (CICA Handbook (HB) 1751)
- Related Party Transactions (CICA HB 3840)
- Cash Flow Statements (CICA HB 1540)
- New GAAP Requirements

2. Management's Discussion & Analysis (MD&A)

Frequently, the MD&A of smaller issuers contains superficial analyses that merely repeat the information in the accompanying financial statements. This notice describes the most commonly noted deficiencies on the following MD&A topics:

- Operational Analysis
- Liquidity and Capital Resources
- Projects Under Development
- Related Party Transactions

3. Mining and Oil & Gas Industries

This notice discusses the most common non-technical disclosure deficiencies made by issuers in the extractive industries.

4. Other Disclosure Issues

- SEDI – Issuer and Insider filing requirements
- Timely Disclosure – The requirement for issuers to maintain an ongoing communication with the capital markets
- Audit Committees – The mandatory role of audit committees and their involvement with corporate disclosure

- Certification – CEO and CFO certifications of their issuer’s annual and interim filings

This staff notice is not an exhaustive summary of all smaller issuer CD compliance issues. We remind issuers their CD record must comply with all relevant securities legislation. Addressing only the issues we raise in this staff notice may not satisfy all the obligations a smaller issuer has under securities law.

As explained in CSA Staff Notice 51-312 *Harmonized Continuous Disclosure Review Program*, we expect issuers to correct material deficiencies or errors by restating and re-filing the CD document.

Financial Statements

Financial statements form the foundation of an issuer’s CD record. Management is responsible for accurately recording transactions and preparing financial statements. GAAP provides a framework for this disclosure, however we frequently observe the following GAAP deficiencies within smaller issuers’ financial statements.

Enterprises in the Development Stage

Paragraphs 29 to 35 of AcG-11 specify additional disclosures that enterprises in the development stage must provide (paragraphs 2 to 6 of AcG-11 explain when an issuer is in the development stage). Examples of insufficient disclosure include:

- failure to discuss the nature of development activities and the planned principal operations of the enterprise
- insufficient disclosures about projects under development

This disclosure should be current and reflect the project’s state of development. The Appendix to AcG-11 contains examples of the disclosure issuers should provide.

CICA HB 3063 *Impairment of Long-Lived Assets* (CICA HB 3063) contains requirements for the write-down of long-lived assets. EIC-126 *Accounting by Mining Enterprises for Exploration Costs* provides additional information on the application of certain aspects of CICA HB 3063. We also remind issuers in the development stage to consider the additional asset impairment guidance in paragraphs 12 to 20 of AcG-11. We have found that some smaller issuers in the extractive industries have not written down long-lived assets even though certain asset impairment triggers in AcG-11 are present. Some examples of asset impairment triggers in paragraphs 16 to 18 of AcG-11 include:

- unfavourable changes to project economics
- inability to access the site
- political instability in the region in which the property is located
- delay in development activity extending beyond three years (the general presumption being that a write-down is necessary)
- exploration results are not promising and no more work is being planned in the foreseeable future

If an asset’s value is impaired, the issuer should write down the value of the asset immediately, which may be before the project is abandoned.

“Enterprises in the development stage ... have, by their nature, only limited information on past performance. The absence of a track record for these enterprises removes one important means of predicting how well the enterprise will do in the future. In order to make these assessments, users of financial statements of enterprises in the development stage are interested in information regarding the significant projects being undertaken.”¹

Revenue Recognition

Revenue and revenue growth are often important elements for investors to consider when reviewing an issuer’s financial statements.

It is important for investors to be able to understand an issuer’s sources of revenue. EIC-141 requires issuers to disclose their revenue recognition policy. The revenue recognition policy should address each material source of revenue and alternative

¹ Accounting Guideline AcG-11, *Enterprises in the Development Stage*.

methods of delivery of the same good or service. Some issuers omit this disclosure, or include disclosure that does not meaningfully describe their policy. For example, we commonly encounter revenue recognition policies that say, "Revenue is recorded when earned". An example of a better revenue recognition policy might say,

The Company recognizes contract revenues under the percentage-of-completion method using milestones or engineering approvals to determine the percentage complete. The Company makes a complete provision for contract losses as soon as such losses are estimable. The timing of revenue recognition may differ from the contract payment schedules, resulting in revenues that have been earned but not billed. Billings are applied against construction in process for financial statement presentation. The Company recognizes maintenance service revenues when it renders the services. When the Company recognizes revenue, it also records a provision for potential warranty claims. It bases the provision on warranty terms and claims experience.

Issuers should consult EIC-141 for guidance on revenue recognition timing issues (such as those transactions involving upfront fee payments) and revenue measurement issues (most notably for those transactions involving a right of return), to ensure their revenue recognition policies comply with GAAP.

Interim Financial Statements

Interim financial statements are an essential source of information about an issuer's activities. However, many smaller issuers' financial statements omit proper note disclosure, or contain material measurement errors. Both of these deficiencies result in financial statements that do not comply with GAAP.

Some common deficiencies are:

- not presenting the financial periods required by paragraph 16 of CICA HB 1751 in the interim financial statements
- omitting the mandatory financial statement note disclosures required by paragraph 14 of CICA HB 1751
- failing to adjust accruals and estimates throughout the year. For example, some issuers are not updating their accounting for future tax liabilities, amortization, or possible asset impairment until they produce their next annual financial statements. Making such adjustments only on an annual basis can result in a misleading depiction of an issuer's current financial condition at interim reporting periods.

If an auditor has not performed a review of the interim financial statements, National Instrument 51-102 *Continuous Disclosure Obligations* requires the issuer to attach a notice stating this fact, to the interim financial statements.

Related Party Transactions

To comply with CICA HB 3840, issuers with related party transactions must provide complete and transparent information about the transaction in question. In some cases, issuers used the exchange amount to record the transaction, but did not disclose how the exchange amount was determined.

We frequently see smaller issuers account for a transfer of a business between enterprises under common control as a "business combination", and provide inadequate disclosure of the transaction and the relationship between the parties. Such transactions are not business combinations and CICA HB 1581 *Business Combinations* does not apply. Instead, CICA HB 3840 provides the relevant guidance as to the use of the exchange amount or carrying amount for such related party transfers. EIC-66 *Transfer of a Business Between Enterprises Under Common Control* discusses how to account for these transactions using the exchange amount to determine the cost of the purchase. If enterprises under common control account for a transfer of a business using the carrying amounts, EIC-89 *Exchanges of Ownership Interests Between Enterprises Under Common Control — Wholly and Partially-Owned Subsidiaries* indicates that "continuity-of-interests" accounting is appropriate, and the financial statements for all prior periods of the combining entities will be presented as though they were one issuer since their inception.

Cash Flow Statements

Smaller issuers often make these mistakes when preparing their cash flow statement:

- offsetting transactions such as capital asset purchases and disposals
- including investing and financing activities in operating activities (or vice-versa)
- including non-monetary transactions (such as converting debt to equity) in the cash flow statement rather than note disclosure

Issuers should remember that cash flow statements are more than a reproduction of information in the income statement and changes in balance sheet accounts. Correctly prepared, a cash flow statement can provide users with information about an issuer's ability to meet its liquidity commitments and finance its capital resource investments. Issuers should complement this disclosure through their liquidity discussion under item 1.6 of Form 51-102F1 in their MD&A.

*"Information about the cash flows of an enterprise enables users of financial statements to assess the capacity of the enterprise to generate cash and cash equivalents and the needs of the enterprise for cash resources."*²

New GAAP Requirements

In many cases, smaller issuers have not adopted new accounting requirements. For example, we found many did not account for their stock option expenses and did not provide the disclosures required by CICA HB 3870 *Stock-Based Compensation and Other Stock-Based Payments*. We expect issuers to maintain a current knowledge of GAAP and, if an issuer seeks assistance from professional advisors when preparing its financial statements, the issuer should ensure these advisors possess a current knowledge of GAAP. Issuers are ultimately responsible for their financial statements.

The CICA Accounting Standards Board's FYI newsletters, in particular the annual special editions, summarize recent accounting pronouncements issuers should consider when they prepare financial statements. Issuers can find copies of the FYI newsletter on the Accounting Standards Board's website at www.acsbcanda.org.

MD&A

If financial statements provide the foundation for an issuer's CD record, then MD&A completes the picture by going beyond the numbers to provide a greater understanding of an issuer's business. For many smaller issuers, the requirement to prepare and file MD&A is relatively new. Many MD&A filings we have reviewed provide limited information or only focus on the positive aspects of the business.

An MD&A's quality is not measured by its length, but in the breadth and depth of its analysis. Reproducing information from financial statements provides little, if any, meaningful information alone.

Operational Analysis

An MD&A's discussion and analysis of operating results should explain what factors contributed to changes in an issuer's operations. A common deficiency we see with smaller issuers is that they reproduce information from the income statement in their MD&A, without explaining what caused the changes reflected in the income statement. For example,

Revenues increased from \$900,000 to \$1,080,000, a 20% increase. Gross Margin increased from \$400,000 to \$408,000, a 2% increase.

Part 1.4 of Form 51-102F1 *MD&A* (Form 51-102F1) indicates that MD&A should quantify how volume and price changes affected revenues, and discuss why changes occurred. If other elements affected revenues, such as the introduction of a new product or new competitors, the MD&A should also address those factors. Issuers should not limit the operational analysis to revenues; if the issuer experienced a change in its gross margin percentage, the MD&A should discuss the factors behind the change. If an issuer's financial statements present information from more than one operating segment, the MD&A should discuss the results of each segment. Finally, if an issuer's other expenses differ significantly from a prior period, the MD&A should discuss the reasons behind those changes. An example of a more thorough analysis of one aspect of an issuer's operations might say,

Three factors caused a net revenue increase of \$180,000:

- *increased sales volume of Product X - \$60,000*
- *decreased unit price of Product X - (\$30,000), and*
- *the introduction of a new product during the fourth quarter, Product Y - \$150,000*

In late 2004, we anticipated new competition entering our market, so we discounted our remaining Product X units to encourage their sale and to allow us to focus on its replacement, Product Y. Discounts on Product X caused the

² CICA Handbook – Accounting, Section 1540 *Cash Flow Statements*.

reduced gross margin percentage. We expect to continue discounting Product X in the first quarter, but expect our Gross Margin to improve as Product Y replaces Product X.

This analysis is a discussion of a fictitious issuer's operating results. Depending on the circumstances, issuers should also discuss other factors relevant to their operations, such as the introduction of the new product (projections, or results to date vs. expectations).

For more information on drafting better MD&A, refer to the British Columbia Securities Commission's Continuous Disclosure update 5 and 5R, and the Ontario Securities Commission Staff Notice 51-713 *Report on Staff's Review of MD&A*. Each of these documents is available on the respective commission's website. Further MD&A guidance and a MD&A self-assessment checklist is available on the CICA's website at www.cica.ca.

Liquidity and Capital Resources

Smaller issuers often focus on expanding their operations or completing a project. In order to comply with Parts 1.6 and 1.7 of Form 51-102F1, MD&A should discuss the issuer's working capital requirements and any expenditure the issuer is committed to make. We often find MD&A that reproduces information from the balance sheet and cash flow statement as a substitute for liquidity analysis, for example,

As at year-end, the Company had cash of \$9,000 and accounts receivable of \$50,000. Current assets amounted to \$150,000 with current liabilities of \$400,000 resulting in a working capital deficit of \$250,000. The Company believes that it has sufficient capital on hand to satisfy working capital requirements for the next 12 months.

The MD&A should explain how the issuer will fund its working capital and capital resource requirements. If the issuer has a working capital deficiency, the MD&A should explain how the issuer will meet its obligations as they become due and remedy the deficiency. The MD&A should discuss provisions in debt agreements that could affect the issuer's cash flow. If there is a default under such an agreement, the MD&A should explain how the issuer will rectify the default. An example of a more thorough analysis of an issuer's liquidity and capital resources might say,

As of year-end, the Company's debt to equity ratio was in breach of a covenant in its loan agreement. Subsequent to year-end, the Company:

- *renegotiated the covenants in the loan agreement to cure the default; and*
- *borrowed an additional \$300,000 to meet current and future working capital requirements.*

New terms under the loan agreement restrict repayment of existing debt payable to related parties. We estimate that the Company will need \$500,000 over the next two years to complete its exploration project. In the short-term, the Company will rely on advances from shareholders and the exercise of options and share purchase warrants to fund exploration costs. We expect to fund the balance of exploration costs with an announced private placement for proceeds up to \$300,000.

Depending on the circumstances, issuers may need to discuss other aspects of their liquidity, such as the loan covenant(s) breached, the terms of the new debt, or reasons for the changes in the their working capital balances (e.g. accounts receivable).

Projects Under Development

When an issuer's operations are not producing significant revenue, the MD&A should focus on the issuer's expenses and business objectives, as stated in general instruction (h) and Item 1.4 (d) of Form 51-102F1. The MD&A should discuss:

- the issuer's plans
- its progress to date against those plans
- the additional costs and time it will require to complete its plans

Although the instructions in Form 51-102F1 do not state it, if applicable, issuers should also discuss the reasons why they did not achieve the plan's milestones.

An MD&A's discussion of the above might say,

The Company is developing a medical device to treat burn victims. The product will accelerate the victim's healing process, while reducing pain and scarring. The Company expects this technology will have other applications such as

in cosmetic surgery. The Company intends to market the product to hospitals and large care centres, and license the product for use internationally.

Before the Company can market the product, it must receive regulatory approval. In this past year, the Company successfully completed the preliminary testing of its technology. In August of this year, the Company began clinical trials to obtain FDA approval. Initial test results are positive, and the Company has provided additional information to the FDA. The Company does not expect to receive FDA approval for at least 2 years. The Company expects to begin shipping the product 4 months after receiving FDA approval. The Company has spent approximately \$1.2 million to date developing and testing the technology, and will require an additional \$1.3 million to complete testing and receive FDA approval. Following FDA approval, the Company expects to incur \$2 million in production and marketing costs to bring this product to market.

As disclosed in previous MD&A, initial test results required the Company to modify its prototype. As a result, the Company is currently \$500,000 over budget and 6 months behind schedule. Since this initial setback, the Company has experienced no additional delays or unexpected costs.

In addition, the MD&A would usually discuss the project's liquidity and capital resource requirements. Depending on the circumstances, issuers may need to expand their discussion of a project's development.

To provide an understanding of the operational cash demands, the MD&A should also discuss any significant costs aggregated within financial statement line items.

Related Party Transactions

It is common for issuers to reproduce their financial statements' related party disclosure in their MD&A. This does not meet the requirement in Part 1.9 of Form 51-102F1, which requires a discussion of the business purpose of the related party transaction. A discussion of an issuer's related party transactions might say,

During the year, the Company paid \$60,000 in interest on a loan payable to the majority shareholder. The unsecured loan bears interest at 14% per annum, and matures in two years with an option by the Company to extinguish the debt at any time without penalty. The Company consummated this related party transaction because alternate sources of financing were unavailable due to the Company's limited operating history and lack of collateral. The Company also paid \$45,000 (\$15,000 per month) in rent to a company controlled by the CEO. The Company had outgrown its previous location and opted not to renew its lease. The Company entered into this month-to-month lease until the Company constructs its new premises, (presently estimated to be April next year).

Depending on the circumstances, issuers may need to discuss other elements of the related party transaction, such as its fair value.

Industry Specific Concerns

Oil & Gas Industry

Many smaller issuers are not meeting the requirements of National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities* (NI 51-101) and its related forms. Examples include failing to issue a news release disclosing that they have made the required filings, and failing to sign and date the required filings.

Smaller issuers frequently aggregate data in their filings despite the fact that Form 51-101F1 *Statement of Reserves Data and Other Oil and Gas Information* (Form 51-101F1) requires issuers to present specified reserves data by "product type" (as defined in section 1.1 of NI 51-101). Issuers should present specified data regarding crude oil separately from data regarding natural gas liquids, and present data regarding light and medium crude oil separately from data regarding heavy oil. Form 51-101F1 filings should also include reconciliations of changes in reserves, and future net revenue (discounted at 10%). Issuers' Form 51-101F1 filings should use a format consistent with the objectives of understandability and comparability expressed in Appendix 2 of NI 51-101's companion policy.

For guidance on the technical disclosure required by NI 51-101, issuers should review CSA Staff Notice 51-313 - *Frequently Asked Questions National Instrument 51-101 Standards of Disclosure for Oil and Gas Activities* and the Alberta Securities Commission's *Consolidated Oil and Gas Review Report* on 2004 NI 51-101 filings. The latter report is available on the ASC's website; the ASC will report on 2005 NI 51-101 filings in early 2006.

Some smaller issuers continue to file a summary of the oil and gas report prepared by an external engineer (as described in Item 2.3(1)(3) of NI 13-101(1)). This summary report is not a substitute for the disclosure required by Form 51-101F1. NI 51-101, the related forms and companion policy are available on the securities commission websites provided at the end of this notice.

Mining Industry

We have amended National Instrument 43-101 *Standards of Disclosure for Mineral Projects* (NI 43-101) and its related form. We expect the amendments to come into force on December 30, 2005. Additional guidance on complying with the amended NI 43-101 is available within its accompanying companion policy.

When smaller issuers discuss mining properties, particularly after an acquisition, they must clearly identify whether the resource estimates on the material property are historical in nature, or are recent estimates based on standards established by the Canadian Institute of Mining, Metallurgy and Petroleum. Many smaller issuers fail to comply with the non-technical requirements of NI 43-101, such as filing a NI 43-101 technical report within the prescribed time limit and failing to name the Qualified Person associated with written disclosure of a scientific or technical nature.

We remind issuers in the mining industry to consider the asset impairment guidance referred to above under the heading "Enterprises in the Development Stage".

Other Disclosure Issues

SEDI

SEDI exists primarily to facilitate timely disclosure of material information about trading by insiders. National Instrument 55-102 *System for Electronic Disclosure by Insiders (SEDI)* requires issuers to establish and maintain issuer profile supplements. It also requires their insiders who own (or exercise control or direction over) securities of the issuer to establish and maintain insider profiles. We often find issuers with at least one insider who failed to maintain a current insider profile or who failed to file accurate insider reports. We recognize the responsibility to file insider reports rests with each individual insider. However, we believe it is in issuers' best interests to monitor their insiders' compliance with SEDI, as errors and omissions may reflect negatively on an issuer.

To avoid late filing fees, insiders should report grant of options within ten calendar days of the date they are notified of the grant (rather than the date the board of directors authorized the grant). If the grant is subject to approval of a stock exchange, then the date of grant can be no earlier than the date of the stock exchange's approval.

Do you have a SEDI filing question or difficulty? For technical problems, contact the SEDI operator (CDS Inc.) at 1-800-219-5381. For SEDI compliance or filing questions, contact your securities regulatory authority listed in Appendix "A" of CSA Staff Notice 55-310 *Questions and Answers on SEDI*.

Timely disclosure

Part IV of National Policy 51-201 *Disclosure Standards* (NP 51-201) provides examples of situations that normally warrant disclosure via news release and material change report. Disclosure obligations apply to both positive and negative information. We noted instances when issuers have not filed news releases for an extended length of time. As a result, the issuer's only disclosures were its quarterly filings. Disclosing the existence of significant events up to 90 days after their occurrence is not timely disclosure.

We expect the disclosure on issuers' websites to be up-to-date and accurate. For example, issuers should base website content concerning a mining project on information from the most recent technical report. Issuers should also consider including on their websites either all documents they file on SEDAR, or a link to their SEDAR profile.

A corporate disclosure policy can help issuers avoid disclosure transgressions. As noted in National Policy 58-201 *Corporate Governance Guidelines*, a board of directors' mandate should include responsibility for adopting a communication policy for its issuer. The process of drafting a corporate disclosure policy can help an issuer's directors, officers and employees understand the issuer's legal requirements. We encourage issuers to review their corporate disclosure policies against the best practice disclosure guidelines in NP 51-201. A comprehensive disclosure policy can help issuers balance their business pressures and legal requirements and minimize the risk of non-compliance with securities laws.

Audit Committees

Multilateral Instrument 52-110 *Audit Committees* (MI 52-110) and BC Instrument 52-509 *Audit Committees* (BCI 52-509) (collectively, the Instruments) require all issuers to have an audit committee (or a board of directors performing the audit committee's functions, if the issuer qualifies for BCI 52-509's exemption). MI 52-110 requires the audit committee to be satisfied its issuer has adequate procedures in place to ensure the quality of the issuer's financial disclosure, and to review its issuer's financial statements, MD&A, and annual and interim earnings press releases prior to public distribution. The Instruments require the audit committee to oversee the work of the external auditor, and have the external auditor report directly to the audit committee. The Instruments also require the audit committee to play a greater role in ensuring the independence of the external

auditor and create additional disclosure obligations for issuers relating to the function and composition of their audit committee. Each issuer should review the Instrument applicable to its jurisdiction for further details on these requirements.

Certification

Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (MI 52-109) requires issuers' CEOs and CFOs to certify that their periodic filings "fairly present in all material respects the financial condition, results of operations and cash flows of the issuer". To effectively certify, the CEO and CFO should consider the content and quality of the filings as a whole, rather than as a collection of unrelated documents prepared to a minimum standard. As discussed in Part 8 of MI 52-109's companion policy, if an issuer's financial statements fail to portray an aspect of an issuer's financial condition, the issuer should supplement the financial statements with additional disclosure in its MD&A.

Conclusion

We expect issuers to consider the guidance in this notice when reviewing their CD records to ensure their disclosure documents comply with securities regulations. Issuers should be aware that some securities legislation provides a statutory right of action for damages for misrepresentation in CD documents. A misrepresentation can arise by providing erroneous information or failing to provide complete information in a timely manner.

Obligations aside, issuers should see timely disclosure as an opportunity to reach investors. Ongoing communication can remove perceived uncertainties relating to an issuer's operations, lowering its cost of capital and increasing its access to capital markets.

You can find the securities regulation literature referred to in this notice, as well as other securities regulation documents, on the following securities commission websites:

- British Columbia Securities Commission; www.bcsc.bc.ca
- Alberta Securities Commission; www.albertasecurities.com
- Saskatchewan Financial Services Commission; www.sfsc.gov.sk.ca
- Manitoba Securities Commission; www.msc.gov.mb.ca
- Ontario Securities Commission; www.osc.gov.on.ca
- Autorité des marchés financiers; www.lautorite.qc.ca
- New Brunswick Securities Commission; www.nbsc-cvmnb.ca
- Nova Scotia Securities Commission; www.gov.ns.ca/nssc
- Newfoundland & Labrador, Dept. of Government Services, Financial Services Regulation Division; www.gs.gov.nl.ca/cca/scon
- Northwest Territories, Dept. of Justice, Securities Registry; www.justice.gov.nt.ca/SecuritiesRegistry/SecuritiesRegistry.htm

Questions or feedback on this notice may be sent to:

Inquiries & Contact Centre
Ontario Securities Commission
(416) 593-8314 or toll-free 877-785-1555
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1.1.4 Securities Regulators to Make the System for Electronic Disclosure by Insiders More User Friendly

FOR IMMEDIATE RELEASE

SECURITIES REGULATORS TO MAKE THE SYSTEM FOR ELECTRONIC DISCLOSURE BY INSIDERS MORE USER FRIENDLY

December 5, 2005 – Montreal – The Canadian Securities Administrators (CSA) launched a survey today to seek input on how to make the System for Electronic Disclosure by Insiders (SEDI) more user friendly.

“We are currently investigating ways to make SEDI easier to use,” said Jean St-Gelais, Chair of the CSA and President of the Autorité des marchés financiers du Québec. “As part of this process, regulators from coast to coast encourage all SEDI users and interested parties to participate in research on how the system can be improved or streamlined.”

The electronic filing system, launched in June 2003, is far more efficient than its precursor, a paper and fax based system, and it provides for accurate, detailed information for regulators and the investing public, said St-Gelais. “SEDI brings efficient public access and transparency to insider trade reporting by making information about insider trades available to investors electronically for all jurisdictions in Canada.”

The survey is accessible online at: www.SEDI.ca.

The CSA, the council of the securities regulators of Canada's provinces and territories, coordinates and harmonizes regulation for the Canadian capital markets

Media contacts:

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Ontario Securities Commission
416-595-8913
www.osc.gov.on.ca

Siobhan Vinish
Alberta Securities Commission
403-297-2664
www.albertasecurities.com

Philippe Roy
L'Autorité des marchés financiers
514-940-2176
www.lautorite.qc.ca

Andrew Poon
British Columbia Securities Commission
604-899-6880
www.bcsc.bc.ca

1.1.5 Notice of Commission Approval - Ontario Amendment Instrument Amending NI 45-106 Prospectus and Registration Exemptions

NOTICE OF COMMISSION APPROVAL

**ONTARIO AMENDING INSTRUMENT
AMENDING
NATIONAL INSTRUMENT 45-106
PROSPECTUS AND REGISTRATION EXEMPTIONS**

On November 29, 2005, the Commission made as a rule under the *Securities Act* (Ontario) (the **Act**) an amendment instrument (the **Amendment Instrument**) that will amend National Instrument 45-106 *Prospectus and Registration Exemptions*.

The Amendment Instrument was delivered to the minister responsible for the oversight of the Ontario Securities Commission (the Minister) on December 8, 2005. If the Minister does not approve, reject or return it for further consideration by February 6, 2006, the Amendment Instrument will come into force on February 21, 2006.

The Amendment Instrument is published in Chapter 5 of the Bulletin.

1.3 News Releases

1.3.1 OSC Prosecution Against Emilia von Anhalt and Jurgen von Anhalt

FOR IMMEDIATE RELEASE
December 2, 2005

OSC PROSECUTION AGAINST
EMILIA VON ANHALT AND JURGEN VON ANHALT

TORONTO – At an appearance yesterday in the Ontario Court of Justice at Old City Hall, the charges against Emilia von Anhalt and Jurgen von Anhalt were adjourned to January 13, 2006 in Court Room 111 at 9:00 a.m. A judicial pre-trial commenced on October 7, 2005 and continued yesterday will be continued on January 13, 2006.

On May 5, 2005, the OSC charged Emilia von Anhalt and Jurgen von Anhalt with violations of the Ontario *Securities Act*. Information on the charges is summarized in an OSC News Release dated May 10, 2005.

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Director, Communications
and Public Affairs
416-593-8120

Eric Pelletier
Manager, Media Relations
416-595-8913

For Investor Inquiries: OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.3.2 Jack Banks a.k.a. Jacques Benquesus

FOR IMMEDIATE RELEASE
December 5, 2005

IN THE MATTER OF
JACK BANKS A.K.A. JACQUES BENQUESUS –
APPEAL AGAINST MERITS DISMISSED
BY DIVISIONAL COURT
APPEAL AGAINST SANCTIONS ALLOWED
AND MATTER REMITTED BACK TO
THE ONTARIO SECURITIES COMMISSION

TORONTO – By reasons dated November 21, 2005, the Divisional Court affirmed the Ontario Securities Commission's decision on the merits in the Matter of Jack Banks by stating "there was ample evidence to support the Commission's key finding that Banks was in control of LFI's [Laser Friendly Inc.] operations at the material time" and allowed the appeal with respect to sanctions. The Divisional Court decision related to Banks' appeal of a decision of the Commission dated April 23, 2003.

The Commission had found that LFI had participated in a transaction referred to as a Regulations S Stock Subscription Roll Program (Roll Program), which required LFI to issue share certificates containing the statement that the shares represented by the certificate were "fully paid and non-assessable". These certificates bore the signature of Banks, the Chief Executive Officer and Director of LFI. The Commission found that the Roll Program had no commercial justification. Having share certificates held in an effective escrow arrangement might have prevented the share certificates from being pledged or otherwise used improperly, but would have rendered the Roll Program useless to the representatives of Helix and Delta, the two companies with which LFI entered into transactions.

The Commission also found that in the State of New York, in the criminal proceeding mentioned in the Statement of Allegations, which related to securities fraud, Banks and Larry Weltman, an employee of LFI, pleaded guilty to having intentionally engaged in a scheme constituting a systemic ongoing course of conduct with intent to defraud. The Commission found that Banks' conduct in connection with the Roll Program and the criminal conduct was contrary to the public interest.

In reviewing the Commission's decision, the Divisional Court also noted that "[g]iven the Commission's unassailable finding as to Banks as a hands on manager, it concluded that in the circumstances of this case Banks failed in his duty as a director and officer of LFI such that his conduct called for an order in the public interest. This conclusion was reasonable."

With respect to the issue of the sanctions imposed by the Commission, the Divisional Court held that Banks' appeal should be allowed, the sanction set aside and the matter referred back to the Commission for a new hearing on sanctions. In so doing, the Court said that "it is common ground that the matter should be remitted back to the Commission to allow the parties to make submissions."

A hearing to allow the parties to make submissions with respect to sanctions will be scheduled by the Secretary to the Commission on a date agreed to by all parties.

Copies of the Commission's Decision, Notice of Hearing and Statement of Allegations are available on the OSC's website at www.osc.gov.on.ca.

For Media Inquiries: Wendy Dey
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1.3.3 OSC sets hearing date in Richard Ochnik and 1464210 Ontario Inc.

**FOR IMMEDIATE RELEASE
December 6, 2005**

**OSC SETS HEARING DATE IN
RICHARD OCHNIK AND 1464210 ONTARIO INC.**

TORONTO – On December 5, 2005, the Ontario Securities Commission set this matter for hearing for March 1, 2006 and March 2, 2006 at 10:00 a.m.

Copies of the Order, Notice of Hearing and Statement of Allegations are made available on the OSC's website (www.osc.gov.on.ca).

For Media Inquiries: Wendy Dey
Director, Communications
and Public Affairs
416-593-8120

Eric Pelletier
Manager, Media Relations
416-595-8913

For Investor Inquiries: OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.4 Notices from the Office of the Secretary

1.4.1 Firestar Capital Management Corp. et al.

FOR IMMEDIATE RELEASE
December 5, 2005

**IN THE MATTER OF
THE SECURITIES ACT
R.S.O. 1990, C. S.5, AS AMENDED**

AND

**IN THE MATTER OF
FIRESTAR CAPITAL MANAGEMENT CORP.,
KAMPOSSE FINANCIAL CORP.,
FIRESTAR INVESTMENT MANAGEMENT GROUP,
MICHAEL CIAVARELLA AND MICHAEL MITTON**

TORONTO – The Commission issued an Order that the hearing to consider whether to continue the Temporary Cease Trade Orders is adjourned to January 31, 2006.

A copy of the Temporary Order is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

For Investor Inquiries: OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.4.2 Triax Growth Fund Inc. et al.

FOR IMMEDIATE RELEASE
December 5, 2005

**IN THE MATTER OF
THE SECURITIES ACT
R.S.O. 1990, C. S.5, AS AMENDED**

AND

**IN THE MATTER OF
TRIAx GROWTH FUND INC.,
NEW MILLENIUM VENTURE FUND INC.,
E2 VENTURE FUND INC.,
CAPITAL FIRST VENTURE FUND INC.,
NEW GENERATION BIOTECH (BALANCED) FUND INC.,
AND VENTURE PARTNERS BALANCED FUND INC.
(THE "FUNDS")**

TORONTO – Following a hearing pursuant to Section 8, the Commission issued an Order confirming the Decision of the Director.

A copy of the Order is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

For Investor Inquiries: OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.4.3 Richard Ochnik and 1464210 Ontario Inc.

FOR IMMEDIATE RELEASE
December 5, 2005

**IN THE MATTER OF
THE SECURITIES ACT
R.S.O. 1990, C. S.5, AS AMENDED**

AND

**IN THE MATTER OF
RICHARD OCHNIK AND 1464210 ONTARIO INC.**

TORONTO – The Commission issued an Order adjourning the Hearing on the Merits to March 1 and 2, 2006 at 10:00 a.m.

A copy of the Order is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

For Investor Inquiries: OSC Contact Centre
 416-593-8314
 1-877-785-1555 (Toll Free)

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Decisions, Orders and Rulings

2.1 Decisions

2.1.1 Chartwell Seniors Housing Real Estate Investment Trust - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications –relief granted from the requirement in NI 51-102 to include in a business acquisition report financial statements in addition to those included in the issuer's recent prospectus.

Rules Cited

National Instrument 51-102 – Continuous Disclosure Obligations.

November 1, 2005

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ALBERTA, SASKATCHEWAN, MANITOBA,
ONTARIO, QUEBEC, NEW BRUNSWICK,
NOVA SCOTIA AND NEWFOUNDLAND
AND LABRADOR
(the Jurisdictions)

AND

IN THE MATTER OF
THE MUTUAL RELIANCE REVIEW SYSTEM
FOR EXEMPTIVE RELIEF APPLICATIONS

AND

IN THE MATTER OF
CHARTWELL SENIORS HOUSING
REAL ESTATE INVESTMENT TRUST

MRRS DECISION DOCUMENT

Background

The local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions has received an application from Chartwell Seniors Housing Real Estate Investment Trust (the REIT) for a decision pursuant to the securities legislation in the Jurisdictions (the Legislation) granting relief in respect of a recently completed significant acquisition (the Meridian Acquisition), to include in the associated business acquisition report: financial statements related to the Meridian Acquisition for the year ended December 31, 2004 and the three-month period ended March 31, 2005, together with pro forma financial statements giving effect to the Meridian Acquisition and

one other acquisition (the CPAC Acquisition) recently completed by the REIT, all such statements as were included in the REIT's short form prospectus dated August 4, 2005; rather than including in the business acquisition report, as would be required under the Legislation, financial statements related to the Meridian Acquisition for the year ended December 31, 2004 and the six-month period ended June 30, 2005 together with pro forma financial statements giving effect only to the Meridian Acquisition (the Requested Relief).

Under the Mutual Reliance Review System for Exemptive Relief Applications:

- (a) the Ontario Securities Commission is the principal regulator for this application, and
- (b) this MRRS decision document evidences the decision of each Decision Maker.

Interpretation

Defined terms contained in National Instrument 14-101 - *Definitions* or in Québec Commission Notice 14-101 have the same meaning in this decision unless they are defined in this decision.

Representations

This decision is based on the following facts represented by the REIT:

1. The REIT is an unincorporated, open-ended investment trust established under the laws of the Province of Ontario by a declaration of trust with its head office located in Mississauga, Ontario.
2. The REIT is a reporting issuer under the securities legislation of each of the provinces of Canada.
3. The units of the REIT are listed and posted for trading on the Toronto Stock Exchange under the trading symbol CSH.UN.
4. In connection with a short form prospectus of the REIT dated August 4, 2005 (the "Prospectus"), the REIT made a pre-filing and waiver application to the Decision Makers in the Jurisdictions and in the provinces of British Columbia and Prince Edward Island dated June 23, 2005 and supplemented on July 5, 2005, with respect to the inclusion in the Prospectus of certain financial statements for completed acquisitions. Pursuant to the relief granted by such Decision Makers, the REIT included in the Prospectus certain financial statements of CPAC (Care) Holdings Ltd. (CPAC).

The acquisition of CPAC was not a significant acquisition.

5. The prospectus also included certain financial statements related to the Meridian Acquisition, and certain pro forma financial statements giving effect to the CPAC Acquisition and the Meridian Acquisition.
6. The REIT's offering of units pursuant to the Prospectus was completed on August 10, 2005 and the Meridian Acquisition was completed on August 19, 2005.
7. Between the date of the Prospectus and the completion date of the Meridian Acquisition there was no material change in the terms of the Meridian Acquisition from those disclosed in the Prospectus.
8. The business acquired pursuant to the Meridian Acquisition is a mature business and is not seasonal and therefore the results of operations would not generally vary from one interim period to another.

Decision

Each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the decision has been met.

The decision of the Decision Makers under the Legislation is that the Requested Relief is granted.

"Cameron McInnis"
Manager, Corporate Finance
Ontario Securities Commission

2.1.2 Foremost Industries Income Fund - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – relief from the requirement to provide financial statements in an information circular for a business that constituted a significant acquisition.

Rules Cited

National Instrument 51-102 Continuous Disclosure Obligations.

Citation: Foremost Industries Income Fund, 2005 ABASC 937.

November 29, 2005

**IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ALBERTA AND ONTARIO (THE "JURISDICTIONS")**

AND

**IN THE MATTER OF
THE MUTUAL RELIANCE REVIEW SYSTEM
FOR EXEMPTIVE RELIEF APPLICATIONS**

AND

**IN THE MATTER OF
FOREMOST INDUSTRIES INCOME FUND
THE "FILER")**

MRRS DECISION DOCUMENT

Background

1. The local securities regulatory authority or regulator (the "Decision Maker") in each of the Jurisdictions has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the "Legislation") exempting the Filer from the requirement in item 14.2 of Form 51-102F5 to National Instrument 51-102 *Continuous Disclosure* ("NI 51-102") to provide prospectus-level disclosure in information circular with respect to financial statements of a business that the Fund acquired as a result of a binding agreement entered into on March 11, 2004.

Application of Principal Regulator System

2. Under Multilateral Instrument 11-101 *Principal Regulator System* ("MI 11-101") and the Mutual Reliance Review System for Exemptive Relief Applications (the "System"):
 - (a) the Alberta Securities Commission is the principal regulator for the Filer,

- (b) the Filer is relying on the exemption in Part 3 of MI 11-101 in Québec and Nova Scotia; and
- (c) this MRRS decision document evidences the decision of each Decision Maker.

Interpretation

- 3. Defined terms in National Instrument 14-101 *Definitions* have the same meaning in this decision unless they are otherwise defined in this decision.

Representations

This decision is based on the following facts represented by the Filer:

- 4. The Filer's head office is in Calgary, Alberta;
- 5. The Filer is a reporting issuer in Alberta, Ontario, Québec and Nova Scotia (the "Reporting Issuer Jurisdictions") and is not in default of its obligations as a reporting issuer under the Legislation in any of the Reporting Issuer Jurisdictions;
- 6. The Filer was established under the laws of Alberta pursuant to an Amended and Restated Declaration of Trust, initially dated as of November 14, 2001;
- 7. The Filer became a reporting issuer as a result of the conversion of Foremost Industries Inc. into an income fund in December, 2001, pursuant to a plan of arrangement (the "Plan of Arrangement");
- 8. Since the completion of the Plan of Arrangement, the Filer has not undertaken a prospectus offering of its trust units ("Units");
- 9. The Filer acquired the assets and business operations (the "Business") of Corlac Industries (1998) Ltd. ("Corlac") on or about July 1, 2004 for a purchase price of \$15.428 million, of which approximately \$7.091 million was attributable to purchase of Corlac's accounts receivable. A binding agreement with respect to the acquisition of the Business was entered into on March 11, 2004, and accordingly the requirement to file a Business Acquisition Report pursuant to Part 8 of NI 51-102 did not apply as a result of the transitional provision in subsection 14.2 (d) of NI 51-102;
- 10. At the date of the acquisition of Corlac, the Filer's consolidated investments in the Business represented approximately 26.5% of the Filer's consolidated assets therefore meeting the investment test set forth in Ontario Securities Commission Rule 41-501 *General Prospectus Requirements*;

11. The Filer announced a proposed internal reorganization (the "Reorganization") on November 10, 2005, pursuant to which a new, publicly-traded income fund ("New Fund") will acquire all of the existing assets and business operations presently conducted by the subsidiary entities of the Filer. The business and operations of the Filer will be unaffected by the Reorganization and holders of units of the Filer ("Unitholders") will receive one unit of New Fund for each Unit of the Filer they now hold;

12. The Reorganization requires the approval of 66 $\frac{2}{3}$ % of the votes cast by Unitholders at a special meeting (the "Meeting") which is scheduled for December 28, 2005, with closing to occur before the end of 2005;

13. Pursuant to item 14.2 of Form 51-102F5, the information circular and proxy statement (the "Information Circular") of the Filer to be sent to Unitholders in connection with the Meeting must include:

(a) statements of income, retained earnings and cash flow for the Business for the year ended December 31, 2003; and

(b) a *pro forma* income statement relating to the combination of the Filer and the Business as though the acquisition had taken place on January 1, 2004;

(the "Corlac Information Requirement").

14. Also pursuant to item 14.2 of Form 51-102F5, the Information Circular of the Filer to be sent to Unitholders in connection with the Meeting must include *pro forma* consolidated statements of income for the year ended December 31, 2004 prepared with the results of the Business included therein (the "*Pro Forma* Requirement");

15. The Filer has been advised by the accountants of Corlac that it may take as many as 45 days to prepare statements in compliance with the Corlac Information Requirement and to furnish information necessary to prepare statements in compliance with the *Pro Forma* Requirement.

16. The Information Circular of the Filer will otherwise comply with item 14.2 of NI 51-102 and will disclose that the Requested Relief has been granted.

Decision

17. Each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the decision has been met.

18. The decision of the Decision Makers under the Legislation is that

- (a) the Filer is exempt from the Corlac Information Requirement; and
- (b) the Filer is exempt from the *Pro Forma* Requirement.

"Agnes Lau, CA"
Associate Director, Corporate Finance
Alberta Securities Commission

2.1.3 Paulson & Co. Inc. - MRRS Decision

Headnote

Mutual Reliance Review System - Application for relief from the requirements in securities legislation and the Business Corporations Act (Ontario) to send an information circular to shareholders in connection with the solicitation of proxies from such shareholders - Exemption granted to allow solicitations without sending an information circular in circumstances currently allowed under the Canada Business Corporations Act where the solicitation consists of (i) a public announcement of how a shareholder intends to vote and the reasons for such decision, (ii) a communication to shareholders concerning the business and affairs of the company where no proxy is sent to such shareholders, or (iii) solicitations to no more than 15 shareholders - Exemption also granted to allow solicitation in a newspaper which is accompanied by all the information required to be sent to a shareholder when the shareholder's proxy is solicited.

Statutes Cited

National Instrument 51-102 Continuous Disclosure Obligations, ss. 9.1(2), 9.2(2), 13.1.

Business Corporations Act, R.S.O. 1990, c. B.16, as am., ss. 112(1), 113.

November 16, 2005

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO (THE "PRINCIPAL JURISDICTION"),
ALBERTA, BRITISH COLUMBIA, SASKATCHEWAN,
MANITOBA, QUÉBEC, NEW BRUNSWICK,
NOVA SCOTIA, AND NEWFOUNDLAND &
LABRADOR (COLLECTIVELY,
THE "PARTICIPATING JURISDICTIONS")

AND

IN THE MATTER OF
THE MUTUAL RELIANCE REVIEW SYSTEM
FOR EXEMPTIVE RELIEF APPLICATIONS

AND

IN THE MATTER OF
PAULSON & CO. INC. (THE "FILER")

MRRS DECISION DOCUMENT

Background

1. The local securities regulatory authority or regulator (collectively, the "Decision Makers") in each of Alberta, British Columbia, Saskatchewan, Manitoba, Ontario, Québec, Nova Scotia, New Brunswick, and Newfoundland & Labrador (the "Jurisdictions") has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the "Legislation")

and, in Ontario only, a decision under the *Business Corporations Act* (Ontario) (the "OBCA") that:

1.1 the requirement in the Legislation to send an information circular to each shareholder ("Shareholders") of Algoma Steel Inc. (the "Corporation") whose proxy is solicited (the "Information Circular Requirement") does not apply to certain solicitations made by the Filer in respect of the Corporation which consist solely of a public announcement describing how Paulson intends to vote in respect of any item of business to be considered at a meeting of the shareholders of Algoma and the reasons for that decision, where such public announcement is made by:

- (i) a speech in a public forum; or
- (ii) a press release, an opinion, a statement or an advertisement provided through a broadcast medium or by a telephonic, electronic or other communication facility, or appearing in a newspaper, a magazine or other publication generally available to the public.

(the "Public Announcement Relief")

1.2 in Ontario only, the requirement in the OBCA to send an information circular to each Shareholder of the Corporation whose proxy is solicited (the "OBCA Information Circular Requirement") does not apply

- (a) in the circumstances described in paragraph 1.1; and
- (b) in connection with the solicitation of proxies from not more than fifteen Shareholders.

(the "OBCA Relief")

2. Under the Mutual Reliance Review System for Exemptive Relief Applications (the "System"),

- (a) the Ontario Securities Commission is the principal regulator for this application, and
- (b) this MRRS decision evidences the decision of each Decision Maker.

Interpretation

3. Defined terms contained in National Instrument 14-101 have the same meaning in this decision unless they are defined in this decision.

Representations

4. The decision is based on the following facts represented by the Filers:

4.1 The Filer is an investment management firm based in New York City, USA and is a Shareholder of the Corporation. The Filer holds approximately 19% of the issued and outstanding common shares of the Corporation.

4.2 The Corporation is a TSX-listed issuer governed by the OBCA.

4.3 The Filer has had a number of discussions over the last several months with management of the Corporation to encourage management of the Corporation to maximize value for all Shareholders.

4.4 On October 21, 2005, the Filer sent a letter to the Board of Directors (the "Board") of the Corporation asking the Board to consider a proposed corporate reorganization pursuant to which Algoma would exchange 40% of its shares for \$26 per share in cash and the remaining 60% of its shares for shares in a new company that would continue the business, subject to shareholder elections and *pro rationing*.

4.5 On October 25, 2005, the Corporation issued a press release indicating that the Board rejected the Filer's proposal.

4.6 On October 26, 2005, the Filer issued a press release stating that it has begun the process to issue a legal requisition to the Corporation's board to call a special shareholder's meeting before the end of the year to replace a majority of the Board and consider the proposed corporate reorganization.

4.7 On November 1, 2005, the Filer sent a requisition to the Corporation for a special meeting and, on November 2, 2005 issued a press release announcing the requisition. The requisition asks the Corporation to forthwith call a special meeting of Shareholders to consider the following business:

- (a) a resolution removing certain directors from the Board, setting the number of directors at nine and electing directors to fill the vacancies created thereby such that the Corporation has nine directors;

- (b) a resolution directing the Board to consider, and if thought appropriate, to refinance the currently outstanding 11% secured notes issued pursuant to an Indenture dated as of January 29, 2002 and due December 31, 2009 (the "Notes") by redeeming the Notes at the

earliest opportunity and issuing \$200 million of new notes that are not subject to mandatory payment in respect of the outstanding principal amount until a date no earlier than 2010; and

“Paul Moore”
Commissioner
Ontario Securities Commission

- (c) a resolution directing the Board to consider and, if thought appropriate, to place before the Shareholders for their approval, a transaction to distribute cash retained by the Corporation to Shareholders on a tax efficient basis whereby Shareholders may elect to receive, subject to *pro rationing*, (i) cash at a price per common share that represents a premium to the market price for the common shares, for a portion of their common shares or (ii) common shares in the Corporation or its successor, provided that such cash component shall not be less than \$400 million or the maximum amount permitted by law if less than \$400 million.

“Suresh Thakrar”
Commissioner
Ontario Securities Commission

- 4.8 The Filer also submitted to the Corporation a statement in support of its proposal for inclusion in the management proxy circular to be mailed in connection with the requisitioned meeting
- 4.9 The Corporation expressed its opposition to the Filer's proposal as evidenced by the Corporation's October 25, 2005 press releases and its conference call held on November 3, 2005.
- 4.10 The Filer wishes to express its views as a Shareholder so that other Shareholders understand the business raised by the Filer's requisition and how the Filer intends to vote. The Filer also wishes to hear and discuss the views of other Shareholders on the matter. The Filer wishes to be able to publicly state its views and reasons for the requisition, either in a news release or by way of advertisements.
- 4.11 Paulson expects that the Corporation will have Shareholders in each of the Jurisdictions.

Decision

5. Each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the decision has been met.
6. The decision of the Decision Makers under the Legislation is that the Public Announcement Relief is granted.

“Ralph Shay”
Director, Take Over Bids, Mergers & Acquisitions

7. In Ontario only, the OBCA Relief is granted.

2.1.4 Macquarie Power Income Fund - MRRS Decision

Headnote

Mutual Reliance Review System - related party transactions – relief from valuation and minority approval requirements in connection with a proposed related party transaction – issuer to fund purchase of third party assets through a series of transactions involving subscriptions for securities of a number of intermediate entities – purpose of transactions is to allow the issuer and a related party to fund the purchase of assets in an organizationally efficient manner – issuer and related party will each fund purchase in direct proportion to the interest that each will be acquiring – relief granted.

Rules Cited

Rule 61-501 – Insider Bids, Issuer Bids, Going Private Transactions and Related Party Transactions, ss. 5.4(1), 5.5(1), 5.6, 5.7(1), 9.1.

August 9, 2005

**IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO AND QUEBEC (the “Jurisdictions”)**

AND

**IN THE MATTER OF
THE MUTUAL RELIANCE REVIEW SYSTEM
FOR EXEMPTIVE RELIEF APPLICATIONS**

AND

**IN THE MATTER OF
MACQUARIE POWER INCOME FUND (the “Filer”)**

MRRS DECISION DOCUMENT

Background

The local securities regulatory authority or regulator (the “Decision Maker”) in each of the Jurisdictions has received an application from the Filer for a decision under Ontario Securities Commission Rule 61-501 *Insider Bids, Issuer Bids, Business Contributions and Related Party Transactions* and Autorité des marchés financiers Policy Statement Q-27 (the “Legislation”) that the valuation and related disclosure requirement (the “Valuation Requirement”) and the minority approval requirement (the “Minority Approval Requirement”) applicable to a “related party transaction” under the Legislation shall not apply to the Subject Steps (as defined below).

Under the Mutual Reliance Review System (the “System”) for Exemptive Relief Applications

(a) the Ontario Securities Commission is the principal regulator for this application, and

(b) this MRRS decision document evidences the decision of each Decision Maker.

Interpretation

Defined terms contained in National Instrument 14-101 - *Definitions* have the same meaning in this decision as therein unless they are defined in this decision.

Representations

This decision is based on the following facts represented by the Filer:

1. The Filer is an unincorporated, open-ended, limited purpose trust established under the laws of the Province of Ontario on March 15, 2004 by a declaration of trust, as amended and restated as of April 16, 2004 (the “Declaration of Trust”). The principal and head office of the Filer is located at 100 Wellington Street West, Suite 2200, Canadian Pacific Tower, Toronto-Dominion Centre, Toronto, ON, M5K 1J3.
2. The Filer is administered by its trustees (the “Trustees”) pursuant to the Declaration of Trust and by Macquarie Power Management Ltd. (the “Manager”) pursuant to an administration agreement (the “Administration Agreement”) dated April 30, 2004 among the Filer, Macquarie Power Income Trust (“MPT”) and the Manager.
3. The Filer does not carry on any business directly, and its activities are currently limited to holding units and notes of MPT. MPT is an unincorporated, open-ended, limited purpose trust established under the laws of the Province of Ontario on March 15, 2004 by a declaration of trust, as amended and restated as of April 16, 2004 (the “MPT Declaration of Trust”). MPT, in turn, (a) holds a direct limited partnership interest in Cardinal Power of Canada, L.P. (“Cardinal LP”) and (b) owns 100% of the voting equity of Cardinal Power Inc. (the “General Partner”), the general partner of Cardinal LP. MPT is administered by its trustees (the “MPT Trustees”) pursuant to the MPT Declaration of Trust and by the Manager pursuant to the Administration Agreement.
4. The Filer is a reporting issuer or equivalent in all provinces and territories of Canada.
5. The authorized capital of the Filer consists of an unlimited number of units (“Units”). The initial public offering of 21,168,977 Units was made pursuant to a prospectus dated April 19, 2004.
6. The Units are listed and posted for trading on the Toronto Stock Exchange under the symbol MPT.UN.

7. The Manager is an indirect, wholly-owned subsidiary of Macquarie Bank Limited ("Macquarie Bank"), an Australian-headquartered bank.
8. Macquarie Bank provides specialized investment and financial services in select markets throughout the world. Macquarie Bank, through subsidiaries, manages various funds totalling approximately \$26 billion in infrastructure equity in countries such as Australia, the United States, South Africa, United Kingdom, Singapore, South Korea and Canada. Macquarie Bank has been carrying on business in Canada directly or indirectly since the early 1990s.
9. As further described in the Filer's annual information form dated March 21, 2005 (the "AIF"), under the Administration Agreement, the Manager has been appointed exclusively to provide or cause to be provided administration services to the Filer and to MPT, including those services necessary to assist the Filer in complying with its continuous disclosure obligations under applicable securities legislation; provide investor relations services; monitor compliance of the Filer and MPT with applicable tax laws; and assist with respect to treasury, legal and compliance, financing and risk assessment and such other services as the Filer and MPT may reasonably require from time to time.
10. As further described in the AIF, pursuant to a management agreement (the "Management Agreement") dated April 30, 2004 among the Manager, the Filer, MPT and Cardinal LP, the Manager was exclusively engaged to provide or cause to be provided certain services to Cardinal LP, including overseeing the General Partner in its operation and maintenance of its 156 MW combined co-generation plant located in Cardinal, Ontario as well as the related transmission line (the "Facility"); assisting Cardinal LP in the development, implementation and monitoring of the Facility's strategic plans; and assisting Cardinal LP in developing the Facility's annual business plans, which include operational and capital expenditure budgets.
11. In connection with the services provided under the Administration Agreement and the Management Agreement, the Manager has supplied the services of persons to serve as the President and Chief Executive Officer, the Vice-President and Chief Financial Officer and the Corporate Secretary and General Counsel of the Filer and MPT.
12. Macquarie Senior Care LP ("MSCLP"), an indirect wholly-owned subsidiary entity of Macquarie Bank, entered into a series of agreements dated as of March 18, 2005 (the "Acquisition Agreements") which provide for the acquisition (the "Leisureworld LTC Acquisition") by MSCLP of six limited partnerships which together will comprise the long-term care, retirement home and related businesses (the "Leisureworld LTC Business") historically carried on by Leisureworld Inc., Tealwood Developments Inc., Tranquil Brooks Land Development Inc., Ontario Long Term Care Providers Inc., Leisureworld Creemore Inc. and Preferred Health Care Services Inc. (collectively, the "Vendors") for consideration to the Vendors of approximately \$465 million.
13. The closing of the Leisureworld LTC Acquisition (the "Acquisition Closing") is subject to various conditions, including the receipt of all required regulatory consents and approvals, including the approval of the Ontario Ministry of Health and Long Term Care, and is currently expected to occur on October 3, 2005.
14. Pursuant to the Acquisition Agreements, MSCLP has paid a deposit (the "Deposit") in the amount of \$10 million to the Vendors, which is to be applied toward the purchase price payable thereunder.
15. The Acquisition Agreements provide for customary representations and warranties of the Vendors and covenants relating to, among other things, the operation of the Vendors' businesses and certain events occurring between the signing of the Acquisition Agreements and the Acquisition Closing.
16. The Acquisition Agreements also provide for indemnification by the Vendors in respect of breaches of covenants and representations and warranties by the Vendors, subject to an aggregate limit of \$15 million (subject to certain exceptions including that liability for the Vendors' representations regarding their right and ability to sell their assets is limited to 100% of the purchase price payable under the Acquisition Agreements).
17. At the time that Macquarie Bank announced the entering into of the Acquisition Agreements, it stated that it would explore transferring its interest in the Leisureworld LTC Business to a Macquarie-managed fund, such as the Filer.
18. The Acquisition Agreements expressly contemplate that a third party may acquire an interest in MSCLP prior to the Acquisition Closing.
19. The Acquisition Agreements permit MSCLP or any person who has agreed to acquire an interest in MSCLP to file a prospectus and include information about the Vendors in the prospectus provided that, among other things, the proposed issuer of securities under the prospectus offers one of the Vendors the option to receive exchangeable securities of a person controlled by the issuer on a tax-deferred basis as partial payment of the purchase price under the Acquisition Agreements and that such issuer

- indemnifies the Vendors and their directors and management for any liabilities they may suffer as a result of such prospectus containing a misrepresentation.
20. The Filer is currently considering participating in the Leisureworld LTC Acquisition.
21. In order to finance its participation in the Leisureworld LTC Acquisition, the Filer intends to raise approximately \$100 million through a public offering (the "Offering") of subscription receipts, which subscription receipts will automatically be exchanged for Units immediately after the Acquisition Closing on a one-for-one basis. The Filer currently intends to file a preliminary prospectus in respect of the Offering in the second week of August 2005. If a Vendor elects to receive exchangeable securities of a subsidiary entity of the Filer in lieu of part of the cash consideration otherwise payable under the Acquisition Agreements, then the Filer intends to reduce the amount that it raises pursuant to the Offering by the value of exchangeable securities to be issued.
22. Macquarie Bank and the Filer have held discussions about the Filer participating in the Leisureworld LTC Acquisition and have developed a structure for such participation. The Filer's potential participation in the Leisureworld LTC Acquisition remains subject to the approval of the Trustees and will not proceed unless the Trustees, including the Trustees independent of the Manager, determine that it is in the best interests of the holders of Units to participate in the Leisureworld LTC Acquisition.
23. Under the proposed structure, immediately prior to the Acquisition Closing, the Filer will indirectly acquire, through a newly-created, wholly-owned subsidiary entity, MPT LTC Holding LP ("LTC Holding LP"), from a subsidiary of Macquarie Bank a 45% interest (the "Purchase") in Macquarie Master LP ("MMLP"), a recently formed limited partnership that is wholly-owned indirectly by Macquarie Bank, and a 45% interest in MMLP's general partner, which is also wholly-owned indirectly by Macquarie Bank. The Purchase will be made for up to approximately \$6 million, representing 45% of the costs incurred by Macquarie Bank and its affiliates in connection with the Leisureworld LTC Acquisition.
24. MMLP's only asset is its 100% ownership of MSCLP (and its general partner). The Purchase will result in the Filer indirectly owning 45% of MSCLP (and its general partner). MSCLP's only assets are the rights and obligations it has under the Acquisition Agreements.
25. Following the Purchase and prior to the Acquisition Closing, the following transaction steps would occur (collectively, the "Subject Steps"): (i) the remaining net proceeds of the Offering would be used by the Filer to subscribe for securities of (or otherwise fund) MPT, (ii) such funds would be used by MPT to subscribe for securities of (or otherwise fund) LTC Holding LP; (iii) LTC Holding LP would then subscribe for securities of (or otherwise fund) MMLP. (Macquarie Bank would also subscribe for securities of (or otherwise fund) MMLP such that the amounts paid by the Filer and Macquarie Bank to MMLP will be in the same proportion as their respective indirect interests in MMLP, namely 45% and 55%, respectively); and (iv) MMLP would then use the funds received indirectly from the Filer and Macquarie Bank to subscribe for securities of (or otherwise fund) MSCLP in order to fund part of the purchase price for the Leisureworld LTC Business. If a Vendor elects to receive, directly or indirectly, securities exchangeable into Units under the Acquisition Agreements as part of the purchase price payable thereunder, the Subject Steps would be adjusted to account for such election with the effect that immediately after the Acquisition Closing and the above-mentioned transfers, the Fund will indirectly hold a 45% indirect interest in the Leisureworld LTC Business.
26. The balance of the funds that MSCLP would require to pay the purchase price for the Leisureworld LTC Business is to be provided to MSCLP by way of a loan from Macquarie Long Term Care Infrastructure Trust (the "Infrastructure Trust"), which in turn will obtain such funds by way of debt financing provided by a Canadian chartered bank. The Infrastructure Trust is a trust established under the laws of the Province of Ontario pursuant to a declaration of trust dated March 18, 2005. The sole trustee of the Infrastructure Trust is Computershare Trust Company of Canada and the sole beneficiary of the Infrastructure Trust is the United Way of Greater Toronto. The Infrastructure Trust is administered by Macquarie North America Ltd. ("Macquarie N.A."), an affiliate of Macquarie Bank, pursuant to an administration agreement under which Macquarie N.A. is entitled to receive certain fees for such administrative services rendered under such agreement.
27. In connection with the Leisureworld LTC Acquisition, Macquarie Bank will not receive any fees, directly or indirectly, from the Filer except the following fees from MSCLP (which would be indirectly paid as to 45% by the Filer by virtue of its indirect 45% ownership interest in MSCLP) for the following financial advisory services:
- (a) a financial advisory fee of 1.25% of the total enterprise value of the Leisureworld LTC Business, anticipated to be \$6.9 million (including applicable Goods and Services Tax);

- (b) a transaction origination fee of 4% of the total equity value of the Leisureworld LTC Acquisition, anticipated to be \$8.2 million; and
- (c) an anticipated debt placement fee of approximately \$0.6 million for its participation in the anticipated underwriting syndicate of a bond market refinancing which is expected to be undertaken by the Infrastructure Trust after the Acquisition Closing.

28. If the Fund and Macquarie Bank were to have entered into the Acquisition Agreements directly and agreed to directly purchase 45% and 55%, respectively, of each of the six limited partnerships that will comprise the Leisureworld LTC Business from the Vendors, such transaction would not be a "related party transaction", as the proportion of the assets acquired by the Fund would be equivalent to its proportion of the overall consideration paid for such assets.
29. The Subject Steps are merely intermediate steps which occur immediately prior to the Acquisition Closing and which facilitate, on an organizationally efficient basis, the ultimate transaction being undertaken by the Fund, being its acquisition from the Vendors of a 45% interest in the Leisureworld LTC Business in consideration for 45% of the total consideration being paid to the Vendors on the Leisureworld Acquisition.

Decision

Each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the decision has been met.

The decision of the Decision Makers under the Legislation is that the Valuation Requirement and Minority Approval Requirement applicable to a "related party transaction" under the Legislation shall not apply to the Subject Steps.

"John Hughes"
Manager, Corporate Finance Branch

2.1.5 MSP 2005 Resource Limited Partnership - MRRS Decision

Headnote

Issuer exempted from interim financial reporting requirements for third quarter of this financial year.

Applicable Ontario Statutes

Securities Act, R.S.O. 1990, c. S.5, as amended, ss. 77(1), 79, 80(b)(iii).

November 25, 2005

**IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA, SASKATCHEWAN, ONTARIO,
NEW BRUNSWICK, NOVA SCOTIA, AND
NEWFOUNDLAND AND LABRADOR,**

AND

**IN THE MATTER OF
THE MUTUAL RELIANCE REVIEW SYSTEM
FOR EXEMPTIVE RELIEF APPLICATIONS**

AND

**IN THE MATTER OF
MSP 2005 RESOURCE LIMITED PARTNERSHIP**

MRRS DECISION DOCUMENT

Background

The securities regulatory authority or regulator (the "Decision Maker") in each of the Provinces of British Columbia, Alberta, Saskatchewan, Ontario, New Brunswick, Nova Scotia and Newfoundland and Labrador (the "Jurisdictions") has received the application of MSP 2005 Resource Limited Partnership (the "Filer") for a decision pursuant to the securities legislation (the "Legislation") of the Jurisdictions exempting the Filer from the requirements of the Legislation to file with the Decision Makers and send to its securityholders (the "Limited Partners") its third quarter interim financial statements for September 30, 2005 (the "Requested Relief").

Under the Mutual Reliance Review System for Exemptive Relief Applications:

- (a) the Ontario Securities Commission is the principal regulator for this application; and
- (b) this MRRS decision document evidences the decision of each Decision Maker.

Interpretation

Defined terms contained in National Instrument 14-101 *Definitions* have the same meaning in this decision unless they are defined in this decision.

Representations

This decision is based on the following facts represented by the Filer:

1. The Filer is a limited partnership formed pursuant to the provisions of the *Limited Partnerships Act* (Ontario) on January 26, 2005.
2. The Filer's financial year-end is December 31.
3. The Filer was granted decision documents dated February 25, 2005 and February 28, 2005 by the OSC in its capacity as principal regulator under National Policy 43-201 on behalf of the securities regulatory authority or regulator in all of the provinces of Canada, which decision documents evidence the issue of final receipts for the Filer's prospectus (the "Prospectus") dated February 24, 2005 relating to an offering of up to 1,600,000 limited partnership units ("Units").
4. The Units have not been and will not be listed or quoted for trading on any stock exchange or market.
5. The Filer was formed for the purpose of investing the proceeds from the issue and sale of Units primarily in flow-through shares of issuers whose principal business is oil and gas or mining exploration and development or other energy production and who represent that they intend to incur Canadian Exploration Expense (as such term is defined in the Income Tax Act (Canada)) ("Resource Issuers").
6. Since its formation, the Filer's activities have primarily included: (i) collecting subscriptions from Limited partners; (ii) investing the proceeds from the issue and sale of Units primarily in flow-through shares of Resource Issuers; and (iii) incurring operating expenses to maintain the Filer.
7. It is the current intention of the Filer that, prior to June 30, 2007, the Filer will exchange substantially all of the assets of the Filer for shares ("Mutual Fund Shares") of an open-end mutual fund corporation managed by Mackenzie Financial Corporation. Following this exchange, the Filer will be dissolved and the Limited Partners will receive their pro rata share of the assets of the Filer, then consisting of the Mutual Fund Shares.
8. Unless a material change takes place in the business and affairs of the Filer, the Limited Partners will obtain adequate financial information concerning the Filer from the quarterly portfolio disclosure, the annual information form, the interim and annual management reports of fund performance, the semi-annual financial statements, and the annual report containing audited financial statements of the Filer together with the auditors' report thereon distributed to the

Limited Partners (collectively, the "Continuous Disclosure Documents"). The Prospectus and the Continuous Disclosure Documents provide sufficient background materials and the explanations necessary for a Limited Partner to understand the Filer's business, its financial position, and its future plans including dissolution prior to June 30, 2007.

9. Given the limited range of business activities conducted by the Filer and the nature of the investment of the Limited Partners in the Filer, the provision by the Filer of interim financial statements in respect of the period ended September 30, 2005 will not be of significant benefit to the Limited Partners and may impose a material financial burden on the Filer.
10. Each of the Limited Partners has, by subscribing for the Units offered by the Filer in accordance with the Prospectus, agreed to the irrevocable power of attorney contained in Article 18 of the limited partnership agreement scheduled to the Prospectus and has thereby consented to the making of this application for the exemption requested herein.

Decision

Each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the decision has been met.

"Paul Moore"
Vice Chair
Ontario Securities Commission

"Robert Davis"
Commissioner
Ontario Securities Commission

2.2 Orders

2.2.1 Hy-Drive Technologies Ltd - s. 83.1(1)

Headnote

Issuer deemed to be a reporting issuer in Ontario – issuer already a reporting issuer in British Columbia and Alberta – issuer’s securities listing for trading on the TSX Venture Exchange – continuous disclosure requirements in British Columbia and Alberta substantially the same as those in Ontario.

Applicable Ontario Statutory Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., s. 83.1(1).

November 29, 2005

**IN THE MATTER OF
THE SECURITIES ACT
R.S.O. 1990, CHAPTER S.5,
AS AMENDED (the “Act”)**

AND

**IN THE MATTER OF
HY-DRIVE TECHNOLOGIES LTD.**

**ORDER
(Subsection 83.1(1))**

UPON the application of Hy-Drive Technologies Ltd. (the “**Corporation**”) to the Ontario Securities Commission for an order pursuant to subsection 83.1(1) of the Act deeming the Corporation to be a reporting issuer for the purposes of the Act;

AND UPON considering the application and the recommendation of staff of the Ontario Securities Commission (the “**Commission**”);

AND UPON the Corporation having represented to the Commission that:

1. The Corporation was continued under the laws of the Province of Ontario on September 7, 2005 and is a corporation subsisting under the *Business Corporations Act* (Ontario).
2. The head office of the Corporation is located at 6760 Campobello Road, Mississauga, Ontario, L5N 2L8.
3. As at close of business on November 18, 2005, the authorized capital of the Corporation consisted of an unlimited number of common shares and an unlimited number of first preferred shares, issuable in series, of which 42,175,048 common shares and no first preferred shares were issued and outstanding.

4. The common shares of the Corporation are currently listed on the TSX Venture Exchange (the “**Exchange**”) under the symbol “HGS” and the Corporation is in compliance with the requirements of the Exchange.
5. The Corporation has been a reporting issuer under the *Securities Act* (British Columbia) (the “**BC Act**”) and the *Securities Act* (Alberta) (the “**Alberta Act**”) since March 29, 2004.
6. The Corporation is not a reporting issuer or equivalent under the securities legislation of any other jurisdiction in Canada.
7. The Corporation is not in default of any requirements of the BC Act or the Alberta Act.
8. The continuous disclosure requirements of the BC Act and the Alberta Act are substantially the same as the requirements under the Act.
9. The continuous disclosure materials filed by the Corporation are available on the System for Electronic Document Analysis and Retrieval.
10. There have been no penalties or sanctions imposed against the Corporation by a court relating to Canadian securities legislation or by a Canadian securities regulatory authority.
11. Neither the Corporation, nor any of its directors, officers or shareholders holding sufficient securities of the Corporation to affect materially the control of the Corporation, has:
 - (a) been the subject of any penalties or sanctions imposed by a court relating to Canadian securities legislation or by a Canadian securities regulatory authority;
 - (b) entered into a settlement agreement with a Canadian securities regulatory authority; or
 - (c) been subject to any other penalties or sanctions imposed by a court or regulatory body that would likely be considered important to a reasonable investor making an investment decision.
12. Neither the Corporation nor any of its directors, officers or shareholders holding sufficient securities of the Corporation to affect materially the control of the Corporation, is or has been subject to:
 - (a) any known ongoing or concluded investigations by:
 - (i) Canadian securities regulatory authorities; or

- (ii) a court or regulatory body, other than a Canadian securities regulatory authority, that would be likely considered important to a reasonable investor making an investment decision; or
- (b) any bankruptcy or insolvency proceedings, or other proceedings, arrangements or compromises with creditors, or the appointment of a receiver, receiver-manager or trustee, within the 10 years before the date of this application.
13. None of the directors and officers of the Corporation nor any of its shareholders holding sufficient securities of the Corporation to affect materially the control of the Corporation, is or has been, at the time of such event, a director or officer of another issuer which is or has been subject to:
- (a) any cease trade or similar orders, or orders that denied access to any exemptions under Ontario securities laws, for a period of more than thirty (30) consecutive days, within the 10 years before the date of this application; or
- (b) any bankruptcy or insolvency proceedings, or other proceedings, arrangements or compromises with creditors, or the appointment of a receiver, receiver manager or trustee, within the 10 years before the date of this application.
14. The Corporation shall remit all participation fees due and payable by it pursuant to Ontario Securities Commission Rule 13-502 *Fees* by no later than two (2) business days from the date of this Order.

"Robert Davis"
Commissioner
Ontario Securities Commission

AND UPON the Commission being satisfied that it would not be prejudicial to the public interest;

IT IS HEREBY ORDERED pursuant to subsection 83.1(1) of the Act that the Corporation be deemed to be a reporting issuer for the purposes of Ontario securities law.

"Iva Vranic"
Manager, Corporate Finance

The decision of the Decision Makers under the Legislation is that the Requested Relief is granted provided that this exemption shall terminate upon the occurrence of a material change in the affairs of the Filer prior to November 29, 2005 unless the Filer satisfies the Decision Makers that the exemption should continue, which satisfaction shall be evidenced in writing.

"Paul Moore"
Vice Chair
Ontario Securities Commission

2.2.2 Firestar Capital Management Corp. et al. - s. 127

November 21, 2005

**IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, c. S.5, AS AMENDED**

AND

**IN THE MATTER OF
FIRESTAR CAPITAL MANAGEMENT CORP.,
KAMPOSSE FINANCIAL CORP.,
FIRESTAR INVESTMENT MANAGEMENT GROUP,
MICHAEL CIAVARELLA AND MICHAEL MITTON**

**TEMPORARY ORDER
(Section 127)**

WHEREAS on December 10, 2004 the Ontario Securities Commission issued a Notice of Hearing pursuant to s.127 of the *Securities Act*, R.S.O. 1990, c.S.5, to consider whether it is in the public interest to extend the Temporary Orders made on December 10, 2004 ordering that trading in shares of Pender International Inc. by Firestar Capital Management Corp., Kamposse Financial Corp., Firestar Investment Management Group, Michael Mitton, and Michael Ciavarella cease until further order by the Commission;

AND WHEREAS a hearing was scheduled for February 4, 2005 and May 26, 2005 but was adjourned on consent. On March 9, 2005, the Commission ordered that the hearing to consider whether to extend the Temporary Orders should be adjourned until June 29 and 30, 2005 at 10:00 a.m.;

AND WHEREAS on March 9, 2005, the Commission ordered that the Temporary Orders issued on December 10, 2004 and December 17, 2004 as against Firestar Capital Management Corp., Kamposse Financial Corp., Firestar Investment Management Group, Michael Ciavarella and Michael Mitton should be extended until the hearing on June 29 and 30, 2005, or until further order of the Commission;

AND WHEREAS on June 29, 2005, the Commission ordered that the hearing to consider whether to extend the Temporary Orders should be adjourned until November 22 and 23, 2005 and that the Temporary Orders issued on December 10, 2004 and December 17, 2004 as against Firestar Capital Management Corp., Kamposse Financial Corp., Firestar Investment Management Group, Michael Ciavarella and Michael Mitton should be extended until November 22, 2005, or until further order of the Commission;

AND WHEREAS Firestar Capital Management Corp., Kamposse Financial Corp., Firestar Investment Management Group, Michael Ciavarella and Michael Mitton consent to the making of this order;

IT IS ORDERED that the hearing to consider whether to continue the Temporary Cease Trade Orders is adjourned to January 30 and 31, 2006;

IT IS ORDERED that the Temporary Cease Trade Orders continued on June 29, 2005 as against Firestar Capital Management Corp., Kamposse Financial Corp., Firestar Investment Management Group, Michael Ciavarella and Michael Mitton are further continued until January 31, 2006, or until further order of this Commission;

"Paul Moore"

"Suresh Thakrar"

November 23, 2005

**IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, c. S.5, AS AMENDED**

AND

**IN THE MATTER OF
TRIAX GROWTH FUND INC., NEW MILLENIUM
VENTURE FUND INC., E2 VENTURE FUND INC.,
CAPITAL FIRST VENTURE FUND INC., NEW
GENERATION BIOTECH (BALANCED) FUND INC.,
AND VENTURE PARTNERS BALANCED FUND INC.
(THE "FUNDS")**

**ORDER
(Section 8)**

WHEREAS in respect of an application dated September 14, 2005 and an amended application dated October 13, 2005 made by the Funds and Covington Group of Funds Inc., NGB Management Inc. and New Millenium Venture Partners Inc. (the "Managers"), on October 18, 2005 the Director of the Investment Funds Branch of the Ontario Securities Commission (the "Director") indicated that she would approve a merger of the Funds pursuant to subsection 5.5(1)(b) of National Instrument 81-102, and in connection with the proposed merger, would grant relief from certain requirements of subsection 12.2(2)(a) of National Instrument 81-106;

AND WHEREAS the Director determined that she would not approve the merger if the Funds, rather than the Managers, bear the costs of the merger;

AND WHEREAS the Funds and the Managers sought a hearing and review of the Director's decision in respect of the merger costs pursuant to section 8 of the Ontario *Securities Act*, R.S.O. 1990, c. S.5, as amended;

AND UPON reviewing the Record Book, the Statement of Fact and Law and Book of Authorities of the Funds and Managers, the Factum and Book of Authorities of Staff of the Ontario Securities Commission;

AND having heard submissions from counsel to the Funds and Managers, and from Staff of the Commission;

AND as the Commission is of the opinion that it is in the public interest to make this order;

IT IS HEREBY ORDERED that the decision of the Director is confirmed.

"Paul Moore"
Vice-Chair

"Suresh Thakrar"

2.2.4 Richard Ochnik and 1464210 Ontario Inc. - ss.
127, 127.1

December 5, 2005

**IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, c. S.5, AS AMENDED**

AND

**IN THE MATTER OF
RICHARD OCHNIK AND 1464210 ONTARIO INC.**

ORDER

WHEREAS by Notice of Hearing dated September 19, 2005, the Ontario Securities Commission announced that it would hold a hearing in the matter pursuant to section 127 and 127.1 of the Act;

AND WHEREAS on October 24, 2005, this matter was adjourned to this date for the Respondents to obtain counsel;

AND UPON hearing from counsel for Staff;

THE COMMISSION ORDERS:

THAT this matter be adjourned for hearing to March 1 and 2, 2006 at 10:00 a.m.

"Paul Moore"

"Suresh Thakrar"

Chapter 4

Cease Trading Orders

4.1.1 Temporary, Permanent & Rescinding Issuer Cease Trading Orders

Company Name	Date of Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/Revoke
Brazilian Resources, Inc.	06 Dec 05	16 Dec 05		
Capital Diagnostic Corporation	06 Dec 05	16 Dec 05		
Carber Capital Corp.	07 Dec 05	19 Dec 05		
Nova Growth Corp.	06 Dec 05	16 Dec 05		

4.2.1 Temporary, Permanent & Rescinding Management Cease Trading Orders

Company Name	Date of Order or Temporary Order	Date of Hearing	Date of Extending Order	Date of Lapse/Expire	Date of Issuer Temporary Order
Active Control Technology Inc.	01 Dec 05	14 Dec 05			
CoolBrands International Inc.	01 Dec 05	14 Dec 05			
Novelis Inc.	18 Nov 05	01 Dec 05	01 Dec 05		

4.2.2 Outstanding Management & Insider Cease Trading Orders

Company Name	Date of Order or Temporary Order	Date of Hearing	Date of Extending Order	Date of Lapse/Expire	Date of Issuer Temporary Order
ACE/Security Laminates Corporation	06 Sept 05	19 Sept 05	19 Sept 05		
Active Control Technology Inc.	01 Dec 05	14 Dec 05			
Argus Corporation Limited	25 May 04	03 Jun 04	03 Jun 04		
Canadex Resources Limited	04 Oct 05	17 Oct 05	17 Oct 05		
CoolBrands International Inc.	01 Dec 05	14 Dec 05			
Fareport Capital Inc.	13 Sept 05	26 Sept 05	26 Sept 05		
Hip Interactive Corp.	04 Jul 05	15 Jul 05	15 Jul 05		
Hollinger Canadian Newspapers, Limited Partnership	21 May 04	01 Jun 04	01 Jun 04		
Hollinger Inc.	18 May 04	01 Jun 04	01 Jun 04		
Hollinger International	18 May 04	01 Jun 04	01 Jun 04		
Kinross Gold Corporation	01 Apr 05	14 Apr 05	14 Apr 05		

Cease Trading Orders

Company Name	Date of Order or Temporary Order	Date of Hearing	Date of Extending Order	Date of Lapse/ Expire	Date of Issuer Temporary Order
Novelis Inc.	18 Nov 05	01 Dec 05	01 Dec 05		
Straight Forward Marketing Corporation	02 Nov 05	15 Nov 05	15 Nov 05		
Toxin Alert Inc.	07 Nov 05	18 Nov 05	18 Nov 05		

Chapter 5

Rules and Policies

5.1.1 Notice of Commission Approval - Ontario Amendment Instrument Amending NI 45-106 Prospectus and Registration Exemptions

NOTICE OF COMMISSION APPROVAL
ONTARIO AMENDMENT INSTRUMENT
AMENDING
NATIONAL INSTRUMENT 45-106
PROSPECTUS AND REGISTRATION EXEMPTIONS

Making of Amendment Instrument

On September 14, 2005, National Instrument 45-106 *Prospectus and Registration Exemptions* (**NI 45-106**) came into force in Ontario and all other CSA jurisdictions.

On November 29, 2005, the Commission made as a rule under the *Securities Act* (Ontario) (the **Act**) an amendment instrument (the **Amendment Instrument**) that will amend NI 45-106.

The Amendment Instrument will amend NI 45-106 in Ontario only. The securities regulatory authorities in other CSA jurisdictions have issued blanket orders to address the subject matter of the Amendment Instrument.

Delivery of Amendment Instrument to Minister

The Commission delivered the Amendment Instrument to the Minister responsible for the oversight of the Commission on December 8, 2005. If the Minister approves the Amendment Instrument, it will come into force 15 days after the Amendment Instrument is approved. If the Minister does not approve or reject the Amendment Instrument, or return it to the Commission for further consideration, by February 6, 2006, it will come into force on February 21, 2006.

Substance and purpose of Amendment Instrument

The Amendment Instrument amends the exemption for reinvestment plans in section 2.2 (the **DRIP Exemption**) of NI 45-106 in Ontario.

The DRIP Exemption replaced the exemption for reinvestment plans set out in OSC Rule 45-502 *Dividend or Interest Reinvestment and Stock Dividend Plans* (the **Predecessor Ontario DRIP Rule**), which was revoked upon the coming into force of NI 45-106.

DRIP Exemption

Subject to certain conditions, the DRIP Exemption provides for an exemption from the dealer registration requirement for a trade by an issuer, or by a trustee, custodian or administrator acting for or on behalf of the issuer, to a security holder of the issuer if the trade is permitted by a plan of the issuer and is:

- (i) a trade in a security of the issuer's own issue if dividends or distributions out of earnings, surplus, capital or other sources payable in respect of the issuer's securities are applied to the purchase of the security *that is of the same class or series* as the securities to which the dividends or distributions are attributable; or
- (ii) a trade in a security of the issuer's own issue if the security holder makes optional cash payments to purchase the security of the issuer *that is of the same class or series* of securities described in paragraph (a) that trade on a marketplace.

The DRIP Exemption also provides for an exemption from the prospectus requirement for a distribution in the circumstances described above.

Same Class Condition

The DRIP Exemption contains a condition that securities purchased pursuant to a reinvestment plan or a cash payment option must be of the same class or series as the securities to which the dividends or distributions paid are attributable (the **Same Class Condition**).

In contrast, the Predecessor Ontario DRIP Rule did not contain the Same Class Condition. It was available for trades by an issuer or administrator of the issuer in a security of the issuer's own issue of any class or series provided that the trade was under a dividend or interest reinvestment plan of the issuer.

The Same Class Condition has proven problematic for certain types of reinvestment plans.

Amendment Instrument

The Amendment Instrument will remove the Same Class Condition from the DRIP Exemption in Ontario.

Authority for Amendment Instrument

The following provisions of the Act provide us with authority to make the Amendment Instrument:

- paragraph 143(1)8 authorizes us to provide for exemptions from the registration requirements under the Act or for the removal of exemptions from those requirements; and
- paragraph 143(1)20 authorizes us to provide for exemptions from the prospectus requirements under the Act and for the removal of exemptions from those requirements.

In addition, clause 143.2(5)(b) of the Act permits us to make the Amendment Instrument without publishing the Amendment Instrument for comment.

Questions

Please refer your questions to:

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Assistant Manager, Corporate Finance
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eblumberger@osc.gov.on.ca

Marsha Gerhart
Senior Legal Counsel, Registrant Legal Services
(416) 595 8918
mgerhart@osc.gov.on.ca

Jo-Anne Matear
Senior Legal Counsel, Corporate Finance
(416) 593 2323
jmatear@osc.gov.on.ca

Text of Amendment Instrument

The Amendment Instrument is published in Chapter 5 of the Bulletin.

Date: December 9, 2005

**NATIONAL INSTRUMENT 45-106
PROSPECTUS AND REGISTRATION EXEMPTIONS
ONTARIO AMENDMENT INSTRUMENT**

1. Section 2.2 of National Instrument 45-106 *Prospectus and Registration Exemptions* is amended in Ontario by adding the following after subsection (1):
 - (1.1) In Ontario, paragraphs (a) and (b) of subsection (1) are to be read as follows:
 - (a) a trade in a security of the issuer's own issue if dividends or distributions out of earnings, surplus, capital or other sources payable in respect of the issuer's securities are applied to the purchase of the security, and
 - (b) subject to subsection (2), a trade in a security of the issuer's own issue if the security holder makes optional cash payments to purchase the security of the issuer that trades on a marketplace.

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Chapter 6

Request for Comments

6.1.1 Proposed Amendments to NI 51-102 Continuous Disclosure Obligations, Related Forms and Companion Policy, NI 52-107 Acceptable Accounting Principles, Auditing Standards and Reporting Currency, and NI 71-102 Continuous Disclosure and Other Exemptions Relating to Foreign Issuers and Companion Policy

NOTICE

REQUEST FOR COMMENT

**PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 51-102 *CONTINUOUS DISCLOSURE OBLIGATIONS*,
FORM 51-102F1, FORM 51-102F2, FORM 51-102F3, FORM 51-102F4, FORM 51-102F5,
FORM 51-102F6 AND COMPANION POLICY 51-102CP *CONTINUOUS DISCLOSURE OBLIGATIONS***

**PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 52-107 *ACCEPTABLE ACCOUNTING PRINCIPLES*,
*AUDITING STANDARDS AND REPORTING CURRENCY***

AND

**PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 71-102 *CONTINUOUS DISCLOSURE AND OTHER EXEMPTIONS*
RELATING TO FOREIGN ISSUERS AND COMPANION POLICY 71-102CP *CONTINUOUS DISCLOSURE*
*AND OTHER EXEMPTIONS RELATING TO FOREIGN ISSUERS***

Background

We, the Canadian Securities Administrators (CSA), are publishing for comment proposed amendments to

- National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102), its related forms (the Forms) and companion policy (CP 51-102),
- National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency* (NI 52-107), and
- National Instrument 71-102 *Continuous Disclosure and Other Exemptions relating to Foreign Issuers* (NI 71-102) and its related companion policy (CP 71-102)

(collectively, the Instruments).

The Instruments

- harmonize continuous disclosure (CD) requirements among Canadian jurisdictions,
- replace most existing local CD requirements, and
- provide exemptions for certain foreign issuers from certain CD requirements.

NI 51-102 sets out the obligations of reporting issuers, other than investment funds, for financial statements, management's discussion and analysis (MD&A), annual information forms (AIFs), business acquisition reports (BARs), material change reporting, information circulars, proxies and proxy solicitation, restricted share disclosure, and certain other CD-related matters. NI 52-107 sets out the accounting principles and auditing standards that applies to financial statements filed in a jurisdiction. NI 71-102 provides exemptions from most CD requirements and certain other requirements for certain foreign issuers.

Since the CSA implemented the Instruments, we have monitored how they are working. We sent surveys to all issuers that filed BARs in the first year after we implemented NI 51-102, to audit firms, and to investors, to find out the effect and usefulness of business acquisition reporting.

Request for Comments

We are publishing the proposed amendments to the Instruments with this Notice. You can find them on websites of CSA members, including the following:

- www.bcsc.bc.ca
- www.albertasecurities.com
- www.sfsc.gov.sk.ca
- www.msc.gov.mb.ca
- www.osc.gov.on.ca
- www.lautorite.qc.ca

We are publishing

- amending instruments for
 - NI 51-102 (Appendix B)
 - the Forms (Appendix C)
 - NI 52-107 (Appendix D)
 - NI 71-102 (Appendix E)
- black-lined versions of CP 51-102 and CP 71-102 (Appendices F and G)

We are also publishing a black-lined version of NI 51-102 that integrates the proposed changes from the amending instrument (Appendix H).

Substance and purpose of the amendments

The proposed amendments to the Instruments fall into the following three broad categories:

1. Amendments to clarify some provisions of the Instruments.
2. Amendments to address areas that a rule, form or companion policy does not address, including codifying discretionary exemptions that we have granted.
3. Amendments to streamline requirements in the Instruments.

Summary of proposed amendments

We have summarized the significant proposed amendments in Appendix A. This is not a complete list of all the amendments.

For interim and annual financial statements relating to fiscal years beginning on or after October 1, 2006, Canadian generally accepted accounting principles will require a statement of comprehensive income. The amendments do not refer to this additional financial statement. However, we intend to amend the Instruments for this change before we adopt the amendments.

Authority for amendments - Ontario

Appendix I sets out the provisions of the *Securities Act* which provide the Ontario Securities Commission with authority to make the amendments.

Alternatives considered

As discussed above, many of the amendments are intended to clarify the Instruments or to streamline requirements. One alternative to amending the Instruments was to address these issues by granting discretionary relief on a case-by-case basis. We rejected this option because issuers must pay to apply for discretionary relief and it is an inefficient means of dealing with the issues.

We also considered whether we could address these issues by blanket order. However, not all jurisdictions have the power to make blanket orders.

Anticipated costs and benefits

We believe that the proposed amendments to the Instruments would reduce issuers' costs, as the amendments would address problems industry has had applying the Instruments and streamline some of the requirements. In particular, the changes we are proposing to the BAR requirement would reduce issuers' costs of filing a BAR.

Related amendments

We intend to eliminate the following national policy and staff notices relating to continuous disclosure, as they are no longer necessary:

- National Policy 3 *Unacceptable Auditors*
- CSA Staff Notice 11-305 *Withdrawal of CSA Staff Notice 42-301 and 52-301*
- CSA Staff Notice 51-307 *Status of proposed continuous disclosure rule*
- CSA Staff Notice 51-308 *Filing of Management's Discussion and Analysis and National Instrument 51-102 Continuous Disclosure Obligations*
- CSA Staff Notice 52-305 *Optional Use of US GAAP and US GAAS by SEC Issuers*
- CSA Staff Notice 52-307 *Auditor Oversight and Financial Statements Accompanied by an Audit Report Dated on or After March 30, 2004*

We are not proposing to amend any other rules, except in Quebec where National Policy 3, Unacceptable Auditors is a rule.

Unpublished materials

In proposing amendments to the Instruments, we have not relied on any significant unpublished study, report, or other written materials, except the results of the BAR survey we referred to above.

Request for comments

We welcome your comments on the proposed amendments to the Instruments. In addition to any general comments you may have, we also invite comments on the following specific amendments.

1. *Venture issuers and debt-only issuers* – NI 51-102 distinguishes between venture issuers and issuers that are not venture issuers for some requirements. For example, venture issuers do not have to file annual information forms and have longer to file their financial statements than issuers that are not venture issuers. We made this distinction because we recognized that some types of issuers and their investors may have different disclosure needs and constraints. We are considering whether issuers that issue only debt to the public merit similar accommodations and, if so, whether or how the listing of debt securities, either on a Canadian or foreign exchange, might alter that consideration. (At present, even a large unlisted reporting issuer of debt is a venture issuer under NI 51-102, but a similar issuer with debt listed on a foreign exchange would not be.) Should debt-only issuers be treated as venture issuers? Should an exchange listing of debt only affect the treatment of the issuer under NI 51-102 and more specifically should a foreign exchange listing of debt only affect the treatment of a Canadian debt-only issuer?

2. *Request form* – We propose amending section 4.6 of NI 51-102 to remove the requirement for issuers to send a request form to their shareholders each year. We have not changed the requirement for issuers to mail their financial statements and MD&A to any shareholder that requests them, or to disclose in the information circular how the shareholders may request the financial statements and MD&A.

- a) Do you agree that we should remove the requirement to deliver an annual request form? Why?
- b) If we retain it, should we amend the requirement to specify
 - (i) when and how an issuer should send the request form, or
 - (ii) the content of the request form?

- c) Are there any other changes we should make to the request form, if we retain it?
- d) If we eliminate the request form, is there an alternative we could propose to replace the request form that would allow shareholders to request the financial statements and MD&A?

3. *Delivery of financial statements* – Under NI 51-102, an issuer must mail its financial statements to any securityholder that requests them. An issuer is exempt from this requirement if it mails its statements to all its securityholders. We propose to clarify in the exemption when the issuer has to deliver the financial statements to rely on the exemption.

We believe the delivery deadline should be the same if an issuer is sending the statements on request, or to all its securityholders under the exemption. We think it is important that securityholders that want paper copies of the financial statements have prompt access to them once they are filed. Their access should not be affected by the issuer relying on an exemption. As we recognize that an issuer may need time to copy the statements after filing them, we have extended the delivery deadline to no later than 10 days after the filing deadline. Do you agree with this change?

4. *Filing of certain documents* – Although we have not proposed specific amendments to Part 12 of NI 51-102, we are considering streamlining it. Under Part 12, an issuer must file

- its articles of incorporation, amalgamation, continuation, other constating document, or by-laws
- copies of securityholder or voting trust agreements, securityholder rights plans, or other documents affecting the rights of securityholders generally
- copies of material contracts entered into outside the ordinary course of business

For each of the above requirements,

- a) Is the filed information useful to investors?
- b) Do the benefits to investors outweigh the costs to issuers complying with the requirement?
- c) Should we eliminate the requirement? Why?

5. *Guidance on Executive Compensation* –NI 51-102 defines “executive officer” to include any person who performed a policy-making function in respect of the issuer. If a reporting issuer’s executive management is provided through an external management company, we would generally consider the executive officers of the external management company to be persons performing policy-making functions in respect of the issuer. Consequently, the requirements in NI 51-102, including the disclosure in Form 51-102 F6 *Statement of Executive Compensation*, that apply to executive officers would generally apply to the executive officers of the external management company.

National Policy 41-201 *Income Trust and Other Indirect Offerings* sets out our views about how the existing regulatory framework applies to non-corporate issuers such as income trusts. It also sets out how we expect an income trust to provide executive compensation disclosure for the executives of the underlying operating entity.

We propose amending paragraphs (e) and (f) of Item 1.4 of Form 51-102F6 to remove the word “primary”. Should we amend Form 51-102F6 to provide additional guidance on these matters, or are the amended instructions sufficient?

Please submit your comments on the proposed amendments to the Instruments in writing on or before March 9, 2006. If you are not sending your comments by email, you should also forward a diskette containing the submissions (in Windows format, Word).

Address your submission to all of the CSA member commissions, as follows:

British Columbia Securities Commission
Alberta Securities Commission
Saskatchewan Financial Services Commission – Securities Division
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
New Brunswick Securities Commission
Registrar of Securities, Prince Edward Island
Nova Scotia Securities Commission
Newfoundland and Labrador Securities Commission
Registrar of Securities, Northwest Territories

Request for Comments

Registrar of Securities, Yukon Territory
Registrar of Securities, Nunavut

Deliver your comments **only** to the addresses that follow. Your comments will be forwarded to the remaining CSA member jurisdictions.

Rosann Youck, Chair of the Continuous Disclosure Harmonization Committee
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We cannot keep submissions confidential because securities legislation in certain provinces requires publication of a summary of the written comments received during the comment period.

Questions

Please refer your questions to any of:

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Request for Comments

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The text of the proposed amendments follows or can be found elsewhere on a CSA member website.

December 9, 2005

APPENDIX A

SUMMARY OF PROPOSED AMENDMENTS

NI 51-102

We propose to amend NI 51-102 as follows:

Part 1 Definitions

- to amend the definition of *interim period* and add related definitions to account for issuers with financial years that are not 365 or 366 days long; this addresses differences in the definition of *month* in various *Interpretation Acts* across Canada
- to add a definition of *restructuring transaction* that would apply to disclosure in material change reports and information circulars
- to amend the definition of *venture issuer* to provide that issuers listed on the Alternative Investment Market of the London Stock Exchange are venture issuers; this will replace the blanket orders that some jurisdictions have implemented and make the application of the definition consistent across all jurisdictions

Part 3 Language of documents

- to add a requirement for a certificate as to the accuracy of translations, where a filed document has been translated from a language other than French or English; this is consistent with a requirement in NI 71-102

Part 4 Financial statements

- to eliminate inconsistencies between the interim financial statement filing requirement in section 4.3 and requirements for filings after an issuer becomes a reporting issuer in sections 4.7 and 4.10
- to eliminate the requirement to send a request form, as discussed in this Notice under the heading *Request for comments*
- to clarify the delivery deadline for foreign issuers; this will make the requirement consistent with discretionary relief we have granted
- to clarify the delivery deadline for issuers that send their financial statements to all their shareholders; this will eliminate the current ambiguity in NI 51-102 and ensure shareholders receive financial information promptly
- to clarify who has to file a change in corporate structure notice, and when
- to provide an exemption from having to provide comparative financial information in interim financial statements after a reverse takeover to parallel the exemption that applies after an issuer becomes a reporting issuer

Part 5 Management's discussion & analysis

- to clarify when an issuer does not have to provide MD&A
- to clarify when an SEC issuer has to file a supplement to its MD&A
- to require additional information from an issuer that has invested in a significant business and accounted for it using the equity method; this is consistent with business acquisition reporting for these investments

Part 8 Business acquisition report

- to streamline the business acquisition reporting requirement by
 - clarifying what is a business in connection with interests in oil and gas properties
 - eliminating the requirement for non-venture issuers to test significance at the 40% level

- requiring only one year of audited financial statements of an acquired business, with unaudited comparative information
 - permitting issuers to average their consolidated income from continuing operations for the income test, even if their consolidated income in their most recently completed financial year was negative
 - permitting issuers to apply the income test based on certain previously filed pro forma financial information
 - providing additional exemptions from the interim financial statement requirements for an acquired business
 - eliminating the asset test and revising the income test for acquisitions of interests in oil and gas properties, unless the acquisition is of securities of another issuer
 - eliminating the requirement for a compilation report on pro forma financial statements
- to ensure that the acquired business's most recent annual financial statements are included in the business acquisition report and to give more time to file the report in some circumstances

Part 11 Additional filing requirements

- to add a requirement for an issuer to file a copy of certain documents it filed with another securities regulatory authority in Canada
- to add a requirement for an issuer to issue a press release if it is determined that the issuer filed a document that is materially deficient

Part 13 Exemptions

- to expand the exemptions in Part 13 to reflect discretionary relief we have granted since we implemented NI 51-102

Form 51-102F1 Management's Discussion and Analysis

We propose to amend the Form 51-102F1 as follows:

- to require an issuer to disclose and discuss material differences between actual results for the historical period to which its MD&A relates and future oriented financial information for that period that the issuer previously released to the public
- to eliminate the requirement to provide a sensitivity analysis relating to critical accounting estimates in every case and replace it with instructions relating to quantitative and qualitative disclosure; this amendment is subject to results from staff's continuing review of issuers' MD&A disclosure of their sensitivity analysis
- to clarify in the instructions how an issuer applies the principle of updating its annual MD&A in its interim MD&A in various circumstances

Form 51-102F2 Annual Information Form

We propose to amend Form 51-102F2 as follows:

- to clarify in the instructions how and when an issuer must disclose cease trade orders, bankruptcies, penalties or sanctions relating to its directors, executive officers and significant securityholders
- to require an issuer to disclose any penalties or sanctions imposed against, it or settlement agreements it entered into, during the financial year
- to require an issuer to disclose how its securityholders may contact the issuer to request the financial statements and MD&A; this would be in place of the request form

Form 51-102F3 Material Change Report

We propose to amend Form 51-102F3 to require an issuer to provide prospectus-level disclosure about restructuring transactions. This requirement would not apply if the issuer already sent an information circular or filed a prospectus or securities exchange takeover bid circular in respect of the transaction.

Form 51-102F4 Business Acquisition Report

We propose to amend Form 51-102F4 by permitting an issuer to incorporate information into the BAR by reference, including financial statements.

Form 51-102F5 Information Circular

We propose to amend Form 51-102F5 as follows:

- to require an issuer to provide the same penalties or sanctions disclosure about prospective directors that it must provide in the annual information form
- to provide that an issuer has to disclose executive compensation only if it is sending the information circular for an annual general meeting or a meeting at which directors will be elected
- to clarify when prospectus-level disclosure must be provided, and about which issuers
- to expand the exemption from the prospectus-level disclosure requirement for an issuer listed on the TSX Venture Exchange

CP 51-102

The proposed amendments to CP 51-102 reflect the changes to NI 51-102 described above and provide further guidance on how to interpret and apply NI 51-102.

NI 52-107

We propose to amend NI 52-107 to clarify the exemptions for financial statements of SEC issuers and foreign issuers.

NI 71-102

We propose to amend NI 71-102 to expand the exemptions from insider reporting to insiders of issuers that are SEDI issuers.

APPENDIX B

AMENDMENTS TO
NATIONAL INSTRUMENT 51-102 *CONTINUOUS DISCLOSURE OBLIGATIONS*

1. ***National Instrument 51-102 Continuous Disclosure Obligations is amended by this Instrument.***
2. ***Section 1.1 is amended by,***
 - a. ***adding the following after the definition of “date of acquisition”:***

“electronic format” has the same meaning as in National Instrument 13-101 *System for Electronic Document Analysis and Retrieval* (SEDAR);

“equity investee” means a business that the issuer has invested in and accounted for using the equity method;
 - b. ***repealing the definition of “executive officer” and substituting the following:***

“executive officer” means, for a reporting issuer, an individual who is

 - (a) a chair, vice-chair or president;
 - (b) a vice-president in charge of a principal business unit, division or function including sales, finance or production;
 - (c) an officer of the issuer or any of its subsidiaries who performs a policy-making function in respect of the issuer; or
 - (d) a policy-making function in respect of the issuer;
 - c. ***in the definition of “interim period”,***
 - i. ***adding “a non-standard year or” after “in the case of a year other than” in paragraph (a),***
 - ii. ***striking out “or” at the end of paragraph (a), and***
 - iii. ***adding the following after paragraph (a):***
 - (a.1) in the case of a non-standard year, a period commencing on the first day of the financial year and ending within 22 days of the date that is nine, six or three months before the end of the financial year; or
 - d. ***adding the following after the definition of “investment fund”:***

“issuer’s GAAP” has the same meaning as in National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency*;
 - e. ***adding the following after the definition of “new financial year”:***

“non-standard year” means a financial year, other than a transition year, that does not have 365 days, or 366 days if it includes February 29;
 - f. ***repealing the definition of “published market”,***
 - g. ***in the definition of “recognized exchange” adding “or a legal person, a partnership or any other entity authorized by the securities regulatory authority to carry on securities trading in accordance with securities legislation” after “or self-regulatory body”,***
 - h. ***adding the following after the definition of “restricted voting security”:***

“restructuring transaction” means

 - (a) a reverse takeover;

- (b) an amalgamation, merger, arrangement or reorganization;
- (c) a transaction or series of transactions involving a reporting issuer acquiring assets and issuing securities that results in
 - (i) new securityholders owning or controlling a sufficient number of the reporting issuer's securities to elect a majority of the directors of the reporting issuer; and
 - (ii) a new person or company, a new combination of persons or companies acting together, the vendors of the assets, or new management
 - (A) being able to materially affect the control of the reporting issuer; or
 - (B) holding more than 20% of the outstanding voting securities of the reporting issuer, unless there is evidence showing that the holding of those securities does not materially affect the control of the reporting issuer; and
- (d) any other transaction similar to the transactions listed in paragraphs (a) to (c),

but does not include a subdivision, consolidation, or other transaction that does not alter a securityholder's proportionate interest in the issuer;

i. in the definition of "SEC issuer", striking out "a reporting" and substituting "an", and

j. in the definition of "venture issuer",

i. adding ", after "a U.S. marketplace", and

ii. adding "other than the Alternative Investment Market of the London Stock Exchange" after "the United States of America".

3. Part 3 is amended by adding the following after section 3.1:

3.2 Filings Translated into French or English

If a person or company files a document under this Instrument that is a translation of a document prepared in a language other than French or English, the person or company must

- (a) attach a certificate as to the accuracy of the translation to the filed document; and
- (b) make a copy of the document in the original language available to a registered holder or beneficial owner of its securities, on request.

4. Part 4 is amended by,

a. repealing the heading "Comparative Annual Financial Statements and Auditor's Report" preceding section 4.1 and substituting "Comparative Annual Financial Statements and Audit",

b. in subsection 4.1(2), striking out "accompanied by an auditor's report" and substituting "audited",

c. in the preamble to paragraph 4.2(a),

i. adding "audited" before "annual financial statements", and

ii. striking out "and auditor's report",

d. in section 4.3,

i. repealing subsection 4.3(1) and substituting the following:

- (1) A reporting issuer must file interim financial statements for the interim periods of its current financial year.

- ii. striking out “and 4.8(8)” and substituting “, 4.8(8) and 4.10(3)” in subsection (2), and*
 - iii. adding “that is a reporting issuer” in subsection (4) after “If an SEC issuer”,*
- e. repealing section 4.6 and substituting the following:**
- 4.6 Delivery of Financial Statements**
- (1) If a registered holder or beneficial owner of securities of a reporting issuer requests the issuer’s annual or interim financial statements, the reporting issuer must send a copy of the requested financial statements to the person or company that made the request, without charge, by the later of,
 - (a) in the case of a reporting issuer other than a venture issuer, 10 calendar days after the filing deadline in subparagraph 4.2(a)(i) or 4.4(a)(i), section 4.7, or subsection 4.10(2), as applicable, for the financial statements requested;
 - (b) in the case of a venture issuer, 10 calendar days after the filing deadline in paragraph 4.2(b)(i) or 4.4(b)(i), section 4.7, or subsection 4.10(2), as applicable, for the financial statements requested; and
 - (c) 10 calendar days after the issuer receives the request.
 - (2) A reporting issuer is not required to send copies of annual or interim financial statements under subsection (1) that were filed more than two years before the issuer receives the request.
 - (3) The requirement to send annual financial statements under subsection (1) does not apply to a reporting issuer that sends its annual financial statements to its securityholders, other than holders of debt instruments, within the time set out in paragraph (1)(a) or (1)(b), as applicable, and in accordance with National Instrument 54-101 Communication with Beneficial Owners of Securities of a Reporting Issuer.
 - (4) If a reporting issuer sends financial statements under this section, the reporting issuer must also send, at the same time, the annual or interim MD&A relating to the financial statements.
- f. in subsection 4.7(1) adding “of the issuer” before “were included in a document filed”;**
- g. in section 4.8,**
- i. striking out “This section does not apply to an SEC issuer” and substituting “An SEC issuer satisfies this section” in subsection (1), and*
 - ii. striking out “paragraph 4.3(1)(b)” and substituting “subsection 4.3(1)” and striking “within” and substituting “not more than” in subsection (5),*
- h. repealing section 4.9 and replacing it with the following:**
- 4.9 Change in Corporate Structure**
- If an issuer is party to a restructuring transaction or other transaction that resulted in,
- (a) the issuer becoming a reporting issuer; or
 - (b) if the issuer was already a reporting issuer, in
 - (i) the issuer ceasing to be a reporting issuer,
 - (ii) a change in the reporting issuer’s financial year end, or
 - (iii) a change in the name of the reporting issuer;
- the issuer must, as soon as practicable, and in any event not later than the deadline for the first filing required under this Instrument following the transaction, file a notice stating

- (c) the names of the parties to the transaction;
- (d) a description of the transaction;
- (e) the effective date of the transaction;
- (f) the names of each party, if any, that ceased to be a reporting issuer subsequent to the transaction and of each continuing entity;
- (g) the date of the reporting issuer's first financial year-end subsequent to the transaction; and
- (h) the periods, including the comparative periods, if any, of the interim and annual financial statements required to be filed for the reporting issuer's first financial year subsequent to the transaction.

i. in subparagraph 4.10(2)(a)(i), striking out "filed" and substituting "or similar document prepared",

j. adding the following after subsection 4.10(2):

- (3) **Comparative Financial Information in Interim Financial Statements after a Reverse Takeover** – A reporting issuer is not required to provide comparative interim financial information for the reverse takeover acquirer for periods that ended before the date of a reverse takeover if
 - (a) to a reasonable person it is impracticable to present prior-period information on a basis consistent with subsection 4.3(2);
 - (b) the prior-period information that is available is presented; and
 - (c) the notes to the interim financial statements disclose the fact that the prior-period information has not been prepared on a basis consistent with the most recent interim financial information. , **and**

k. in section 4.11,

i. repealing the definition of "relevant period" in subsection (1) and substituting the following:

"relevant period" means the period

- (a) commencing at the beginning of the reporting issuer's two most recently completed financial years and ending on the date of termination or resignation; or
- (b) during which the former auditor was the reporting issuer's auditor, if the former auditor was not the reporting issuer's auditor throughout the period described in paragraph (a);

ii. in subsection (3) adding "the following three conditions are met:" before subparagraph (3)(a)(i),

iii. in subsection (4), striking out "This section does not apply to an SEC issuer" and substituting "An SEC issuer satisfies this section",

iv. in clauses (5)(a)(ii)(B) and (6)(a)(ii)(B), striking out "applicable", and

v. in subsection (8), striking out "applicable".

5. Part 5 is amended by,

a. in section 5.1,

i. adding the following after subsection (1):

- (1.1) Despite subsection (1), a reporting issuer does not have to file MD&A relating to the annual and interim financial statements required under sections 4.7 and 4.10 for financial years and interim periods that ended before the issuer became a reporting issuer.

ii. striking out " , 4.4 and 4.7" in paragraph (2)(a) and substituting "and 4.4", and

- iii. **striking out “, 4.3(1) or 4.7(1)” in paragraph (2)(b) and substituting “or 4.3(1)”**
- b. **in section 5.2,**
 - i. **repealing subsection (1) and substituting the following:**
 - (1) If an SEC issuer that is a reporting issuer is filing its annual or interim MD&A prepared in accordance with Item 303 of Regulation S-K or Item 303 of Regulation S-B under the 1934 Act, then the SEC issuer must file that document on or before the earlier of
 - (a) the date the SEC issuer would be required to file that document under section 5.1; and
 - (b) the date the SEC issuer files that document with the SEC.
 - (1.2) An SEC issuer that is a reporting issuer must file a supplement prepared in accordance with subsection (2) at the same time it files its annual or interim MD&A, if the SEC issuer
 - (a) has based the discussion in the MD&A on financial statements prepared in accordance with U.S. GAAP; and
 - (b) is required by subsection 4.1(1) of National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency* to provide a reconciliation to Canadian GAAP. , **and**
 - ii. **striking out “(1)” in subsection (2) and substituting “(1.2)”**
- c. **adding “year-to-date” after “and the comparative” in paragraph 5.3(2)(b)**
- d. **in section 5.6,**
 - i. **repealing subsection (1) and substituting the following:**
 - (1) If a registered holder or beneficial owner of securities of a reporting issuer requests the reporting issuer’s annual or interim MD&A, the reporting issuer must send a copy of the requested MD&A and any MD&A supplement required under section 5.2 to the person or company that made the request, without charge, by the delivery deadline set out in subsection 4.6(1) for the annual or interim financial statements to which the MD&A relates. , **and**
 - ii. **in subsection (3),**
 - 1. **striking out “all”, and**
 - 2. **adding “, within the time set out in paragraph 4.6(1)(a) or 4.6(1)(b), as applicable, and in accordance with National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer*” after “holders of debt instruments”, and**
- e. **adding the following after section 5.6:**
 - 5.7 **Additional Disclosure for Reporting Issuers with Significant Equity Investees**
 - (1) A reporting issuer that has a significant equity investee must disclose in its MD&A, or in its MD&A supplement if one is required under section 5.2, for each period referred to in subsection (2),
 - (a) summarized information as to the assets, liabilities and results of operations of the equity investee; and
 - (b) the reporting issuer’s proportionate interest in the equity investee and any contingent issuance of securities by the equity investee that might significantly affect the reporting issuer’s share of earnings.

- (2) The disclosure in subsection (1) must be provided for the following periods:
 - (a) in the case of annual MD&A, for the two most recently completed financial years; and
 - (b) in the case of interim MD&A, for the most recent year-to-date interim period and the comparative year-to-date period presented in the interim financial statements.
- (3) Subsection (1) does not apply if
 - (a) the information required under that subsection has been disclosed in the financial statements to which the MD&A or MD&A supplement relates; or
 - (b) the issuer files separate financial statements of the equity investee for the periods referred to in subsection (2).

6. **Part 6 is amended by repealing section 6.3.**

7. **Part 7 is amended by striking out “paragraph (1)(a)” in subsection 7.1(7) and substituting “subsection (1)”.**

8. **Part 8 is amended by,**

a. **in subsection 8.1(1),**

- i. **adding** “to which reserves, as defined in National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities*, have been specifically attributed” **after** “oil and gas property” **in the definition of “business”, and**
- ii. repealing subsection (2),

b. **renumbering section 8.2 as subsection 8.2(1) and adding the following after subsection (1):**

- (2) Despite subsection (1), if the financial year of the acquired business referred to in clause 8.4(1)(a)(i)(A) ended 45 days or less before the acquisition, then a reporting issuer must file a business acquisition report
 - (a) within 90 days after the date of acquisition, in the case of an issuer other than a venture issuer, or
 - (b) within 120 days after the date of acquisition, in the case of a venture issuer.

c. **in section 8.3,**

- i. **adding** “and subsections 8.10(1) and 8.10(2)” **after** “subsection (3)” **in subsection (1),**
- ii. **adding** “and subject to subsections 8.10(1) and 8.10(2)” **after** “Despite subsection (1)” **in subsection (3),**
- iii. **adding** “or annual” **after** “recently completed interim” **in paragraphs (4)(a) and (4)(b) wherever it occurs,**
- iv. **striking out** “ended before the date of the acquisition” **in paragraph (4)(b),**
- v. **in paragraph (4)(c),**
 - 1. **renumbering item 1. and item 2. as subparagraph (i) and subparagraph (ii), respectively,**
 - 2. **striking** “item 1.” **and substituting** “subparagraph (i)”, **and**
 - 3. **striking** “item 2.” **and substituting** “subparagraph (ii)”,
- vi. **repealing subsection (5) and substituting the following:**

- (5) If an acquisition does not meet any of the significance tests under subsection (4), the acquisition is not a significant acquisition.

vii. *repealing subsections (8) and (9) and substituting the following:*

- (8) **Application of the Income Test if Lower Than Average Income for the Most Recent Year** - For the purposes of paragraph (2)(c) and clause (4)(c)(ii)(A), if the reporting issuer's consolidated income from continuing operations for the most recently completed financial year was lower by 20 percent or more than its average consolidated income from continuing operations for the three most recently completed financial years, then the issuer may, subject to subsection (10), substitute the average consolidated income from continuing operations for the three most recently completed financial years in determining whether the significance test set out in paragraph (2)(c) or (4)(c) is satisfied.
- (9) **Application of the Optional Income Test if Lower Than Average Income for the Most Recent Year** - For the purpose of clause (4)(c)(ii)(B) if the reporting issuer's consolidated income from continuing operations for the most recently completed 12-month period was lower by 20 percent or more than its average consolidated income from continuing operations for the three most recently completed 12-month periods, then the issuer may, subject to subsection (10), substitute the average consolidated income for the three most recently completed 12-month periods in determining whether the significance test set out in paragraph (4)(c) is satisfied. , **and**

viii. *adding the following after subsection (11):*

- (11.1) **Application of the Optional Income Test based on Pro Forma Financial Information.** For the purposes of calculating the optional income test under clause (4)(c)(ii)(A), a reporting issuer may use pro forma consolidated income from continuing operations for its most recently completed financial year that was included in a previously filed document if
 - (a) the reporting issuer has made a significant acquisition of a business subsequent to its most recently completed financial year; and
 - (b) the previously filed document included
 - (i) audited financial statements of that acquired business for the periods required by this Part; and
 - (ii) the pro forma financial information required by subsection 8.4(5).

d. *repealing section 8.4 and substituting the following:*

8.4 Financial Statement Disclosure for Significant Acquisitions

- (1) **Comparative Annual Financial Statements** – If a reporting issuer must file a business acquisition report under section 8.2, subject to sections 8.5 through 8.9, the business acquisition report must include the following for each business or related businesses:
 - (a) an income statement, a statement of retained earnings and a cash flow statement for the following periods:
 - (i) if the business has completed one financial year,
 - (A) the most recently completed financial year ended on or before the date of acquisition; and
 - (B) the financial year immediately preceding the most recently completed financial year, if any; or
 - (ii) if the business has not completed one financial year, the financial period commencing on the date of formation and ending on a date not more than 45 days before the date of acquisition;

- (b) a balance sheet as at the end of each of the periods specified in paragraph (a); and
 - (c) notes to the financial statements.
- (2) **Audit** – The most recently completed financial period referred to in subsection (1) must be audited.
- (3) **Interim Financial Statements** – Subject to sections 8.6 through 8.11, if a reporting issuer must include financial statements in a business acquisition report under subsection (1), the business acquisition report must include financial statements for
 - (a) either
 - (i) the most recently completed interim period of the business that started the day after the date of the balance sheet specified in paragraph (1)(b) and ended before the date of acquisition; or
 - (ii) the period that started the day after the date of the balance sheet specified in paragraph (1)(b) and ended after the interim period referred to in subparagraph (i) and before the date of acquisition; and
 - (b) the comparable period in the preceding financial year of the business.
- (4) **Exemption from Interim Financial Statement Requirements** – Subsection (3) does not apply to a reporting issuer if
 - (a) the issuer filed a document before the date of acquisition that provided prospectus-level disclosure for the acquired business;
 - (b) the issuer incorporates by reference into the business acquisition report any interim financial statements for the acquired business's current financial year that were included in the document referred to in paragraph (a);
 - (c) the financial statements included in the document referred to in paragraph (a) are for the interim period or financial year, or a period ending after that interim period or financial year, immediately preceding the interim period referred to in subsection (3);
 - (d) a reasonable investor would not regard the issuer's primary business to be the business acquired by the issuer; and
 - (e) the issuer will not account for the acquisition as continuity of interests.
- (5) **Pro Forma Financial Statements Required in a Business Acquisition Report** – If a reporting issuer is required to include financial statements in a business acquisition report under subsection (1) or (3), the business acquisition report must include
 - (a) a pro forma balance sheet of the reporting issuer, as at the date of
 - (i) the reporting issuer's most recent balance sheet filed, that gives effect, as if they had taken place as at the date of the pro forma balance sheet, to significant acquisitions that have been completed, but are not reflected in the reporting issuer's most recent balance sheet for an annual or interim period, or
 - (ii) the acquired business's most recent balance sheet, if the reporting issuer has not filed a balance sheet for an annual or interim period, that gives effect, as if they had taken place as at the date of the pro forma balance sheet, to significant acquisitions that have been completed;
 - (b) a pro forma income statement of the reporting issuer for each of the following financial periods:
 - (i) the reporting issuer's

- (A) most recently completed financial year for which it has been required to file financial statements, and
- (B) most recently completed interim period for which it has been required to file financial statements that started after the period in clause (A) and ended before the acquisition date or, at the issuer's option, ended after the acquisition date,

that gives effect to significant acquisitions completed after the ending date of the reporting issuer's most recently completed financial year for which financial statements are required to have been filed, as if they had taken place at the beginning of that financial year; or

- (ii) if the reporting issuer has not been required to file financial statements, for the acquired business's

- (A) most recently completed financial year that ended before the date of acquisition, and
- (B) period for which financial statements are included in the business acquisition report under paragraph 8.4(3)(a),

that gives effect to significant acquisitions completed as if they had taken place at the beginning of the period referred to in clause (A); and

- (c) pro forma earnings per share based on the pro forma financial statements referred to in paragraph (b).

(6) **Exemption from Pro Forma Financial Statement Requirements** – Paragraph 8.4(5)(a) and clauses 8.4(5)(b)(i)(B) and 8.4(5)(b)(ii)(B) do not apply to a reporting issuer if

- (a) the issuer filed a document before the date of acquisition that provided prospectus-level disclosure for the acquired business;
- (b) the issuer incorporates by reference into the business acquisition report the pro forma financial statements relating to the acquisition that were included in the document referred to in paragraph (a);
- (c) the pro forma financial statements referred to in paragraph (b) are,
 - (i) in the case of the income statement, for the interim period or financial year, or a period ending after the interim period or financial year, immediately preceding the period referred to in clause 8.4(5)(b)(i)(B) or 8.4(5)(b)(ii)(B), as applicable, and
 - (ii) in the case of the pro forma balance sheet, as at the last date of the period covered by the income statement referred to in subparagraph (i);
- (d) a reasonable investor would not regard the issuer's primary business to be the business acquired by the issuer; and
- (e) the issuer will not account for the acquisition as continuity of interests.

(7) **Preparation of Pro Forma Financial Statements** – If a reporting issuer is required to include pro forma financial statements in a business acquisition report under subsection (5),

- (a) the reporting issuer must identify in the pro forma financial statements each significant acquisition, if the pro forma financial statements give effect to more than one significant acquisition;
- (b) the reporting issuer must include in the pro forma financial statements a description of the underlying assumptions on which the pro forma financial statements are prepared, cross-referenced to each related pro forma adjustment;

- (c) if the financial year-end of the business differs from the reporting issuer's year-end by more than 93 days, for the purpose of preparing the pro forma income statement for the reporting issuer's most recently completed financial year, the reporting issuer must construct an income statement of the business for a period of 12 consecutive months ending no more than 93 days before or after the reporting issuer's year-end, by adding the results for a subsequent interim period to a completed financial year of the business and deducting the comparable interim results for the immediately preceding year;
 - (d) if a constructed income statement is required under paragraph (c), the pro forma financial statements must disclose the period covered by the constructed income statement on the face of the pro forma financial statements and must include a note stating that the financial statements of the business used to prepare the pro forma financial statements were prepared for the purpose of the pro forma financial statements and do not conform with the financial statements for the business included elsewhere in the business acquisition report;
 - (e) if a reporting issuer is required to prepare a pro forma income statement for an interim period required by paragraph (5)(b), and the pro forma income statement for the most recently completed financial year includes results of the business which are also included in the pro forma income statement for the interim period, the reporting issuer must disclose in a note to the pro forma financial statements the revenue, expenses, gross profit and income from continuing operations included in each pro forma income statement for the overlapping period; and
 - (f) a constructed period referred to in paragraph (c) does not have to be audited.
- (8) **Financial Statements of Related Businesses** – If a reporting issuer is required under subsection (1) to include financial statements for more than one business because the significant acquisition involves an acquisition of related businesses, the financial statements required under subsection (1) must be presented separately for each business, except for the periods during which the businesses have been under common control or management, in which case the reporting issuer may present the financial statements of the businesses on a combined basis.
- e. **repealing section 8.5,**
 - f. **in section 8.6,**
 - i. **striking out** “an investment accounted for using the equity method” **and substituting** “of an equity investee” **in paragraph (a),**
 - ii. **striking out** “business” **and substituting** “equity investee” **in subparagraphs (b)(i) and (b)(ii), wherever it appears, and**
 - iii. **striking out** “business” **and substituting** “equity investee” **in subparagraph (c)(i),**
 - g. **repealing section 8.7,**
 - h. **in section 8.8,**
 - i. **striking out** “8.5” **and substituting** “8.4”, **and**
 - ii. **striking out** “two completed financial years for”,
 - i. **in section 8.9, striking out** “(2)” **and substituting** “(3)”,
 - j. **repealing section 8.10 and substituting the following:**
 - 8.10 Acquisition of an Interest in an Oil and Gas Property**
 - (1) **Asset Test** - Despite subsections 8.3(2) and 8.3(4), the asset tests in paragraphs 8.3(2)(a) and 8.3(4)(a) do not apply to an acquisition of
 - (a) a business that is an interest in an oil and gas property, or

- (b) related businesses that are interests in oil and gas properties, unless the acquisition is of securities of another issuer.
- (2) **Income Test** - Despite subsections 8.3(2), 8.3(4), 8.3(8), 8.3(9), 8.3(10) and 8.3(12), a reporting issuer must substitute "operating income" for "consolidated income from continuing operations" for the purposes of the income test in paragraphs 8.3(2)(c) and 8.3(4)(c) if the acquisition is one described in subsection (1).
- (3) **Exemption from Financial Statement Disclosure** - A reporting issuer is exempt from the requirements in section 8.4 if
 - (a) the significant acquisition is an acquisition described in subsection (1);
 - (b) the reporting issuer is unable to provide the financial statements in respect of the significant acquisition otherwise required under this Part because those financial statements do not exist or because the reporting issuer does not have access to those financial statements;
 - (c) the acquisition does not constitute a reverse takeover;
 - (d) the business or related businesses did not, immediately before the time of completion of the acquisition, constitute a "reportable segment" of the vendor, as defined in the Handbook;
 - (e) in respect of the business or related businesses, for each of the financial periods for which financial statements would, but for this section, be required under section 8.4, the business acquisition report includes
 - (i) an operating statement, accompanied by a report of an auditor, presenting for the business or related businesses at least the following:
 - (A) gross revenue;
 - (B) royalty expenses;
 - (C) production costs; and
 - (D) operating income;
 - (ii) a pro forma operating statement of the reporting issuer that gives effect to significant acquisitions completed after the ending date of the reporting issuer's most recently completed financial year for which financial statements are required to have been filed, as if they had taken place at the beginning of that financial year, for each of the financial periods referred to in paragraph 8.4(5)(b);
 - (iii) a description of the property or properties and the interest acquired by the reporting issuer; and
 - (iv) disclosure of the annual oil and gas production volumes from the business or related businesses; and
 - (f) the business acquisition report discloses
 - (i) the estimated reserves and related future net revenue attributable to the business or related businesses, the material assumptions used in preparing the estimates and the identity and relationship to the reporting issuer or to the vendor of the person who prepared the estimates; and
 - (ii) the estimated oil and gas production volumes from the business or related businesses for the first year reflected in the estimates disclosed under subparagraph (f)(i). , **and**

k. in section 8.11, striking out "(3)" and substituting "(5)".

9. **Part 9 is amended by repealing section 9.5 and substituting the following:**

9.5 Exemption

Sections 9.1 to 9.4 do not apply to a reporting issuer that complies with the requirements of the laws under which it is incorporated, organized or continued, if

- (a) the requirements are substantially similar to the requirements of this Part; and
- (b) the person or company promptly files a copy of any information circular, form of proxy and all other material sent by the person or company in connection with the meeting.

10. **Part 11 is amended by**

- a. **in the heading preceding section 11.1, striking “Filing” and substituting “Disclosure”;**
- b. **striking “or” at the end of paragraph 11.1(1)(a), adding “or” at the end of paragraph 11.1(1)(b), and adding the following after paragraph 11.1(1)(b):**
 - (c) that it files with another provincial or territorial securities regulatory authority or regulator other than in connection with a distribution.
- c. **in paragraph 11.1(1)(b), adding “under the 1934 Act” after “furnishes to the SEC”,**
- d. **striking out “and” at the end of paragraph 11.1(2)(a), adding “and” at the end of paragraph 11.1(2)(b), and adding the following after paragraph 11.1(2)(b):**
 - (c) the date on which the reporting issuer files that material with the other provincial or territorial securities regulatory authority or regulator. , **and**
- e. **adding the following after section 11.4:**

11.5 Re-filing Documents

If a reporting issuer decides it will re-file a document, or re-state information in a document, filed under this Instrument, and the information in the re-filed document, or re-stated information, will differ materially from the information in the original document, the issuer must immediately issue and file a news release authorized by a senior officer disclosing the nature and substance of the change or proposed changes.

11. **Part 12 is amended by striking out “under National Instrument 13-101 System for Electronic Data Analysis and Retrieval (SEDAR)” in paragraph 12.1(2)(b).**

12. **Part 13 is amended by,**

- a. **adding the following after subsection 13.1(2):**
 - (3) Except in Ontario, an exemption referred to in subsection (1) is granted under the statute referred to in Appendix B of National Instrument 14-101 *Definitions* opposite the name of the local jurisdiction.
- b. **in subsection 13.3(2),**
 - i. **striking “this Instrument does not apply to”,**
 - ii. **adding “satisfies the requirements in this Instrument” before “if”,**
 - iii. **striking out “direct or indirect” in paragraph (a),**
 - iv. **repealing paragraph (b) and substituting the following:**
 - (b) the parent issuer is either
 - (i) an SEC issuer with a class of securities listed or quoted on a U.S. marketplace; or

- (ii) a reporting issuer in Alberta, British Columbia, Manitoba, Nova Scotia, Ontario, Québec or Saskatchewan that has filed all documents it is required to file under this Instrument;
- v. **adding** “the parent issuer or an affiliate of” **in subparagraph (c)(ii) after** “securities issued to”;
- vi. **in subparagraph (c)(iii),**
 - 1. **adding** “loan and investment corporations, savings companies, ” **after** “loan corporations, ”,
 - 2. **adding** “savings or” **after** “treasury branches, ”, **and**
 - 3. **adding** “financial services cooperatives, ” **after** “credit unions, ”, **and**
- vii. **repealing paragraphs (d), (e) and (f) and substituting the following:**
 - (d) the exchangeable security issuer files in electronic format,
 - (i) if the parent issuer is not a reporting issuer in a jurisdiction listed in subparagraph (b)(ii), copies of all documents the parent issuer is required to file with the SEC under the 1934 Act, at the same time as, or as soon as practicable after, the filing by the parent issuer of those documents with the SEC; or
 - (ii) if the parent issuer is a reporting issuer in a jurisdiction listed in subparagraph (b)(ii),
 - (A) a notice indicating that the exchangeable security issuer is relying on the continuous disclosure documents filed by its parent issuer and setting out where those documents can be found in electronic format, if the parent issuer is a reporting issuer in the local jurisdiction; or
 - (B) copies of all documents the parent issuer is required to file under securities legislation, other than in connection with a distribution, at the same time as the filing by the parent issuer of those documents with a securities regulatory authority or regulator;
 - (e) the exchangeable security issuer concurrently sends to all holders of designated exchangeable securities all disclosure materials that are sent to holders of the underlying securities in the manner and at the time required by
 - (i) U.S. laws and any U.S. marketplace on which securities of the parent issuer are listed or quoted, if the parent issuer is an SEC issuer; or
 - (ii) securities legislation, if the parent issuer is not an SEC issuer;
 - (f) the parent issuer
 - (i) complies with U.S. laws and the requirements of any U.S. marketplace on which the securities of the parent issuer are listed or quoted if the parent issuer is an SEC issuer, or securities legislation if the parent issuer is not an SEC issuer, in respect of making public disclosure of material information on a timely basis; and
 - (ii) immediately issues in Canada and files any news release that discloses a material change in its affairs;
- c. **in subsection 13.3(3),**
 - i. **by repealing paragraphs (a), (b) and (c) and substituting the following:**
 - (a) if the insider is not the parent issuer,

- (i) the insider does not receive, in the ordinary course, information as to material facts or material changes concerning the parent issuer before the material facts or material changes are generally disclosed, and
 - (ii) the insider is not an insider of the parent issuer in any capacity other than by virtue of being an insider of the exchangeable security issuer;
 - (b) the parent issuer is the beneficial owner of all of the issued and outstanding voting securities of the exchangeable security issuer;
 - (c) if the insider is the parent issuer, the insider does not beneficially own any designated exchangeable securities;
 - ii. **adding** “or a reporting issuer in Alberta, British Columbia, Manitoba, Nova Scotia, Ontario, Québec or Saskatchewan” **after** “SEC issuer” **in paragraph (d),**
 - iii. **adding** “the parent issuer or an affiliate of” **after** “securities issued to” **in subparagraph (e)(ii), and**
 - iv. **in subparagraph (e)(iii),**
 - 1. **striking** “to the parent issuer or”,
 - 2. **adding** “loan and investment corporations, savings companies, ” **after** “loan corporations, ”,
 - 3. **adding** “savings or” **after** “treasury branches, ”, **and**
 - 4. **adding** “financial services cooperatives, ” **after** “credit unions, ”,
- d. **in subsection 13.4(1),**
- i. **adding** “and” **after the definition of** “credit supporter”,
 - ii. **striking** “,” **at the end of the definition of** “designated credit support securities” **and substituting** “.”, **and**
 - iii. **repealing the definition of** “SEC MJDS issuer”,
- e. **in subsection 13.4(2),**
- i. **striking out** “this Instrument does not apply to”,
 - ii. **adding** “satisfies the requirements in this Instrument” **before** “if”,
 - iii. **repealing paragraphs (a) and (b) and substituting the following:**
 - (a) the credit support issuer is a direct or indirect wholly-owned subsidiary of the credit supporter;
 - (b) the credit supporter is either
 - (i) an SEC issuer; or
 - (ii) a reporting issuer in Alberta, British Columbia, Manitoba, Nova Scotia, Ontario, Québec or Saskatchewan that has filed all documents it is required to file under this Instrument;
 - iv. **in subparagraph (c)(iii),**
 - 1. **adding** “loan and investment corporations, savings companies, ” **after** “loan corporations, ”,
 - 2. **adding** “savings or” **after** “treasury branches, ”, **and**

3. **adding** “financial services cooperatives, ” **after** “credit unions, ”,

v. **repealing paragraphs (d) and (e) and substituting the following:**

- (d) the credit support issuer files in electronic format,
 - (i) if the credit supporter is an SEC issuer, copies of all documents the credit supporter is required to file with the SEC under the 1934 Act, at the same time or as soon as practicable after the filing by the credit supporter of those documents with the SEC; or
 - (ii) if the credit supporter is not an SEC issuer,
 - (A) a notice indicating that the credit support issuer is relying on the continuous disclosure documents filed by the credit supporter and setting out where those documents can be found for viewing in electronic format, if the credit support issuer is a reporting issuer in the local jurisdiction; or
 - (B) copies of all documents the credit supporter is required to file under securities legislation, other than in connection with a distribution, at the same time as the filing by the credit supporter of those documents with a securities regulatory authority or regulator;
- (e) the credit supporter
 - (i) complies with U.S. laws and the requirements of any U.S. marketplace on which securities of the credit supporter are listed or quoted if the credit supporter is an SEC issuer, or securities legislation if the credit supporter is not an SEC issuer, in respect of making public disclosure of material information on a timely basis; and
 - (ii) immediately issues in Canada and files any news release that discloses a material change in its affairs; , **and**

vi. **repealing paragraphs (g), (h) and (i) and substituting the following:**

- (g) in the case of a credit support issuer that has operations, other than minimal operations, that are independent of the credit supporter, the credit support issuer files the following financial information by the filing deadlines set out in sections 4.2 and 4.4, as applicable, in electronic format:
 - (i) annual comparative financial information, derived from the credit support issuer’s audited consolidated financial statements for its most recently completed financial year, that is accompanied by a specified procedures report of the auditors to the credit support issuer and that includes the following line items for the most recently completed financial year and the financial year immediately preceding the most recently completed financial year:
 - (A) sales or revenues;
 - (B) income from continuing operations;
 - (C) net earnings; and
 - (D) unless the issuer’s GAAP permits the preparation of the credit support issuer’s balance sheet without classifying assets and liabilities between current and non-current and the credit support issuer provides alternative meaningful financial information which is more appropriate to the industry,
 - (I) current assets;
 - (II) non-current assets;
 - (III) current liabilities; and

- (IV) non-current liabilities; and
- (ii) interim comparative financial information, derived from the credit support issuer's unaudited consolidated financial statements for its most recently completed interim period, that includes the following line items for the most recently completed interim period and, for items (A), (B) and (C), the corresponding interim period in the immediately preceding completed financial year, and for item (D), if applicable, as at the end of the immediately preceding financial year:
 - (A) sales or revenues;
 - (B) income from continuing operations;
 - (C) net earnings or loss; and
 - (D) unless the issuer's GAAP permits the preparation of the credit support issuer's balance sheet without classifying assets and liabilities between current and non-current and the credit support issuer provides alternative meaningful financial information which is more appropriate to the industry,
 - (I) current assets;
 - (II) non-current assets;
 - (III) current liabilities; and
 - (IV) non-current liabilities;
- (h) in the case of designated credit support securities that include debt, the credit support issuer concurrently sends to all holders of such securities all disclosure materials that are sent to holders of non-convertible debt of the credit supporter that has an approved rating in the manner and at the time required by
 - (i) U.S. laws and any U.S. marketplace on which securities of the credit supporter are listed or quoted, if the credit supporter is an SEC issuer; or
 - (ii) securities legislation, if the credit supporter is not an SEC issuer; and
- (i) in the case of designated credit support securities that include preferred shares, the credit support issuer concurrently sends to all holders of such securities all disclosure materials that are sent to holders of non-convertible preferred shares of the credit supporter that have an approved rating in the manner and at the time required by
 - (i) U.S. laws and any U.S. marketplace on which securities of the credit supporter are listed or quoted, if the credit supporter is an SEC issuer; or
 - (ii) securities legislation, if the credit supporter is not an SEC issuer. , **and**

f. in subsection 13.4(3),

i. by repealing paragraphs (a), (b) and (c) and substituting the following:

- (a) if the insider is not the credit supporter,
 - (i) the insider does not receive, in the ordinary course, information as to material facts or material changes concerning the credit supporter before the material facts or material changes are generally disclosed, and
 - (ii) the insider is not an insider of the credit supporter in any capacity other than by virtue of being an insider of the credit support issuer;
- (b) the credit supporter is the beneficial owner of all the issued and outstanding voting securities of the credit support issuer;

(c) if the insider is the credit supporter, the insider does not beneficially own any designated credit support securities;

ii. **striking** “MJDS” **in paragraph (d) and adding** “or a reporting issuer in Alberta, British Columbia, Manitoba, Nova Scotia, Ontario, Québec or Saskatchewan” **after** “SEC issuer”, **and**

iii. **in subparagraph (e)(iii),**

1. **adding** “loan and investment corporations, savings companies, ” **after** “loan corporations, ”,

2. **adding** “savings or” **after** “treasury branches, ”, **and**

3. **adding** “financial services cooperatives, ” **after** “credit unions, ”.

13. **Part 14 is amended by adding the following as section 14.2:**

14.2 Transition

Despite section 14.1, section 5.7 applies for financial years of the reporting issuer beginning on or after January 1, 2007.

14. **This amendment comes into force , 2006.**

APPENDIX C

AMENDMENTS TO

FORM 51-102F1 MANAGEMENT'S DISCUSSION AND ANALYSIS,
FORM 51-102F2 ANNUAL INFORMATION FORM,
FORM 51-102F3 MATERIAL CHANGE REPORT,
FORM 51-102F4 BUSINESS ACQUISITION REPORT,
FORM 51-102F5 INFORMATION CIRCULAR, AND
FORM 51-102F6 STATEMENT OF EXECUTIVE COMPENSATION

1. *Form 51-102F1 Management's Discussion and Analysis, Form 51-102F2 Annual Information Form, Form 51-102F3 Material Change Report, Form 51-102F4 Business Acquisition Report, Form 51-102F5 Information Circular, and Form 51-102F6 Statement of Executive Compensation are amended by this Instrument.*

2. *Form 51-102F1 Management's Discussion and Analysis is amended by*

a. *repealing the heading "General Instructions and Interpretation" preceding paragraph 1(a) and substituting "General Provisions",*

b. *in paragraph 1(g),*

i. *striking* "You are encouraged to provide forward-looking information if you have a reasonable basis for making the statements.",

ii. *striking* "or projection",

iii. *striking* "a detailed forecast" *and substituting* "detailed estimates",

iv. *adding* "You must have a reasonable basis for any forward-looking information." *before* "All forward-looking information must contain a statement",

v. *adding the following after* "risk disclosure and cautionary language.":

In addition, some securities legislation provides a statutory right of action for damages for misrepresentation in continuous disclosure documents. You may have protection against liability for forward-looking information. You are responsible for determining what additional disclosure, if any, you must provide to have that protection.

vi. *striking* "Forward-looking statements may be considered misleading when they are unreasonably optimistic or aggressive, or lack objectivity, or are not adequately explained."

c. *adding the following after paragraph 1(g):*

(g.1) **FOFI**

You must disclose and discuss material differences between actual results for the annual or interim period to which your MD&A relates and future oriented financial information for that period that you previously released to the public (either in a previous MD&A or in some other manner). Future oriented financial information ("FOFI") is one type of forward-looking information. FOFI is information about prospective results of operations, financial position and/or cash flows, based on assumptions about future economic conditions and courses of action, and presented in the format of a historical balance sheet, income statement or cash flow statement. You should disclose and discuss material differences for material individual items included in the FOFI, including assumptions. For example, if the actual dollar amount of revenue approximates the forecasted amount but the sales mix or sales volume differs materially from what you expected, you should explain this. If you do not identify any material differences, you must disclose that you compared the actual results to previously released FOFI for the relevant period, and that you did not identify any material differences.

You must also discuss events and circumstances that occurred during the period to which the MD&A relates that are reasonably likely to cause actual results to differ materially from FOFI previously released for a period that is not yet complete. As well, you must discuss the expected differences. For example, if you published FOFI for the current year assuming no change in the prime interest rate, but by the end of the second quarter

the prime interest rate went up by 2%, in your second quarter MD&A you should discuss the interest rate increase and its expected effect on results compared to those indicated in the FOFI.

If during the period to which the MD&A relates you decided to withdraw previously released FOFI, you must disclose that decision and the reasons for it. However, you do not have to disclose and discuss differences between actual results and FOFI as discussed above, if you disclosed withdrawal of the FOFI in an MD&A filed before the end of the period covered by the FOFI.

Paragraph g.1 of these instructions does not apply to future net revenue (discounted cash flow information) provided in accordance with National Instrument 51-101 or to cash flow forecasts provided in accordance with National Instrument 43-101. Issuers should refer to those instruments for their obligations relating to such information.

- d. striking “and” at the end of instruction (iii)(I) to section 1.5,**
- e. striking “.” and substituting “; and” at the end of instruction (iii)(J) to section 1.5,**
- f. adding the following after instruction (iii)(J) to section 1.5:**
 - (K) *if you have an equity investee that is significant to your company, the nature of the investment and significance to your company.*
- g. repealing paragraph 1.12(c),**
- h. after section 1.12,**
 - i. striking the heading “Instruction” and substituting “Instructions”,**
 - ii. numbering the paragraph under the heading “Instructions” as paragraph (i), and**
 - iii. adding the following after paragraph (i) under the heading “Instructions”:**
 - (ii) *As part of your discussion of why an accounting estimate is reasonably likely to change, in addition to qualitative disclosure, you should provide quantitative disclosure when quantitative information is reasonably available and will provide material information for investors. For example, quantitative information may include the changes in overall financial performance and financial statement line items if you assume that the accounting estimate was to change by using either*
 - (A) *reasonably likely changes in the material assumptions; or*
 - (B) *the upper and lower ends of the range of estimates from which the recorded estimate was selected.*
- i. in paragraph 1.15(b),**
 - i. adding “, if applicable” after “National Instrument 51-102”,**
 - ii. striking “and” at the end of subparagraph (b)(i),**
 - iii. striking “.” and substituting “; and” at the end of subparagraph (b)(ii), and**
 - iv. adding the following after subparagraph (b)(ii):**

Section 5.7 – Additional Disclosure for Reporting Issuers with Significant Equity Investees.
- j. in the instructions after section 2.2,**
 - i. striking “not an annual” and substituting “an interim” in paragraph (i),**
 - ii. adding “Base the disclosure, except the disclosure for section 1.3, on your interim financial statements. Since you do not have to update the disclosure required in section 1.3 in your interim**

MD&A, your first MD&A will provide disclosure under section 1.3 based on your annual financial statements.” **after** “in your first MD&A” **in paragraph (i), and**

iii. adding the following after paragraph (v):

(vi) *In your interim MD&A, update the summary of quarterly results in section 1.5 by providing summary information for the eight most recently completed quarters.*

(vii) *Your annual MD&A may not include all the information in Item 1 if you were a venture issuer as at the end of your last financial year. If you ceased to be a venture issuer during your interim period, you do not have to restate the MD&A you previously filed. Instead, provide the disclosure for the additional sections in Item 1 that you were exempt from as a venture issuer in the next interim MD&A you file. Base your disclosure for those sections on your interim financial statements.*

3. Form 51-102F2 Annual Information Form is amended by,

a. repealing the heading “General Instructions and Interpretation” preceding paragraph 1(a) and substituting “General Provisions”,

b. adding “, including any documents incorporated by reference into the document or excerpt,” before “under your SEDAR profile” in paragraph 1(f),

c. striking the heading “Bankruptcy, etc” preceding subsection 5.1(2) and substituting “Bankruptcy and Similar Procedures”,

d. repealing paragraph 5.5(1)(c),

e. striking “paragraphs (1)(a) and (1)(b) above” in subsection 5.5(2) and substituting “subsection (1)”,

f. adding the following after subsection 5.5(3):

(4) **Material Changes** – To the extent not reflected in the information disclosed in response to subsection (1), disclose the information contemplated by Part 6 of National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities* in respect of material changes that occurred after your company’s most recently completed financial year-end.

g. adding “approved” after “has been received from one or more” in section 7.3,

h. after section 10.2,

i. striking the heading “Instruction” and substituting “Instructions”,

ii. numbering the paragraph under the heading “Instructions” as paragraph (i), and

iii. adding the following after paragraph (i) under the heading “Instructions”:

(ii) A management cease trade order is “a cease trade or similar order” for the purposes of subparagraph 10.2(1)(a)(i) and so must be disclosed, whether or not the director, executive officer or shareholder was named in the order.

(iii) A late filing fee, such as a filing fee that applies to the late filing of an insider report, is not a “penalty or sanction” for the purposes of section 10.2.

i. repealing the heading “Legal Proceedings” preceding section 12.1 and substituting “Legal Proceedings and Regulatory Actions”,

j. striking “Describe any legal proceedings to which your company is a party or of which any of its property is the subject and any such proceedings known to your company to be contemplated, including” in section 12.1 and substituting “Describe any legal proceedings your company is or was a party to, or that any of its property is or was the subject of, during your financial year. Describe any such legal proceedings your company knows are contemplated. Include”,

k. adding the following after section 12.1:

12.2 Regulatory Actions

Describe any

- (a) penalties or sanctions imposed against your company or by a regulatory authority during your financial year, and
- (b) settlement agreements your company entered into with a regulatory authority or a court relating to securities legislation during your financial year.

l. adding "Disclose how securityholders may contact the company to request copies of the company's financial statements and MD&A." **after** "www.sedar.com." **in subsection 17.1(1).**

4. Form 51-102F3 Material Change Report is amended by

a. repealing the heading "General Instructions and Interpretation" preceding paragraph 1(a) and substituting "General Provisions", and

b. in Item 5,

- i. numbering the paragraph under the heading for Item 5 as section 5.1,**
- ii. adding the heading "Full Description of Material Change" to section 5.1,**
- iii. adding the following after section 5.1:**

5.2 Disclosure for Restructuring Transactions

This item applies to a material change report filed in respect of the closing of a restructuring transaction under which securities are to be changed, exchanged, issued or distributed. This item does not apply if, in respect of the transaction, your company sent an information circular to its securityholders or filed a prospectus or a securities exchange takeover bid circular.

Include the disclosure required for the resulting entity in a restructuring transaction by section 14.2 of Form 51-102F5. You may satisfy the requirement to include this disclosure by incorporating the information by reference to another document.

- iv. striking the heading "Instruction" and substituting "Instructions",**
- v. numbering the paragraph under the heading "Instructions" as paragraph (i), and**
- vi. adding the following after paragraph (i) under the heading "Instructions":**

(ii) If you incorporate information by reference to another document, clearly identify the referenced document or any excerpt from it. Unless you have already filed the referenced document or excerpt, you must file it with the material change report. You must also disclose that the document is on SEDAR at www.sedar.com.

5. Form 51-102F4 Business Acquisition Report is amended by

a. repealing the heading "General Instructions and Interpretation" preceding paragraph 1(a) and substituting "General Provisions", and

b. in paragraph 1(d),

- i. striking** "other than the financial statements or other information required by Item 3,"
- ii. adding** "you have already filed" **after** "Unless",
- iii. striking** "has already been filed" **and substituting** "including any documents incorporated by reference into the document or excerpt", **and**

- iv. **adding** “You must also disclose that the document is on SEDAR at www.sedar.com.” **after** “file it with this Report.”.

6. Form 51-102F5 Information Circular is amended by

- a. **repealing the heading “General Instructions and Interpretation” preceding paragraph 1(a) and substituting** “General Provisions”,
- b. **adding** “including any documents incorporated by reference into the document or excerpt,” **after** “document or excerpt,” **in paragraph 1(c),**
- c. **adding** “(a “proposed director”)” **after** “nominated for election as a director” **in section 7.1,**
- d. **adding the following after section 7.2:**

7.3 Describe the penalties or sanctions imposed and the grounds on which they were imposed, or the terms of the settlement agreement and the circumstances that gave rise to the settlement agreement, if a proposed director has been subject to

- (a) any penalties or sanctions imposed by a court relating to securities legislation or by a securities regulatory authority or has entered into a settlement agreement with a securities regulatory authority; or
- (b) any other penalties or sanctions imposed by a court or regulatory body that would likely be considered important to a reasonable securityholder in deciding whether to vote for a proposed director.

7.4 Despite section 7.3, no disclosure is required of a settlement agreement entered into before December 31, 2000 unless the disclosure would likely be important to a reasonable securityholder in deciding whether to vote for a proposed director.

INSTRUCTIONS

- (i) *The disclosure required by sections 7.2 and 7.3 also apply to any personal holding companies of the proposed director.*
- (ii) *A management cease trade order is “a cease trade or similar order” for the purposes of paragraph 7.2(a)(i) and so must be disclosed, whether or not the proposed director was named in the order.*
- (iii) *A late filing fee, such as a filing fee that applies to the late filing of an insider report, is not a “penalty or sanction” for the purposes of section 7.3.*
- e. **striking** “include” **and substituting** “If you are sending this information circular in connection with an annual general meeting or a meeting at which directors are to be elected, include” **in Item 8,**
- f. **repealing section 14.2 and substituting the following:**

14.2 If the action to be taken is in respect of a significant acquisition as determined under Part 8 of National Instrument 51-102 under which securities of the acquired business are being exchanged for the company’s securities, or in respect of a restructuring transaction under which securities are to be changed, exchanged, issued or distributed, include disclosure for

- (a) the company, if the company has not filed all documents required under National Instrument 51-102,
- (b) the business being acquired, if the matter is a significant acquisition,
- (c) each entity, other than the company, whose securities are being changed, exchanged, issued or distributed, if
 - (i) the matter is a restructuring transaction, and

- (ii) the company's current securityholders will have an interest in that entity after the restructuring transaction is completed, and
- (d) each entity that would result from the significant acquisition or restructuring transaction, if the company's securityholders will have an interest in that entity after the significant acquisition or restructuring transaction is completed.

The disclosure must be the disclosure (including financial statements) prescribed by the form of prospectus that the entity would be eligible to use for a distribution of securities in the jurisdiction.

g. in section 14.5,

- i. striking** "Section 14.2 does not apply to an information circular that is prepared" **and substituting** "A company satisfies section 14.2 if it prepares an information circular",
- ii. adding** ", " **after** "connection with a Qualifying Transaction",
- iii. striking** "(as such terms" **and substituting** ", or in connection with a Reverse Take-Over (as Qualifying Transaction, CPC and Reverse Take-Over",
- iv. striking** "policy on Capital Pool Companies" **and substituting** "policies", **and**
- v. adding** "or Reverse Take-Over" **after** "in respect of that Qualifying Transaction",

h. adding the following after section 14.5:

INSTRUCTION

For the purposes of section 14.2, a securityholder will not be considered to have an interest in an entity after an acquisition or restructuring transaction is completed if the securityholder will only hold a redeemable security that is immediately redeemed for cash.

7. Form 51-102F6 Statement of Executive Compensation is amended by

- a. repealing the heading "General Instructions and Interpretation" preceding section 1.1 and substituting** "General Provisions",
- b. striking** "primary" **in paragraphs 1.4(e) and 1.4(f), wherever it appears, and**
- c. adding** "or Québec Pension Plan" **after** "CPP" **in paragraph 2.1 1.(a) relating to column (e).**

8. This amendment comes into force •, 2006.

APPENDIX D

AMENDMENTS TO
NATIONAL INSTRUMENT 52-107 ACCEPTABLE ACCOUNTING PRINCIPLES,
AUDITING STANDARDS AND REPORTING CURRENCY

1. **National Instrument 52-107 Acceptable Accounting Principles, Auditing Standards and Reporting Currency is amended by this Instrument.**
2. **In section 1.1,**
 - (a) **in paragraph (b) of the definition of “designated foreign issuer”, adding “in a designated foreign jurisdiction” after “foreign disclosure requirements”,**
 - (b) **repealing the definition of “executive officer” and substituting the following:**

“executive officer” means, for a reporting issuer, an individual who is

 - (a) a chair, vice-chair or president;
 - (b) a vice-president in charge of a principal business unit, division or function including sales, finance or production;
 - (c) an officer of the issuer or any of its subsidiaries who performs a policy-making function in respect of the issuer; or
 - (d) performing a policy-making function in respect of the issuer; , **and**
 - (c) **in paragraph (b) of the definition of “recognized exchange” adding “or a legal person, a partnership or any other entity authorized by the securities regulatory authority to carry on securities trading in accordance with securities legislation” after “or self-regulatory body”.**
3. **In subsection 4.1(1) and section 4.2, striking “filed by an SEC issuer” and substituting “of an SEC issuer that are filed or delivered” wherever it appears.**
4. **In sections 5.1 and 5.2, striking “filed by a foreign issuer” and substituting “of a foreign issuer that are filed or delivered” wherever it appears.**
5. **Repealing paragraph 5.2(a) and substitute the following:**
 - (a) U.S. GAAS, if the auditor’s report
 - (i) contains an unqualified opinion;
 - (ii) identifies all financial periods presented for which the auditor has issued an auditor’s report;
 - (iii) refers to the former auditor’s reports on the comparative periods, if the issuer has changed its auditor and one or more of the comparative periods presented in the financial statements were audited by a different auditor; and
 - (iv) identifies the auditing standards used to conduct the audit and the accounting principles used to prepare the financial statements;
6. **Adding the following after subsection 9.1(2):**
 - (3) Except in Ontario, an exemption referred to in subsection (1) is granted under the statute referred to in Appendix B of National Instrument 14-101 *Definitions* opposite the name of the local jurisdiction.
7. **This amendment comes into force •, 2006.**

APPENDIX E

AMENDMENTS TO
NATIONAL INSTRUMENT 71-102 CONTINUOUS DISCLOSURE AND
OTHER EXEMPTIONS RELATING TO FOREIGN ISSUERS

1. **National Instrument 71-102 Continuous Disclosure and Other Exemptions Relating to Foreign Issuers is amended by this Instrument.**
2. **In section 1.1,**
 - a. **repealing the definitions of “board of directors” and “SEDI issuer”,**
 - b. **in paragraph (b) of the definition of “designated foreign issuer”, adding “in a designated foreign jurisdiction” after “foreign disclosure requirements”,**
 - c. **repealing the definition of “executive officer” and substituting the following:**

“executive officer” means, for a reporting issuer, an individual who is

 - (a) a chair, vice-chair or president;
 - (b) a vice-president in charge of a principal business unit, division or function including sales, finance or production;
 - (c) an officer of the issuer or any of its subsidiaries who performs a policy-making function in respect of the issuer; or
 - (d) performing a policy-making function in respect of the issuer;
 - d. **in the definition of “interim period”,**
 - i. **adding “a non-standard year or” after “in the case of a year other than” in paragraph (a),**
 - ii. **striking out “or” at the end of paragraph (a), and**
 - iii. **adding the following after paragraph (a):**
 - (a.1) in the case of a non-standard year, a period commencing on the first day of the financial year and ending within 22 days of the date that is nine, six or three months before the end of the financial year; or
 - e. **adding the following after the definition of “NI 52-107”:**

“non-standard year” means a financial year, other than a transition year, that does not have 365 days, or 366 days if it includes February 29; , **and**
 - f. **in paragraph (b) of the definition of “recognized exchange” adding “or a legal person, a partnership or any other entity authorized by the securities regulatory authority to carry on securities trading in accordance with securities legislation” after “or self-regulatory body”.**
3. **In sections 4.2, 4.8, 4.9, 4.11, 5.3, 5.9, 5.10 and 5.12, striking “is exempt from” and substituting “satisfies” wherever it appears.**
4. **In subsections 4.7(2) and 5.8(2), striking “the exemption in”, wherever it appears.**
5. **In section 4.10,**
 - a. **striking “An SEC foreign issuer is exempt from securities” and substituting “Securities”, and**
 - b. **adding “do not apply to an SEC foreign issuer” after “material contracts”.**

6. **Repealing section 4.12 and substituting the following:**

4.12 Insider Reporting

The insider reporting requirement does not apply to an insider of an SEC foreign issuer that has a class of securities registered under section 12 of the 1934 Act if the insider complies with the requirements of U.S. federal securities law relating to insider reporting.

7. **In section 5.11,**

a. **striking** “A designated foreign issuer is exempt from securities” **and substituting** “Securities”, **and**

b. **adding** “do not apply to a designated foreign issuer” **after** “material contracts”.

8. **Repealing section 5.13 and substituting the following:**

5.13 Insider Reporting

The insider reporting requirement does not apply to an insider of a designated foreign issuer if the insider complies with foreign disclosure requirements relating to insider reporting.

9. **This amendment comes into force •, 2006.**

APPENDIX F

**COMPANION POLICY 51-102CP
CONTINUOUS DISCLOSURE OBLIGATIONS**

(BLACK-LINED)

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**COMPANION POLICY 51-102CP
CONTINUOUS DISCLOSURE OBLIGATIONS**

PART 1 INTRODUCTION AND DEFINITIONS

1.1 Introduction and Purpose

- (1) National Instrument 51-102 *Continuous Disclosure Obligations* (the “Instrument”) sets out disclosure requirements for all issuers, other than investment funds, that are reporting issuers in one or more jurisdictions in Canada.
- (2) The purpose of this Companion Policy (the “Policy”) is to help you understand how the provincial and territorial regulatory authorities interpret or apply certain provisions of the Instrument. This Policy includes explanations, discussion and examples of various parts of the Instrument.

1.2 Filing Obligations

- (1) Reporting issuers must file continuous disclosure documents under the Instrument only in the local jurisdictions in which they are a reporting issuer.
- (2) In some circumstances, the Instrument permits an issuer to satisfy a filing requirement by filing a different document instead. If an issuer is relying on one of these sections, the issuer must file the substitute document in the appropriate filing category and type on SEDAR. For example, an exchangeable share issuer relying on section 13.3(2) that must file a copy of its parent issuer’s annual financial statements, must file those financial statements under the exchangeable share issuer’s SEDAR profile in the “Annual Financial Statement” filing type.

1.3 Corporate Law Requirements

Reporting issuers are reminded that they may be subject to requirements of corporate law that address matters similar to those addressed by the Instrument, and which may impose additional or more onerous requirements. For example, applicable corporate law may require the delivery of annual financial statements to shareholders or may require the board of directors to approve interim financial statements.

1.4 Definitions

- (1) **General** – Many of the terms for which the Instrument or Forms prescribed by the Instrument provide definitions are defined somewhat differently in the applicable securities legislation of several local jurisdictions. A term used in the Instrument and defined in the securities statute of a local jurisdiction has the meaning given to it in the statute unless: (a) the definition in that statute is restricted to a specific portion of the statute that does not govern continuous disclosure; or (b) the context otherwise requires.

For instance, the terms “form of proxy”, “material change”, “proxy”, “~~published market~~”, “recognized quotation and trade reporting system” and “solicit” are defined in local securities legislation of most jurisdictions. The provincial and territorial regulatory authorities consider the meanings given to these terms in securities legislation to be substantially similar to the definitions set out in the Instrument.
- (2) **Asset-backed security** – Section ~~4.71.8~~ of Companion Policy 44-101CP provides guidance for the ~~definitions~~ definition of “asset-backed securities” and “principal obligor”.
- (3) **Directors and Executive Officers** – Where the Instrument or any of the Forms use the term “directors” or “executive officers”, a reporting issuer that is not a corporation must refer to the definitions in securities legislation of “director” and “officer”. The definition of “officer” may include any individual acting in a capacity similar to that of an officer of a company. Similarly, the definition of “director” typically includes a person acting in a capacity similar to that of a director of a company. Therefore, non-corporate issuers must determine in light of the particular circumstances which individuals or persons are acting in such capacities for the purposes of complying with the Instrument and the Forms. Further, in considering paragraph (f) of the definition of “executive officer”, we would consider an individual that is employed by an entity separate from the reporting issuer, but that performs a policy-making function in respect of the reporting issuer through that separate entity or otherwise, to fit within this definition.
- (4) **Investment Fund** - Generally, the definition of “investment fund” would not include a trust or other entity that issues securities which entitle the holder to substantially all of the net cash flows generated by: (i) an underlying business owned by the trust or other entity, or (ii) the income-producing properties owned by the trust or other entity. Examples

of trusts or other entities that are not included in the definition are business income trusts, real estate investment trusts and royalty trusts.

(5) **Reverse Takeover** – The definition of reverse takeover is based upon the definition in the Handbook. The Handbook adds further clarification that, although legally the enterprise (the legal parent) that issued the securities is regarded as the parent or continuing enterprise, the enterprise (the legal subsidiary) whose former securityholders now control (as that term is used in the Handbook) the combined enterprise is treated as the acquirer for accounting purposes. As a result, for accounting purposes, the issuing enterprise (the legal parent) is deemed to be a continuation of the acquirer and the acquirer is deemed to have acquired control of the assets and business of the issuing enterprise in consideration for the issue of capital.

(6) **Restructuring transaction** – A “restructuring transaction” includes a transaction in which a reporting issuer acquires assets, which may include assets that constitute a business, and issues securities resulting in

- new securityholders being able to elect a majority of the issuer’s directors, and
- a new control person or company, or new control group.

The acquisition and issuance may be in a single transaction, or a series of transactions. To be a “series of transactions”, the transactions must be related to each other.

The phrase “new securityholders” includes both securityholders who did not hold any of the reporting issuer’s securities before the restructuring transaction, and securityholders that held some securities in the reporting issuer before the transaction, but who now, as a result of the transaction, can elect a majority of the issuer’s directors.

1.5 Plain Language Principles

We believe that plain language will help investors understand your disclosure so that they can make informed investment decisions. You can achieve this by

- using short sentences
- using definite everyday language
- using the active voice
- avoiding superfluous words
- organizing the document in clear, concise sections, paragraphs and sentences
- avoiding jargon
- using personal pronouns to speak directly to the reader
- avoiding reliance on glossaries and defined terms unless it facilitates understanding of the disclosure
- not relying on boilerplate wording
- avoiding abstract terms by using more concrete terms or examples
- avoiding multiple negatives
- using technical terms only when necessary and explaining those terms
- using charts, tables and examples where it makes disclosure easier to understand.

1.6 Signature and Certificates

Reporting issuers are not required by the Instrument to sign or certify documents filed under the Instrument. ~~In certain jurisdictions, certification~~ Certification requirements may apply to some documents under Multilateral Instrument 52-109 *Certification of Disclosure in Companies’ Annual and Interim Filings*. Whether or not a document is signed or certified, it is an offence under securities legislation to make a false or misleading statement in any required document.

1.7 Audit Committees

Reporting issuers are reminded that their audit committees must fulfill their responsibilities set out in other securities legislation. For example, ~~in certain jurisdictions, the responsibilities of audit committees are set out in Multilateral Instrument 52-110 *Audit Committees* or, in British Columbia, BC Instrument 52-509 *Audit Committees*.~~

1.8 Acceptable Accounting Principles, Auditing Standards and Reporting Currency

An issuer filing any of the following items under the Instrument must comply with National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency* ("NI 52-107"):

- (a) financial statements;
- (b) an operating statement for an oil and gas property as referred to in section 8.10 of the Instrument;
- (c) financial information as to the assets, liabilities and results of operations of a business as referred to in section 8.6 of the Instrument; or
- (d) financial information derived from a credit support issuer's financial statements as referred to in section 13.4 of the Instrument.

NI 52-107 sets out, among other things, when issuers can use accounting principles and auditing standards other than Canadian accounting principles and auditing standards in preparing financial statements.

1.9 Ordinary Course of Business

Whether a contract has been entered into in the ordinary course of business is a question of fact. It must be considered in the context of the reporting issuer's business and the industry in which it operates.

1.10 Material Deficiencies

After filing a document under the Instrument, a reporting issuer may determine that the document was materially deficient in some respect and, as a result, the filing does not comply with the requirements of the Instrument. In this situation, the reporting issuer would be expected to comply with the Instrument by filing an amended version of the materially deficient document.

PART 2 FOREIGN ISSUERS AND INVESTMENT FUNDS

2.1 Foreign Issuers

National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers* provides relief for foreign reporting issuers from certain continuous disclosure and other obligations, including certain obligations contained in the Instrument.

2.2 Investment Funds

Section 2.1 of the Instrument states that the Instrument does not apply to an investment fund. Investment funds should look to securities legislation of the local jurisdiction including, ~~when implemented,~~ National Instrument 81-106 *Investment Fund Continuous Disclosure* to find the continuous disclosure requirements applicable to them.

PART 3 FINANCIAL STATEMENTS

3.1 ~~Length of Financial Year~~

- (1) Length of Financial Year - For the purposes of the Instrument, unless otherwise expressly provided, references to a financial year apply irrespective of the length of that year. The first financial year of a reporting issuer commences on the date of its incorporation or organization and ends at the close of that year.
- (2) Non-Standard Year - An issuer with a non-standard year should advise the regulator or securities regulatory authority how it calculates its interim and annual periods before its first financial statements are due under the Instrument.

3.2 Audit of Comparative Annual Financial Statements

Section 4.1 of the Instrument requires a reporting issuer to file annual financial statements that include comparative information for the immediately preceding financial year and that are ~~accompanied by an auditor's report, audited.~~ The auditor's report must cover both the most recently completed financial year and the comparative period, except if the issuer changed its auditor during the periods presented in the financial statements and the new auditor has not audited the comparative period. In this situation, the auditor's report would normally refer to the former auditor's report on the comparative period and the former auditor's report would not be re-filed. This is consistent with Assurance and Related Services Guideline AuG-8 *Auditor's Report on Comparative Financial Statements in the Handbook*.

3.3 Filing Deadline for Annual Financial Statements and Auditor's Report

Section 4.2 of the Instrument sets out filing deadlines for annual financial statements. While section 4.2 of the Instrument does not address the auditor's report date, reporting issuers are encouraged to file their annual financial statements as soon as practicable after the date of the auditor's report. The delivery obligations set out in section 4.6 of the Instrument are not tied to the filing of the financial statements.

3.4 Auditor Involvement with Interim Financial Statements

- (1) The board of directors of a reporting issuer, in discharging its responsibilities for ensuring the reliability of interim financial statements, should consider engaging an external auditor to carry out a review of the interim financial statements.
- (2) Subsection 4.3(3) of the Instrument requires a reporting issuer to disclose if an auditor has not performed a review of the interim financial statements, to disclose if an auditor was unable to complete a review and why, and to file a written report from the auditor if the auditor has performed a review and expressed a reservation in the auditor's interim review report. No positive statement is required when an auditor has performed a review and provided an unqualified communication. If an auditor was engaged to perform a review on interim financial statements applying review standards set out in the Handbook, and the auditor was unable to complete the review, the issuer's disclosure of the reasons why the auditor was unable to complete the review would normally include a discussion of
 - (a) inadequate internal control;
 - (b) a limitation on the scope of the auditor's work; or
 - (c) the failure of management to provide the auditor with the written representations the auditor believes are necessary.
- (3) If a reporting issuer's annual financial statements are audited in accordance with Canadian GAAS, the terms "review" and "interim review report" used in subsection 4.3(3) of the Instrument refer to the auditor's review of, and report on, interim financial statements applying standards for a review of interim financial statements by the auditor as set out in the Handbook. However, if the reporting issuer's financial statements are audited in accordance with auditing standards other than Canadian GAAS, the corresponding review standards should be applied.

3.5 Delivery of Financial Statements

~~Section 4.6 of the Instrument requires reporting issuers to send a request form to the registered holders and beneficial owners of their securities. The registered holders and beneficial owners may use the request form to request a copy of the reporting issuer's annual financial statements and related MD&A, interim financial statements and related MD&A, or both. Reporting issuers are only required to deliver financial statements and MD&A to the person or company that requests them. As a result, if a beneficial owner requests financial statements and MD&A through its intermediary, the issuer is only required to deliver the requested documents to the intermediary.~~

~~Failing to return the request form or otherwise specifically request a copy of the financial statements or MD&A from the reporting issuer will override the beneficial owner's standing instructions under National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer* ("NI 54-101") in respect of the financial statements.~~

~~The Instrument does not prescribe when the request form must be sent, or how it must be returned to the reporting issuer.~~

3.6 Comparative Interim Financial Information After Becoming a Reporting Issuer

Section 4.7(4) of the Instrument provides that a reporting issuer does not have to provide comparative financial information when it first becomes a reporting issuer if it complies with specific requirements. ~~This exemption Section 4.10(3) of the Instrument provides a similar exemption for comparative financial information for a reverse takeover acquirer. These exemptions~~ may, for example, apply to an issuer that was, before becoming a reporting issuer or before the reverse takeover, a private entity and that is unable to prepare the comparative financial information because it is impracticable to do so.

3.7 Change in Year-End

Appendix A to this Policy is a chart outlining the financial statement filing requirements under section 4.8 of the Instrument if a reporting issuer changes its financial year-end.

3.8 Reverse Takeovers

- (1) Following a reverse takeover, although the reverse takeover acquiree is the reporting issuer, from an accounting perspective, the financial statements will be those of the reverse takeover acquirer. Those financial statements must be prepared and filed as if the reverse takeover acquirer had always been the reporting issuer.
- (2) the reverse takeover acquiree must file its own financial statements required by sections 4.1 and 4.3 and the related MD&A for all interim and annual periods ending before the date of the reverse takeover, even if the filing deadline for those financial statements is after the date of the reverse takeover.

3.9 Change in Corporate Structure

- (1) Section 4.9 of the Instrument requires a reporting issuer to file a notice if the issuer has been party to certain restructuring transactions. The reporting issuer may satisfy this requirement by filing a copy of its material change report or news release, provided that
 - (a) the material change report or news release contains all the information required in the notice; and
 - (b) the reporting issuer files the material change report or news release with the securities regulatory authority or regulator
 - (i) under the Change in Corporate Structure category on SEDAR, or
 - (ii) if the issuer is not an electronic filer, as a notice under section 4.9.
- (2) If the restructuring transaction was a reverse takeover, the notice should state that fact and who the reverse takeover acquirer was for accounting purposes.
- (3) Under paragraph 4.9(h) of the Instrument, the issuer must state the periods of the interim and annual financial statements it has to file for its first financial year. Issuers should explain how they determined the periods, particularly if section 4.7 of the Instrument applies.

3.10 Change of Auditor

The term “disagreement” defined in subsection 4.11(1) should be interpreted broadly. A disagreement may not involve an argument, but rather, a mere difference of opinion. Also, where a difference of opinion occurs that meets the criteria in item (b) of the definition of “disagreement”, and the issuer reluctantly accepts the auditor’s position in order to obtain an unqualified report, a reportable disagreement may still exist. The subsequent rendering of an unqualified report does not, by itself, remove the necessity for reporting a disagreement.

Subsection 4.11(5) of the Instrument requires a reporting issuer, upon a termination or resignation of its auditor, to prepare a change of auditor notice, have the audit committee or board of directors approve the notice, file the reporting package with the ~~applicable~~ regulator or securities regulatory authority in each jurisdiction where it is a reporting issuer, and if there are any reportable events, issue and file a news release describing the information in the reporting package. Subsection 4.11(6) of the Instrument requires the reporting issuer to perform these procedures upon an appointment of a successor auditor. If a termination or resignation of a former auditor and appointment of a successor auditor occur within a short period of time, it may be possible for a reporting issuer to perform the procedures described

above required by both subsections 4.11(5) and 4.11(6) concurrently and meet the timing requirements set out in those subsections. In other words, the reporting issuer would prepare only one comprehensive notice and reporting package.

PART 4 DISCLOSURE OF FINANCIAL INFORMATION

4.1 Disclosure of Financial Results

- (1) Subsection 4.5(1) of the Instrument requires that annual financial statements be ~~reviewed by a company's audit committee (if any) and~~ approved by the board of directors before filing. ~~Subsection~~Subsections 4.5(2) and 4.5(3) of the Instrument requires that interim financial statements be ~~reviewed by a company's audit committee (if any) and~~ approved by the board of directors or by the company's audit committee before filing. We believe that extracting information from financial statements that have not been approved as required by those provisions and releasing that information to the marketplace in a news release is inconsistent with the prior approval requirement. Also see National Policy 51-201 *Disclosure Standards*.
- (2) Reporting issuers that intend to disclose financial information to the marketplace in a news release should consult NI 52-107. We believe that disclosing financial information in a news release without disclosing the accounting principles used is inconsistent with the requirement in NI 52-107 to identify the accounting principles used in the financial statements.

4.2 Non-GAAP Financial Measures

Reporting issuers that intend to publish financial measures other than those prescribed by GAAP should refer to CSA Staff Notice 52-306 *Non-GAAP Financial Measures* for a discussion of staff expectations concerning the use of non-GAAP measures.

PART 5 MD&A

5.1 ~~Delivery of MD&A~~[repealed]

~~Reporting issuers are not required to send a request form to their securityholders under Part 5 of the Instrument. This is because the request form that must be delivered under section 4.6 of the Instrument relates to both a reporting issuer's financial statements, and the MD&A applicable to those financial statements.~~

5.2 Additional Information for Venture Issuers Without Significant Revenue

Section 5.3 of the Instrument requires certain venture issuers to provide in their annual or interim MD&A or MD&A supplement (unless the information is included in their interim and annual financial statements), a breakdown of material costs whether capitalized, deferred or expensed. A component of cost is generally considered to be a material component if it exceeds the greater of

- (a) 20% of the total amount of the class; and
- (b) \$25,000.

5.3 Disclosure of Outstanding Share Data

Section 5.4 of the Instrument requires disclosure of information relating to the outstanding securities of the reporting issuer as of the latest practicable date. The "latest practicable date" should be current, as close as possible, to the date of filing of the MD&A. Disclosing the number of securities outstanding at the period end is generally not sufficient to meet this requirement.

5.4 Additional Disclosure for Equity Investees

Section 5.7 of the Instrument requires issuers with significant equity investees to provide in their annual or interim MD&A or MD&A supplement (unless the information is included in their interim and annual financial statements), summarized information about the equity investee. Generally we will consider that an equity investee is significant if the equity investee would meet the thresholds for the significance tests in Part 8 using the financial statements of the equity investee and the issuer as at the issuer's financial year end.

PART 6 AIF

6.1 Additional and Supporting Documentation

Any material incorporated by reference in an AIF is required ~~under section 6.3 of the Instrument~~ to be filed with the AIF unless the material has been previously filed. When a reporting issuer using SEDAR files a previously unfiled document with its AIF, the reporting issuer should ensure that the document is filed under the appropriate SEDAR filing type and document type specifically applicable to the document, rather than generic type "Documents Incorporated by Reference". For example, a reporting issuer that has incorporated by reference an information circular in its AIF and has not previously filed the circular should file the circular under the "Management Proxy Materials" filing subtype and the "Management proxy/information circular" document type.

If the reporting issuer incorporates a document by reference into its AIF that itself incorporates another document by reference, the issuer must also file all of the underlying documents with its AIF.

6.2 AIF Disclosure of Asset-backed Securities

- (1) **Factors to consider** - Issuers that have distributed asset-backed securities under a prospectus are required to provide disclosure in their AIF under section 5.3 of Form 51-102F2. Issuers of asset-backed securities must determine which other prescribed disclosure is applicable and ought to be included in the AIF. Applicable disclosure for a special purpose issuer of asset-backed securities generally pertains to the nature, performance and servicing of the pool of financial assets servicing the asset-backed security. The nature and extent of required disclosure may vary depending on the type and attributes of the underlying pool.

An issuer of asset-backed securities should consider the following factors in preparing its AIF:

1. The extent of disclosure respecting the issuer will depend on the extent of the issuer's on-going involvement in the conversion of the assets comprising the pool to cash, and the distribution of cash to securityholders; this involvement may, in turn, vary dramatically depending on the type, quality and attributes of the assets comprising the pool and on the overall structure of the transaction.
 2. Requested disclosure respecting the business and affairs of the issuer should be interpreted to apply to the financial assets underlying the asset-backed securities.
 3. Financial information respecting the pool of assets to be described and analyzed in the AIF will consist of information commonly set out in servicing reports prepared to describe the performance of the pool and the specific allocations of income, loss and cash flows applicable to outstanding asset-backed securities made during the relevant period.
- (2) **Underlying pool of assets** - Paragraph 5.3(2)(a) of Form 51-102F2 requires issuers of asset-backed securities that were distributed by way of prospectus to include information relating to the composition of the underlying pool of financial assets, the cash flows from which service the asset-backed securities. Disclosure respecting the composition of the pool will vary depending upon the nature and number of the underlying financial assets. For example, in a geographically dispersed pool of financial assets, it may be appropriate to provide a summary disclosure based on the location of obligors. In the context of a revolving pool, it may be appropriate to provide details relating to aggregate outstanding balances during a year to illustrate historical fluctuations in asset origination due, for example, to seasonality. In pools of consumer debt obligations, it may be appropriate to provide a breakdown within ranges of amounts owing by obligors in order to illustrate limits on available credit extended.

PART 7 MATERIAL CHANGE REPORTS

7.1 Publication of News Release

Section 7.1 of the Instrument requires reporting issuers to *immediately* issue and file a news release disclosing the nature of a material change. This requirement is substantively the same as the material change reporting requirements in some securities legislation for the news release to be issued *forthwith*.

PART 8 BUSINESS ACQUISITION REPORTS

8.1 Obligations to File a Business Acquisition Report

- (1) **Filing of a Material Change Report** - The requirement in the Instrument for a reporting issuer to file a business acquisition report is in addition to the reporting issuer's obligation to file a material change report, if the significant acquisition constitutes a material change.
- (2) **Filing of a Business Acquisition Report by SEC Issuers** - If a document or a series of documents that an SEC issuer files with or furnishes to the SEC in connection with a business acquisition contains all of the information, including financial statements, required to be included in a business acquisition report under the Instrument, the SEC issuer may file a copy of the documents as its business acquisition report.
- (3) **Financial Statement Disclosure of Significant Acquisitions** – ~~Appendix B to this Policy is a chart outlining the key obligations for financial statement disclosure of significant acquisitions in a business acquisition report.~~ Reporting issuers are reminded that NI 52-107 prescribes the accounting principles, auditing standards and reporting currency that must be used to prepare and audit the financial statements required by Part 8 of the Instrument.
- (4) **Acquisition of a Business** – A reporting issuer that has made a significant acquisition must include in its business acquisition report certain financial statements of each business acquired. The term "business" should be evaluated in light of the facts and circumstances involved. We generally consider that a separate entity, a subsidiary or a division is a business and that in certain circumstances a smaller component of a company may also be a business, whether or not the business previously prepared financial statements. In determining whether an acquisition constitutes the acquisition of a business, a reporting issuer should consider the continuity of business operations, including the following factors:
 - (a) whether the nature of the revenue producing activity or potential revenue producing activity will remain generally the same after the acquisition; and
 - (b) whether any of the physical facilities, employees, marketing systems, sales forces, customers, operating rights, production techniques or trade names are acquired by the reporting issuer instead of remaining with the vendor after the acquisition.
- (5) **Acquisition by a Subsidiary** – If a reporting issuer's subsidiary, which is also a reporting issuer, has acquired a business, both the parent and subsidiary must test the significance of the acquisition. Even if the subsidiary files a business acquisition report, the parent must also file a business acquisition report if the acquisition is also significant for the parent.

8.2 Significance Tests

- (1) **Nature of Significance Tests** – Subsection 8.3(2) of the Instrument sets out the required significance tests for determining whether an acquisition of a business by a reporting issuer is a "significant acquisition". The first test measures the assets of the acquired business against the assets of the reporting issuer. The second test measures the reporting issuer's investments in and advances to the acquired business against the assets of the reporting issuer. The third test measures the income from continuing operations of the acquired business against the income from continuing operations of the reporting issuer. If any one of these three tests is satisfied at the prescribed level, the acquisition is considered "significant" to the reporting issuer. The test must be applied as at the time of the acquisition using the most recent annual audited financial statements of the reporting issuer and the business. These tests are similar to requirements of the SEC and provide issuers with certainty that if an acquisition is not significant at the time of the acquisition, then no business acquisition or report will be required to be filed.
- (2) **Business Using Accounting Principles Other Than Those Used by the Reporting Issuer** – Subsection 8.3(13) of the Instrument provides that where the financial statements of the business or related businesses are prepared in accordance with accounting principles other than those used in reporting issuer's financial statements, for purposes of applying the significance tests, the relevant financial statements for the business or related businesses must be reconciled. It is unnecessary for the reconciliation to be audited for the purpose of the tests.
- (3) **Acquisition of a Previously Unaudited Business** – Subsections 8.3(2) and 8.3(4) of the Instrument require the significance of an acquisition to be determined using the most recent audited financial statements of the reporting issuer and the business acquired. However, if the financial statements of the business or related

businesses for the most recently completed financial year were not audited, subsection 8.3(14) of the Instrument permits use of the unaudited financial statements for the purpose of applying the significance tests. If the acquisition is determined to be significant, then the annual financial statements required by subsection 8.4(1) of the Instrument must be audited.

- (4) **Application of Investment Test for Significance of an Acquisition** – One of the significance tests set out in subsections 8.3(2) and (4) of the Instrument is whether the reporting issuer's consolidated investments in and advances to the business or related businesses exceed a specified percentage of the consolidated assets of the reporting issuer. In applying this test, the "investments in" the business should be determined using the total cost of the purchase, as determined by generally accepted accounting principles, including consideration paid or payable and the costs of the acquisition. If the acquisition agreement includes a provision for contingent consideration, for the purpose of applying the test, the contingent consideration should be included in the total cost of the purchase unless the likelihood of payment is considered remote at the date of the acquisition. In addition, any payments made in connection with the acquisition which would not constitute purchase consideration but which would not have been paid unless the acquisition had occurred, should be considered part of investments in and advances to the business for the purpose of applying the significance tests. Examples of such payments include loans, royalty agreements, lease agreements and agreements to provide a pre-determined amount of future services.
- (5) **Application of the Significance Tests When the Financial Year Ends are Non-Coterminous** – Subsection 8.3(2) of the Instrument requires the significance of a business acquisition to be determined using the most recent audited financial statements of both the reporting issuer and the acquired business. For the purpose of applying the tests under this subsection, the year-ends of the reporting issuer and the acquired business need not be coterminous. Accordingly, neither the audited financial statements of the reporting issuer nor those of the business should be adjusted for the purposes of applying the significance tests. However, if the acquisition of a business is determined to be significant and *pro forma* income statements are required by subsection 8.4(35) of the Instrument and, if the business' year-end is more than 93 days before the reporting issuer's year-end, the business' reporting period required under paragraph 8.4(47)(c) of the Instrument should be adjusted to reduce the gap to 93 days or less. Refer to subsection 8.7(3) of this Policy for further guidance.

8.3 Optional Significance Tests

- (1) **Optional Significance Tests – Decrease in Significance** – The optional significance tests under subsections 8.3(3) and (4) of the Instrument have been included to recognize the possible growth of a reporting issuer between the date of its most recently completed year-end and the date of acquisition filing a business acquisition report and the corresponding potential decline in significance of the acquisition to the reporting issuer. ~~If the significance of an acquisition increases at the second date under subsection 8.3(4), only the financial statements required for the level of significance calculated by the required significance tests under subsection 8.3(2) of the Instrument must be included in the business acquisition report. Applying the optional significance tests at the second date is not intended to increase the level of significance of an acquisition and thereby the number of years of financial statements included in a business acquisition report.~~
- (2) **Availability of the Optional Significance Tests** – The optional significance tests at the second date are available to all reporting issuers. However, depending on how or when a reporting issuer integrates the acquired business into its existing operations and the nature of post-acquisition financial records it maintains for the acquired business, it may not be possible for a reporting issuer to apply the optional significance test at ~~the~~ the second date.
- (3) **Optional Investment Test** – If an acquisition is determined under subsection 8.3(2) of the Instrument to be significant, a reporting issuer has the option under subsections 8.3(3) and (4) of the Instrument of applying optional significance tests using more recent financial statements than those used for the required significance tests in subsection 8.3(2). For the purpose of applying the optional investment test under paragraph 8.3(4)(b) of the Instrument, the reporting issuer's investments in and advances to the business should be as at the date of the acquisition and not as at the date of the reporting issuer's financial statements used to determine its consolidated assets for the optional investment test.

8.4 Financial Statements of Related Businesses

Subsection 8.4(58) of the Instrument requires that if a reporting issuer includes in its business acquisition report financial statements for more than one related business, separate financial statements must be presented for each business except for the periods during which the businesses were under common control or management, in which case the reporting issuer may present the financial statements on a combined basis. Although one or more of the

related businesses may be insignificant relative to the others, separate financial statements of each business for the same number of periods required must be presented. Relief from the requirement to include financial statements of the least significant related business or businesses may be granted depending on the facts and circumstances.

8.5 Application of the Significance Tests for Step-By-Step Acquisitions

Subsection 8.3(11) of the Instrument explains how the significance test should be applied when the reporting issuer increases its investment in a business by way of a step-by-step purchase as described in the Handbook. If the reporting issuer acquired an interest in the business in a previous year and that interest is reflected in the most recent audited financial statements of the reporting issuer filed, then the issuer should determine the significance of only the incremental investment in the business which is not reflected in the reporting issuer's most recent audited financial statements filed.

8.6 Preparation of Divisional and Carve-out Financial Statements

- (1) **Interpretations** – In this section of this Policy, unless otherwise stated,
 - (a) a reference to “a business” includes a division or some lesser component of another business acquired by a reporting issuer that constitutes a significant acquisition; and
 - (b) the term “parent” refers to the vendor from whom the reporting issuer purchased a business.
- (2) **Acquisition of a Division** - As discussed in subsection 8.1(4) of this Policy, the acquisition of a division of a business and in certain circumstances, a lesser component of a person or company, may constitute an acquisition of a business for purposes of the Instrument, whether or not the subject of the acquisition previously prepared financial statements. To determine the significance of the acquisition and comply with the requirements for financial statements in a business acquisition report under Part 8 of the Instrument, financial statements for the business must be prepared. This section provides guidance on preparing these financial statements.
- (3) **Divisional and Carve-Out Financial Statements** – The terms “divisional” and “carve-out” financial statements are often used interchangeably although a distinction is possible. Some companies maintain separate financial records and financial statements for a business activity or unit that is operated as a division. Financial statements prepared from these financial records are often referred to as “divisional” financial statements. In other circumstances, no separate financial records for a business activity are maintained; they are simply consolidated with the parent's records. In these cases, if the parent's financial records are sufficiently detailed, it is possible to extract or “carve-out” the information specific to the business activity in order to prepare separate financial statements of that business. Financial statements prepared in this manner are commonly referred to as “carve-out” financial statements. The guidance in this section applies to the preparation of both divisional and carve-out financial statements unless otherwise stated.
- (4) **Preparation of Divisional and Carve-Out Financial Statements**
 - (a) When complete financial records of the business acquired have been maintained, those records should be used for preparing and auditing the financial statements of the business. For the purposes of this section, it is presumed that the parent maintains separate financial records for its divisions.
 - (b) When complete financial records of the business acquired do not exist, carve-out financial statements should generally be prepared in accordance with the following guidelines:
 - (i) *Allocation of Assets and Liabilities* - A balance sheet should include all assets and liabilities directly attributable to the business.
 - (ii) *Allocation of Revenues and Expenses* - Income statements should include all revenues and expenses directly attributable to the business. Some fundamental expenditures may be shared by the business and its parent in which case the parent's management must determine a reasonable basis for allocating a share of these common expenses to the business. Examples of such common expenses include salaries, rent, depreciation, professional fees, general and administration.
 - (iii) *Calculation of Income and Capital Taxes* - Income and capital taxes should be calculated as if the entity had been a separate legal entity and filed a separate tax return for the period presented.

- (iv) *Disclosure of Basis of Preparation* - The financial statements should include a note describing the basis of preparation. If expenses have been allocated as discussed in subparagraph (b)(ii), the financial statements should include a note describing the method of allocation for each significant line item, at a minimum.
- (5) **Statements of Assets Acquired, Liabilities Assumed and Statements of Operations** – When it is impracticable to prepare carve-out financial statements of a business, a reporting issuer may be required to include in its business acquisition report an audited statement of assets acquired and liabilities assumed and a statement of operations of the business. The statement of operations should exclude only those indirect operating costs not directly attributable to the business, such as corporate overhead. If indirect operating costs were previously allocated to the business and there is a reasonable basis of allocation, they should not be excluded.

8.7 Preparation of Pro Forma Financial Statements Giving Effect to Significant Acquisitions

- (1) **Objective and Basis of Preparation** – The objective of pro forma statements is to illustrate the impact of a transaction on a reporting issuer's financial position and results of operations by adjusting the historical financial statements of the reporting issuer to give effect to the transaction. Accordingly, the pro forma financial statements should be prepared on the basis of the reporting issuer's financial statements as already filed. No adjustment should be made to eliminate extraordinary items or discontinued operations.
- (2) **Pro Forma Balance Sheet and Income Statements** – Subsection 8.4(35) of the Instrument does not require a pro forma balance sheet to be prepared to give effect to significant acquisitions that are reflected in the reporting issuer's most recent annual or interim balance sheet filed under the Instrument.
- (3) **Non-coterminous Year-ends** - Where the financial year-end of a business differs from the reporting issuer's year-end by more than 93 days, paragraph 8.4(47)(c) requires an income statement for the business to be constructed for a period of 12 consecutive months. For example, if the constructed reporting period is 12 months and ends on June 30, the 12 months should commence on July 1 of the immediately preceding year; it should not begin on March 1st of the immediately preceding year with three of the following 15 months omitted, such as the period from October 1 to December 31, since this would not be a consecutive 12 month period.
- (4) **Effective Date of Adjustments** - For the pro forma income statements included in a business acquisition report, the acquisition and the adjustments should be computed as if the acquisition had occurred at the beginning of the reporting issuer's most recently completed financial year and carried through the most recent interim period presented, if any. However, one exception to the preceding is that adjustments related to the allocation of the purchase price, including the amortization of fair value increments and intangibles, should be based on the purchase price allocation arising from giving effect to the acquisition as if it occurred on the date of the reporting issuer's most recent balance sheet filed.
- (5) **Acceptable Adjustments** – Pro forma adjustments should be limited to those that are directly attributable to the specific acquisition transaction for which there are firm commitments and for which the complete financial effects are objectively determinable.
- (6) **Multiple Acquisitions** – If the pro forma financial statements give effect to more than one acquisition, the pro forma adjustments may be grouped by line item on the face of the pro forma financial statements provided the details for each transaction are disclosed in the notes.

8.8 Relief from the Requirement to Audit Operating Statements of an Oil and Gas Property

The ~~applicable~~ securities regulatory authority or regulator may exempt a reporting issuer from the requirement to include the report of an auditor on the operating statements referred to in section 8.10 of the Instrument if, during the 12 months preceding the date of the acquisition, the average daily production of the property is less than 20 percent of the total average daily production of the vendor for the same or similar periods, and

- (a) the reporting issuer provides written submissions prior to the deadline for filing the business acquisition report which establishes to the satisfaction of the appropriate regulator, that despite reasonable efforts during the purchase negotiations, the reporting issuer was prohibited from including in the purchase agreement the rights to obtain an audited operating statement of the property;
- (b) the purchase agreement includes representations and warranties by the vendor that the amounts presented in the operating statement agree to the vendor's books and records; and

- (c) the reporting issuer discloses in the business acquisition report its inability to obtain an audited operating statement, the reasons therefor, the fact that the representations and warranties referred to in paragraph (b) have been obtained, and a statement that the results presented in the operating statement may have been materially different if the statement had been audited.

For the purpose of determining average daily production when production includes both oil and natural gas, production may be expressed in barrels of oil equivalent using the conversion ratio of 6000 cubic feet of gas to one barrel of oil.

8.9 Exemptions From Requirement for Financial Statements in a Business Acquisition Report

- (1) **Exemptions** – We are of the view that relief from the financial statement requirements of Part 8 of the Instrument should be granted only in unusual circumstances and generally not related solely to cost or the time involved in preparing and auditing the financial statements. Reporting issuers seeking relief from the financial statement or audit requirements of Part 8 must apply for the relief before the filing deadline for the business acquisition report and before the closing date of the transaction, if applicable. Reporting issuers are reminded that many securities regulatory authorities and regulators do not have the power to grant retroactive relief.
- (2) **Conditions to Exemptions** – If relief is granted from the requirements of Part 8 of the Instrument to include audited financial statements of an acquired business or related businesses, conditions will likely be imposed, such as a requirement to include audited divisional or partial income statements or divisional statements of cash flow, or an audited statement of net operating income for a business.
- (3) **Exemption from Comparatives if Financial Statements Not Previously Prepared** – Section 8.9 of the Instrument provides that a reporting issuer does not have to provide comparative financial information for an acquired business in a business acquisition report if it complies with specific requirements. This exemption may, for example, apply to an acquired business that was, before the acquisition, a private entity and that the reporting issuer is unable to prepare the comparative financial information for because it is impracticable to do so.
- (4) **Exemption from Including Two Years** – Relief may be granted from the requirement to include financial statements of an acquired business or related businesses for two years in a business acquisition report in some situations that may include the following:[repealed]
- ~~(a) the business's historical accounting records have been destroyed and cannot be reconstructed. In this case, as a condition of granting the exemption, the reporting issuer may be requested by the securities regulatory authority or regulator to~~
- ~~(i) represent in writing to the securities regulatory authority or regulator, no later than the time the business acquisition report is required to be filed, that the reporting issuer made every reasonable effort to obtain copies of, or reconstruct the historical accounting records necessary to prepare and audit the financial statements, but such efforts were unsuccessful; and~~
- ~~(ii) disclose in the business acquisition report the fact that the historical accounting records have been destroyed and cannot be reconstructed;~~
- ~~(b) the business has recently emerged from bankruptcy and current management of the business and the reporting issuer is denied access to the historical accounting records necessary to audit the financial statements. In this case, as a condition of granting the exemption, the reporting issuer may be requested by the securities regulatory authority or regulator to~~
- ~~(i) represent in writing to the securities regulatory authority or regulator, no later than the time the business acquisition report is filed that the reporting issuer has made every reasonable effort to obtain access to, or copies of, the historical accounting records necessary to audit the financial statements but that such efforts were unsuccessful;~~
- ~~(ii) disclose in the business acquisition report the fact that the business has recently emerged from bankruptcy and current management of the business and the reporting issuer are denied access to the historical accounting records;~~
- ~~(iii) the business has undergone a fundamental change in the nature of its business or operations affecting the majority of its operations and all, or substantially all, of the~~

executive officers and directors of the company have changed. The evolution of a business or progression of a development cycle will not be considered to be a fundamental change in a reporting issuer's business or operations. Relief from the requirement to include audited financial statements of the business for the year in which the change in operations occurred, or for the most recently completed financial year if the change in operations occurred during the business's current financial year, generally will not be granted.

8.10 ~~Unaudited Comparatives in Annual Financial Statements of an Acquired Business~~ Audits and Auditor Review of Financial Statements of an Acquired Business

- (1) ~~Where item 8.5(1)1. and subsection 8.5(2) of the Instrument require audited financial statements for the most recently completed financial year of the business, accounting principles, as defined in NI 52-107, generally require the financial statements~~ **Unaudited Comparatives in Annual Financial Statements of an Acquired Business** – Subsection 8.4(1) requires a reporting issuer to include comparative financial information of the business in the business acquisition report. This comparative financial information may be unaudited.
- (2) **Auditor Review of Interim Financial Statements of an Acquired Business** – An issuer does not have to engage an auditor to review the interim financial statements of an acquired business included in a business acquisition report. However, if the issuer later incorporates the business acquisition report into a prospectus, the interim financial statements will have to be reviewed in accordance with the requirements relating to financial statements included in a prospectus.

PART 9 PROXY SOLICITATION AND INFORMATION CIRCULARS

9.1 Beneficial Owners of Securities

Reporting issuers are reminded that NI 54-104 National Instrument 54-101 Communication with Beneficial Owners of Securities of a Reporting Issuer prescribes certain procedures relating to the delivery of materials, including forms of proxy, to beneficial owners of securities and related matters. It also prescribes certain disclosure that must be included in the proxy-related materials sent to beneficial owners.

PART 10 ELECTRONIC DELIVERY OF DOCUMENTS

10.1 Electronic Delivery of Documents

Any documents required to be sent under the Instrument may be sent by electronic delivery, as long as such delivery is made in compliance with Québec Staff Notice, *The Delivery of Documents by Electronic Means*, in Québec, and National Policy 11-201 *Delivery of Documents by Electronic Means*, in the rest of Canada.

PART 11 ADDITIONAL ~~FILING~~ DISCLOSURE REQUIREMENTS

11.1 Additional Filing Requirements

Paragraph 11.1(1)(b) of the Instrument requires a document to be filed only if it contains information that has not been included in disclosure already filed by the reporting issuer. For example, if a reporting issuer has filed a material change report under the Instrument and the Form 8-K filed by the reporting issuer with the SEC discloses the same information, whether in the same or a different format, there is no requirement to file the Form 8-K under the Instrument.

11.2 Re-filing Documents

If a reporting issuer decides to re-file a document, or re-state information in a document, with information that differs materially from the information in the original document, the issuer should disclose in the news release required by section 11.5 of the Instrument

- (a) the facts underlying the changes,
- (b) the general impact of the changes on previously filed documents, and
- (c) the steps the issuer would take before filing an amended version, or re-stating the information, if the issuer is not re-filing an amended version or re-stating the information immediately.

PART 12 FILING OF CERTAIN DOCUMENTS

12.1 Statutory or Regulatory Instruments

Paragraph 12.1(1)(a) of the Instrument requires reporting issuers to file copies of their articles of incorporation, amalgamation, continuation or any other constating or establishing documents, unless the document is a statutory or regulatory instrument. This is a very narrow exception. For example, it would apply to Schedule I or Schedule II banks under the *Bank Act*, whose charter is the *Bank Act*. It would not apply when only the form of the constating document is prescribed under statute or regulation, such as articles under the *Canada Business Corporations Act*.

12.2 Contracts that Affect the Rights or Obligations of Securityholders

Paragraph 12.1(1)(e) of the Instrument requires reporting issuers to file contracts that can reasonably be regarded as materially affecting the rights of its securityholders generally. A warrant indenture is one example of this type of contract. We would expect that contracts entered into in the ordinary course of business would not usually affect the rights of securityholders generally, and so would not have to be filed.

12.3 Filing of Other Material Contracts

We expect that the contracts required under section 12.2 of the Instrument to be filed by a reporting issuer will generally be the same contracts the reporting issuer is required to provide disclosure of under section 15.1 of Form 51-102F2. The exemption in subsection 12.2(2) of the Instrument does not affect the issuer's obligation in section 15.1 of Form 51-102F2 to disclose the particulars of the material contracts.

PART 13 EXEMPTIONS

13.1 Prior Exemptions and Waivers

Section 13.2 of the Instrument essentially allows a reporting issuer, in certain circumstances, to continue to rely upon an exemption or waiver from continuous disclosure obligations obtained prior to the Instrument coming into force if the exemption or waiver relates to a substantially similar provision in the Instrument and the reporting issuer provides written notice to the securities regulatory authority or regulator of its reliance on such exemption or waiver. Upon receipt of such notice, the securities regulatory authority or regulator, as the case may be, will review it to determine if the provision of the Instrument referred to in the notice is substantially similar to the provision from which the prior exemption or waiver was granted. The written notice should be sent to each jurisdiction where the prior exemption or waiver is relied upon. Contact addresses for these notices are:

Alberta Securities Commission

4th Floor
300 – 5th Avenue S.W.
Calgary, Alberta
T2P 3C4
Attention: Director, Capital Markets

British Columbia Securities Commission

P.O. Box 10142, Pacific Centre
701 West Georgia Street
Vancouver, British Columbia
V7Y 1L2
Attention: Financial Reporting

Manitoba Securities Commission

1130 – 405 Broadway
Winnipeg, Manitoba
R3C 3L6
Attention: Filings Department

Office of the Administrator, New Brunswick Securities Commission

P.O. Box 5001
133 Prince William Street, Suite 606
Saint John, NB
E2L 4Y9
Attention: Minister of Finance

Securities Commission of Newfoundland and Labrador

P.O. Box 8700
2nd Floor, West Block
Confederation Building
75 O'Leary Avenue
St. John's, NFLD
A1B 4J6
Attention: Director of Securities

Department of Justice, Northwest Territories

Legal Registries
P.O. Box 1320
1st Floor, 5009-49th Street
Yellowknife, NWT X1A 2L9
Attention: Director, Legal Registries

Nova Scotia Securities Commission

2nd Floor, Joseph Howe Building
1690 Hollis Street
Halifax, Nova Scotia B3J 3J9
Attention: Corporate Finance

Department of Justice, Nunavut

Legal Registries Division
P.O. Box 1000 – Station 570
1st Floor, Brown Building
Iqaluit, NT X0A 0H0
Attention: Director, Legal Registries Division

Ontario Securities Commission

Suite 1903, Box 55
20 Queen Street West
Toronto, ON M5H 3S8
Attention: Manager, Team 3, Corporate Finance

Registrar of Securities, Prince Edward Island

P.O. Box 2000
95 Rochford Street, 5th Floor,
Charlottetown, PEI
C1A 7N8
Attention: Registrar of Securities

Agence nationale d'encadrement du secteur financier

Autorité des marchés financiers

800 Square Victoria, 22nd Floor
P.O. Box 246, Tour de la Bourse
Montréal, Québec
H4Z 1G3
Attention: Direction du marché des marchés des capitaux

Saskatchewan Financial Services Commission – Securities Division

6th Floor,
1919 Saskatchewan Drive
Regina, SK S4P 3V7
Attention: Deputy Director, Corporate Finance

Registrar of Securities, Government of Yukon

Corporate Affairs J-9
P.O. Box 2703
Whitehorse, Yukon
Y1A 5H3
Attention: Registrar of Securities

APPENDIX A

EXAMPLES OF FILING REQUIREMENTS FOR CHANGES IN THE YEAR END

The following examples assume the old financial year ended on December 31, 20X0

Transition Year	Comparative Annual Financial Statements to Transition Year	New Financial Year	Comparative Annual Financial Statements to New Financial Year	Interim Periods for Transition Year	Comparative Interim Periods to Interim Periods in Transition Year	Interim Periods for New Financial Year	Comparative Interim Periods to Interim Periods in New Financial Year
Financial year end changed by up to 3 months							
2 months ended 2/28/X1	12 months ended 12/31/X0	2/28/X2	2 months ended 2/28/X1 and 12 months ended 12/31/X0*	Not applicable	Not applicable	3 months ended 5/31/X1 6 months ended 8/31/X1 9 months ended 11/30/X1	3 months ended 6/30/X0 6 months ended 9/30/X0 9 months ended 12/31/X0
Or							
14 months ended 2/28/X2	12 months ended 12/31/X0	2/28/X3	14 months ended 2/28/X2	3 months ended 3/31/X1 6 months ended 6/30/X1 9 months ended 9/30/X1 12 months ended 12/31/X1	3 months ended 3/31/X0 6 months ended 6/30/X0 9 months ended 9/30/X0 12 months ended 12/31/X0	3 months ended 5/31/X2 6 months ended 8/31/X2 9 months ended 11/30/X2	3 months ended 6/30/X1 6 months ended 9/30/X1 9 months ended 12/31/X1
or							
				2 months ended 2/28/X1 5 months ended 5/31/X1 8 months ended 8/31/X1 11 months ended 11/30/X1	3 months ended 3/31/X0 6 months ended 6/30/X0 9 months ended 9/30/X0 12 months ended 12/31/X0	3 months ended 5/31/X2 6 months ended 8/31/X2 9 months ended 11/30/X2	3 months ended 6/30/X1 6 months ended 9/30/X1 9 months ended 12/31/X1
Financial year end changed by 4 to 6 months							
6 months ended 6/30/X1	12 months ended 12/31/X0	6/30/X2	6 months ended 6/30/X1 and 12 months ended 12/31/X0*	3 months ended 3/31/X1	3 months ended 3/31/X0	3 months ended 9/30/X1 6 months ended 12/31/X1 9 months ended 3/31/X2	3 months ended 9/30/X0 6 months ended 12/31/X0 9 months ended 3/31/X1
Financial year end changed by 7 or 8 months							
7 months ended 7/31/X1	12 months ended 12/31/X0	7/31/X2	7 months ended 7/31/X1 and 12 months ended 12/31/X0*	3 months ended 3/31/X1	3 months ended 3/31/X0	3 months ended 10/31/X1 6 months ended 1/31/X2 9 months ended 4/30/X2	3 months ended 9/30/X0 6 months ended 12/31/X0 9 months ended 3/31/X1
or							
				4 months ended 4/30/X1	3 months ended 3/31/X0	3 months ended 10/31/X1 6 months ended 1/31/X2 9 months ended 4/30/X2	3 months ended 9/30/X0 6 months ended 12/31/X0 10 months ended 4/30/X1
Financial year end changed by 9 to 11 months							
10 months ended 10/31/X1	12 months ended 12/31/X0	10/31/X2	10 months ended 10/31/X1	3 months ended 3/31/X1 6 months ended 6/30/X1	3 months ended 3/31/X0 6 months ended 6/30/X0	3 months ended 1/31/X2 6 months ended 4/30/X2 9 months ended 7/31/X2	3 months ended 12/31/X0 6 months ended 3/31/X1 9 months ended 6/30/X1
or							
				4 months ended 4/30/X1	3 months ended 3/31/X0	3 months ended 1/31/X2	3 months ended 12/31/X0

Request for Comments

Transition Year	Comparative Annual Financial Statements to Transition Year	New Financial Year	Comparative Annual Financial Statements to New Financial Year	Interim Periods for Transition Year	Comparative Interim Periods to Interim Periods in Transition Year	Interim Periods for New Financial Year	Comparative Interim Periods to Interim Periods in New Financial Year
				7 months ended 7/31/X1	6 months ended 6/30/X0	6 months ended 4/30/X2 9 months ended 7/31/X2	6 months ended 3/31/X1 9 months ended 6/30/X1

* Balance sheet required only at the transition year end date

APPENDIX B

FINANCIAL STATEMENTS REQUIRED IN A BUSINESS ACQUISITION REPORT

APPENDIX G

COMPANION POLICY 71-102CP TO NATIONAL INSTRUMENT 71-102
CONTINUOUS DISCLOSURE AND OTHER EXEMPTIONS

RELATING TO FOREIGN ISSUERS

(BLACK-LINED)

PART 1 GENERAL

1.1 Introduction and Purpose

- (1) National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers* (the "Instrument") provides broad relief from most of the requirements of National Instrument 51-102 *Continuous Disclosure Obligations* ("NI 51-102") for two sub-categories of foreign reporting issuers – SEC foreign issuers and designated foreign issuers – on the condition that they comply with the continuous disclosure ("CD") requirements of the SEC or a designated foreign jurisdiction. SEC foreign issuers and designated foreign issuers are also exempted from certain other requirements of provincial and territorial securities legislation, including insider reporting and early warning, that are not contained in NI 51-102.
- (2) This Companion Policy provides information about how the provincial and territorial securities regulatory authorities interpret the Instrument, and should be read in conjunction with it.

1.2 Other Relevant Legislation

In addition to the Instrument, foreign issuers should consult the following non-exhaustive list of legislation to see how it may apply to them:

- (1) implementing legislation (the regulation, rule, ruling, order or other instrument that implements the Instrument in each applicable jurisdiction);
- (2) NI 51-102;
- (3) National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency* ("NI 52-107"); and
- (4) National Instrument 71-101 *The Multijurisdictional Disclosure System* ("NI 71-101").

1.3 Multijurisdictional Disclosure System

- (1) NI 71-101 permits certain U.S. incorporated issuers to satisfy specified Canadian CD requirements by using disclosure prepared in accordance with U.S. requirements. The Instrument does not replace or alter NI 71-101. There are instances in which NI 71-101 and the Instrument offer similar relief to a reporting issuer, but other instances in which the relief available to a reporting issuer in one instrument differs from the relief available to the reporting issuer under the other instrument. Many issuers that are eligible for an exemption under the Instrument will be ineligible to rely on NI 71-101 and vice versa. For example, the Instrument defines a class of "SEC foreign issuers". Not all U.S. issuers referred to in NI 71-101 are SEC foreign issuers and not all SEC foreign issuers are U.S. issuers.
- (2) ~~An eligible U.S. issuer may choose to use an exemption in the Instrument or NI 71-101. For example, section 4.12 of NI 71-101 grants an exemption from the insider reporting requirement to an insider of a U.S. issuer that has securities registered under section 12 of the 1934 Act if the insider complies with the requirements of U.S. federal securities law regarding insider reporting and files with the SEC any insider report required to be filed with the SEC. This relief goes beyond the exemption provided by section 4.12 of the Instrument which is not available to insiders of a SEDI issuer as defined in National Instrument 55-102 *System for Electronic Disclosure by Insiders* (SEDI). [repealed]~~

1.4 Exemptions May Not Require Disclosure

Most of the exemptions in the Instrument are only available to a person or company that complies with a particular aspect of either U.S. federal securities laws or the laws of a designated foreign jurisdiction. If those laws do not require the issuer to disclose, file or send any information, for example, because the issuer may rely on an exemption under

those laws, then the issuer is not required to disclose, file or send any information to rely on the exemption contained in the Instrument.

PART 2 DEFINITIONS

2.1 Foreign Reporting Issuers

To qualify for any of the exemptions contained in the Instrument, other than the relief for “foreign transition issuers” in Part 6, the issuer in question must be a “foreign reporting issuer”. The definition of foreign reporting issuer is based upon the definition of foreign private issuer in Rule 405 of the 1933 Act and Rule 3b-4 of the 1934 Act. For the purposes of the definition of “foreign reporting issuer”, it is the CSA’s view that

- (a) In calculating the percentage of assets located in Canada, the issuer should ~~look to use~~ the book value of the assets recorded in its most recent consolidated financial statements, either annual or interim; and
- (b) in determining the outstanding voting securities that are owned, directly or indirectly, by residents of Canada, an issuer should
 - (i) use reasonable efforts to identify securities held by a broker, dealer, bank, trust company or nominee or any of them for the accounts of customers resident in Canada;
 - (ii) count securities beneficially owned by residents of Canada as reported on reports of beneficial ownership, including insider reports and early warning reports; and
 - (iii) assume that a customer is a resident of the jurisdiction or foreign jurisdiction in which the nominee has its principal place of business if, after reasonable inquiry, information regarding the jurisdiction or foreign jurisdiction of residence of the customer is unavailable.

The determination of the percentage of securities of the foreign issuer owned by residents of Canada should be made in the same manner for the purposes of paragraph (c) of the definition of “designated foreign issuer” and paragraph (d) of the definition of “foreign transition issuer” in section 6.2 of the Instrument. This method of calculation differs from that of NI 71-101, which only requires a calculation based on the address of record. Accordingly, some SEC foreign issuers may qualify for exemptive relief under NI 71-101 but not under the Instrument.

2.2 Investment Funds

Generally, the definition of “investment fund” would not include a trust or other entity that issues securities which entitle the holder to substantially all of the net cash flows generated by: (i) an underlying business owned by the trust or other entity, or (ii) the income-producing properties owned by the trust or other entity. Examples of trusts or other entities that are not included in the definition are business income trusts, real estate investment trusts and royalty trusts.

PART 3 INSIDER REPORTS

3.1 ~~Requirement to File Insider Reports on SEDI~~[repealed]

~~Insiders of foreign issuers who voluntarily file under National Instrument 13-101 *System for Electronic Document Analysis and Retrieval* (SEDAR) are required to file insider reports electronically under SEDI. The Instrument does not provide an exemption from filing insider reports in the form required by provincial and territorial securities legislation if the foreign issuer is a SEDI filer. However, under NI 71-101 an insider of an eligible U.S. issuer, as defined in NI 71-101, is exempt from the insider reporting requirement if the insider complies with U.S. federal securities law regarding insider reporting and files with the SEC any insider report required to be filed with the SEC. Consequently, insiders of NI 71-101 eligible issuers are also exempt from the requirement to file insider reports on SEDI.~~

PART 4 FILING OF DISCLOSURE DOCUMENTS

4.1 Filing of Disclosure Documents on SEDAR

A foreign issuer does not have to file multiple copies of a foreign disclosure document that it is filing to satisfy the conditions of more than one exemption under the Instrument. The issuer need only file the document in one SEDAR category, and under any other applicable SEDAR category may provide an appropriate reference to the location of the filed document. For example, a foreign issuer may wish to file its U.S. Form 20F to satisfy the conditions relating to both the AIF exemption and the MD&A exemption. The foreign issuer could file the Form 20 on SEDAR under either of

the AIF category or the MD&A category, and under the other category would file a letter giving the SEDAR project number that the Form 20F is filed under.

PART 5 ELECTRONIC DELIVERY OF DOCUMENTS

5.1 Electronic Delivery of Documents

Any documents required to be sent under the Instrument may be sent by electronic delivery, as long as such delivery is made in compliance with Québec Staff Notice, *The Delivery of Documents by Electronic Means*, in Québec, and National Policy 11-201 *Delivery of Documents by Electronic Means*, in the rest of Canada.

PART 6 EXEMPTIONS NOT INCLUDED

6.1 Resource Issuers - Standards of Disclosure for Mineral Projects and Oil and Gas Activities

The Instrument does not provide an exemption from National Instrument 43-101 *Standards of Disclosure for Mineral Projects* or National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities*. Issuers are reminded that those National Instruments apply to SEC foreign issuers and designated foreign issuers.

6.2 SEC Foreign Issuers

NI 51-102 contains exemptions for SEC issuers from the change in year-end requirements in NI 51-102. SEC foreign issuers under the Instrument will also meet the definition of SEC issuers under NI 51-102, and so will be able to rely on the change in year-end exemption in NI 51-102.

6.3 Foreign Reporting Issuers

The Instrument does not provide an exemption for any foreign reporting issuers from the requirement in section 4.9 of NI 51-102. A foreign reporting issuer must deliver a notice if it has been a party to an amalgamation, arrangement, merger, winding-up, reverse takeover, reorganization or other transaction that will have the effect of changing its continuous disclosure obligations under NI 51-102. The Instrument also does not provide an exemption for any foreign reporting issuers from the requirement to file disclosure materials under section 11.1 of NI 51-102 or to file a notice of change of status under section 11.2 of NI 51-102.

6.4 Auditor Oversight - Canadian Public Accountability Board, Certification and Audit Committees

Section 4.3 of the Instrument provides relief for an SEC foreign issuer relating to annual financial statements and auditors' reports on annual financial statements. Section 5.4 provides similar relief for a designated foreign issuer. Reporting issuers are subject to section ~~2.32.2~~ of National Instrument 52-108 *Auditor Oversight* ("NI 52-108") but may rely on the exemptions in sections 4.3 and 5.4 of the Instrument for relief from these obligations.

Sections 4.3 and 5.4, however, do not provide relief from

- (a) the requirements applicable in jurisdictions other than Alberta, British Columbia and Manitoba in sections 2.1, 2.2 and Part 3 of NI 52-108 imposed directly on a public accounting firm that issues an auditor's report with respect to the financial statements of a reporting issuer;
- (b) the certification requirements in Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*; or
- (c) the audit committee requirements in Multilateral Instrument 52-110 *Audit Committees* or BC Instrument 52-509 *Audit Committees*.

SEC foreign issuers and designated foreign issuers must look to those instruments for any exemptions that may be available to them.

PART 7 EXEMPTIONS

7.1 Exemptions

- (1) The exemptions contained in the Instrument are in addition to any exemptions that may be available to an issuer under any other applicable legislation.

Request for Comments

- (2) Issuers that have been given an exemption, waiver or approval by a regulator or securities regulatory authority before the Instrument and NI 51-102 came into effect, may be entitled to continue to rely on that exemption, waiver or approval. Issuers should refer to section 13.2 of NI 51-102 to determine in what circumstances the prior exemption, waiver or approval is available and what the reporting issuer must do to continue to rely on it.
- (3) If an issuer wishes to seek exemptive relief from NI 51-102 or other requirements of provincial and territorial securities legislation on grounds similar but not identical to those permitted under the Instrument, the issuer should apply for this relief under the exemptive provisions of NI 51-102, or other provincial and territorial securities legislation, as the case may be.

APPENDIX H

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(BLACK-LINED)

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NATIONAL INSTRUMENT 51-102
CONTINUOUS DISCLOSURE OBLIGATIONS

PART 1 DEFINITIONS AND INTERPRETATION**1.1 Definitions and Interpretation**

In this Instrument:

“AIF” means a completed Form 51-102F2 *Annual Information Form* or, in the case of an SEC issuer, a completed Form 51-102F2 or an annual report or transition report under the 1934 Act on Form 10-K, Form 10-KSB or Form 20-F;

“approved rating” means, for a security, a rating at or above one of the following rating categories issued by an approved rating organization for the security or a rating category that replaces a category listed below:

Approved Rating Organization	Long Term Debt	Short Term Debt	Preferred Shares
Dominion Bond Rating Service Limited	BBB	R-2	Pfd-3
Fitch Ratings Ltd.	BBB	F3	BBB
Moody’s Investors Service	Baa	Prime-3	“baaa”
Standard & Poor’s	BBB	A-3	P-3

“approved rating organization” means each of Dominion Bond Rating Service Limited, Fitch Ratings Ltd., Moody’s Investors Service, Standard & Poor’s and any of their successors;

“asset-backed security” means a security that is primarily serviced by the cash flows of a discrete pool of mortgages, receivables or other financial assets, fixed or revolving, that by their terms convert into cash within a finite period and any rights or other assets designed to assure the servicing or the timely distribution of proceeds to securityholders;

“board of directors” means, for a person or company that does not have a board of directors, an individual or group that acts in a capacity similar to a board of directors;

“business acquisition report” means a completed Form 51-102F4 *Business Acquisition Report*;

“class” includes a series of a class;

“common share” means an equity security to which are attached voting rights exercisable in all circumstances, irrespective of the number or percentage of securities owned, that are not less, per security, than the voting rights attached to any other outstanding securities of the reporting issuer;

“date of acquisition” means the date of acquisition required for accounting purposes;

“electronic format” has the same meaning as in National Instrument 13-101 *System for Electronic Document Analysis and Retrieval (SEDAR)*;

“equity investee” means a business that the issuer has invested in and accounted for using the equity method;

“exchange-traded security” means a security that is listed on a recognized exchange or is quoted on a recognized quotation and trade reporting system or is listed on an exchange or quoted on a quotation and trade reporting system that is recognized for the purposes of National Instrument 21-101 *Marketplace Operation* and National Instrument 23-101 *Trading Rules*;

“executive officer” of a reporting issuer means an individual who is

- (a) — a chair of the reporting issuer;
- (b) — a vice chair of the reporting issuer;

- ~~(c) the president of the reporting issuer;~~
- ~~(d) a vice president of the reporting issuer in charge of a principal business unit, division or function including sales, finance or production;~~
- ~~(e) an officer of the reporting issuer or any of its subsidiaries who performed a policy-making function in respect of the reporting issuer; or~~
- ~~(f) any other individual who performed a policy-making function in respect of the reporting issuer;~~

“executive officer” means, for a reporting issuer, an individual who is

- (a) a chair, vice-chair or president;
- (b) a vice-president in charge of a principal business unit, division or function including sales, finance or production;
- (c) an officer of the issuer or any of its subsidiaries who performs a policy-making function in respect of the issuer; or
- (d) performing a policy-making function in respect of the issuer;

“form of proxy” means a document containing the information required under section 9.4 that, on completion and execution by or on behalf of a securityholder, becomes a proxy;

“income from continuing operations” means income or loss, adjusted to exclude discontinued operations, extraordinary items and income taxes;

“information circular” means a completed Form 51-102F5 Information Circular;

“informed person” means

- (a) a director or executive officer of a reporting issuer;
- (b) a director or executive officer of a person or company that is itself an informed person or subsidiary of a reporting issuer;
- (c) any person or company who beneficially owns, directly or indirectly, voting securities of a reporting issuer or who exercises control or direction over voting securities of a reporting issuer or a combination of both carrying more than 10 percent of the voting rights attached to all outstanding voting securities of the reporting issuer other than voting securities held by the person or company as underwriter in the course of a distribution; and
- (d) a reporting issuer that has purchased, redeemed or otherwise acquired any of its securities, for so long as it holds any of its securities;

“inter-dealer bond broker” means a person or company that is approved by the Investment Dealers Association under its By-Law No. 36 *Inter-Dealer Bond Brokerage Systems*, as amended, and is subject to its By-law No. 36 and its Regulation 2100 *Inter-Dealer Bond Brokerage Systems*, as amended;

“interim period” means,

- (a) in the case of a year other than a non-standard year or a transition year, a period commencing on the first day of the financial year and ending nine, six or three months before the end of the financial year; or
- (a.1) in the case of a non-standard year, a period commencing on the first day of the financial year and ending within 22 days of the date that is nine, six or three months before the end of the financial year; or
- (b) in the case of a transition year, a period commencing on the first day of the transition year and ending
 - (i) three, six, nine or twelve months, if applicable, after the end of the old financial year; or
 - (ii) twelve, nine, six or three months, if applicable, before the end of the transition year;

“investment fund” means a mutual fund or a non-redeemable investment fund, and, for greater certainty in British Columbia, includes an EVCC and a VCC as those terms are defined in National Instrument 81-106 Investment Fund Continuous Disclosure;

“issuer’s GAAP” has the same meaning as in National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency*;

“MD&A” means a completed Form 51-102F1 *Management’s Discussion & Analysis* or, in the case of an SEC issuer, a completed Form 51-102F1 or management’s discussion and analysis prepared in accordance with Item 303 of Regulation S-K or item 303 of Regulation S-B under the 1934 Act;

“marketplace” means

- (a) an exchange;
 - (b) a quotation and trade reporting system;
 - (c) a person or company not included in paragraph (a) or (b) that
 - (i) constitutes, maintains or provides a market or facility for bringing together buyers and sellers of securities;
 - (ii) brings together the orders for securities of multiple buyers and sellers; and
 - (iii) uses established, non-discretionary methods under which the orders interact with each other, and the buyers and sellers entering the orders agree to the terms of a trade; or
 - (d) a dealer that executes a trade of an exchange-traded security outside of a marketplace,
- but does not include an inter-dealer bond broker;

“material change” means

- (a) a change in the business, operations or capital of the reporting issuer that would reasonably be expected to have a significant effect on the market price or value of any of the securities of the reporting issuer; or
- (b) a decision to implement a change referred to in paragraph (a) made by the board of directors or other persons acting in a similar capacity or by senior management of the reporting issuer who believe that confirmation of the decision by the board of directors or any other persons acting in a similar capacity is probable;

“mineral project” means any exploration, development or production activity in respect of natural, solid, inorganic or fossilized organic material including base and precious metals, coal and industrial minerals;

“new financial year” means the financial year of a reporting issuer that immediately follows a transition year;

“non-standard year” means a financial year, other than a transition year, that does not have 365 days, or 366 days if it includes February 29;

“non-voting security” means a restricted security that does not carry the right to vote generally, except for a right to vote that is mandated, in special circumstances, by law;

“non-redeemable investment fund” means an issuer,

- (a) whose primary purpose is to invest money provided by its securityholders;
- (b) that does not invest,
 - (i) for the purpose of exercising or seeking to exercise control of an issuer, other than an issuer that is a mutual fund or a non-redeemable investment fund, or
 - (ii) for the purpose of being actively involved in the management of any issuer in which it invests, other than an issuer that is a mutual fund or a non-redeemable investment fund, and

(c) that is not a mutual fund;

“old financial year” means the financial year of a reporting issuer that immediately precedes a transition year;

“preference share” means a security to which is attached a preference or right over the securities of any class of equity securities of the reporting issuer, but does not include an equity security;

“principal obligor” means, for an asset-backed security, a person or company that is obligated to make payments, has guaranteed payments, or has provided alternative credit support for payments, on financial assets that represent one-third or more of the aggregate amount owing on all of the financial assets servicing the asset-backed security;

“proxy” means a completed and executed form of proxy by which a securityholder has appointed a person or company as the securityholder’s nominee to attend and act for the securityholder and on the securityholder’s behalf at a meeting of securityholders;

~~“published market” means, for a class of securities, a marketplace on which the securities have traded that discloses regularly in a publication of general and regular paid circulation or in a form that is broadly distributed by electronic means the prices at which those securities have traded;~~

“recognized exchange” means

(a) in Ontario, an exchange recognized by the securities regulatory authority to carry on business as a stock exchange; and

(b) in every other jurisdiction, an exchange recognized by the securities regulatory authority as an exchange, self-regulatory organization or self-regulatory body or a legal person, a partnership or any other entity authorized by the securities regulatory authority to carry on securities trading in accordance with securities legislation;

“recognized quotation and trade reporting system” means

(a) in every jurisdiction other than British Columbia, a quotation and trade reporting system recognized by the securities regulatory authority under securities legislation to carry on business as a quotation and trade reporting system; and

(b) in British Columbia, a quotation and trade reporting system recognized by the securities regulatory authority under securities legislation as a quotation and trade reporting system or as an exchange;

“restricted security” means an equity security of a reporting issuer, if any of the following apply:

(a) there is another class of securities of the reporting issuer that, to a reasonable person, appears to carry a greater vote per security relative to the equity security;

(b) the conditions of the class of equity securities, the conditions of another class of securities of the reporting issuer, or the reporting issuer’s constating documents have provisions that nullify or, to a reasonable person, appear to significantly restrict the voting rights of the equity securities; or

(c) the reporting issuer has issued a second class of equity securities that, to a reasonable person, appears to entitle the owners of securities of that second class to participate in the earnings or assets of the reporting issuer to a greater extent, on a per security basis, than the owners of the first class of equity securities;

“restricted security term” means each of the terms “non-voting security”, “subordinate voting security” and “restricted voting security”;

“restricted voting security” means a restricted security that carries a right to vote subject to a restriction on the number or percentage of securities that may be voted by one or more persons or companies, unless the restriction is

(a) permitted or prescribed by statute; and

(b) is applicable only to persons or companies that are not citizens or residents of Canada or that are otherwise considered as a result of any law applicable to the reporting issuer to be non-Canadians;

“restructuring transaction” means

(a) a reverse takeover;

(b) an amalgamation, merger, arrangement or reorganization;

(c) a transaction or series of transactions involving a reporting issuer acquiring assets and issuing securities that results in

(i) new securityholders owning or controlling a sufficient number of the reporting issuer’s securities to elect a majority of the directors of the reporting issuer; and

(ii) a new person or company, a new combination of persons or companies acting together, the vendors of the assets, or new management

(A) being able to materially affect the control of the reporting issuer; or

(B) holding more than 20% of the outstanding voting securities of the reporting issuer, unless there is evidence showing that the holding of those securities does not materially affect the control of the reporting issuer; and

(d) any other transaction similar to the transactions listed in paragraphs (a) to (c).

but does not include a subdivision, consolidation, or other transaction that does not alter a securityholder’s proportionate interest in the issuer;

“reverse takeover” means a transaction by which an enterprise obtains ownership of the securities of another enterprise but, as part of the transaction, issues enough voting securities as consideration that control of the combined enterprise passes to the securityholders of the acquired enterprise;

“reverse takeover acquiree” means the legal parent, as that term is used in the Handbook, in a reverse takeover;

“reverse takeover acquirer” means the legal subsidiary, as that term is used in the Handbook, whose securityholders control the combined enterprise as a result of a reverse takeover;

“SEC issuer” means a ~~reporting an~~ issuer that

(a) has a class of securities registered under section 12 of the 1934 Act or is required to file reports under section 15(d) of the 1934 Act; and

(b) is not registered or required to be registered as an investment company under the *Investment Company Act of 1940* of the United States of America, as amended;

“solicit”, in connection with a proxy, includes

(a) requesting a proxy whether or not the request is accompanied by or included in a form of proxy;

(b) requesting a securityholder to execute or not to execute a form of proxy or to revoke a proxy;

(c) sending a form of proxy or other communication to a securityholder under circumstances that to a reasonable person will likely result in the giving, withholding or revocation of a proxy; or

(d) sending a form of proxy to a securityholder by management of a reporting issuer;

but does not include

(e) sending a form of proxy to a securityholder in response to a unsolicited request made by or on behalf of the securityholder; or

(f) performing ministerial acts or professional services on behalf of a person or company soliciting a proxy;

“subordinate voting security” means a restricted security that carries a right to vote, if there are securities of another class outstanding that carry a greater right to vote on a per security basis;

“transition year” means the financial year of a reporting issuer in which the issuer changes its financial year-end;

“U.S. GAAP” means generally accepted accounting principles in the United States of America that the SEC has identified as having substantial authoritative support and as supplemented by Regulation S-X and Regulation S-B under the 1934 Act;

“U.S. laws” means the 1933 Act, the 1934 Act, all enactments made under those Acts and all SEC releases adopting the enactments, as amended;

“U.S. marketplace” means an exchange registered as a “national securities exchange” under section 6 of the 1934 Act, or the Nasdaq Stock Market; and

“venture issuer” means a reporting issuer that, as at the applicable time, did not have any of its securities listed or quoted on any of the Toronto Stock Exchange, a U.S. marketplace, or a marketplace outside of Canada and the United States of America other than the Alternative Investment Market of the London Stock Exchange; where the “applicable time” in respect of

- (a) Parts 4 and 5 of this Instrument and Form 51-102F1, is the end of the applicable financial period;
- (b) Parts 6 and 9 of this Instrument and Form 51-102F6, is the end of the most recently completed financial year;
- (c) Part 8 of this Instrument and Form 51-102F4, is the date of acquisition; and
- (d) section 11.3 of this Instrument, is the date of the meeting of the securityholders.

PART 2 APPLICATION

2.1 Application

This Instrument does not apply to an investment fund.

PART 3 LANGUAGE OF DOCUMENTS

3.1 French or English

- (1) A person or company must file a document required to be filed under this Instrument in French or in English.
- (2) Despite subsection (1), if a person or company files a document only in French or only in English but delivers to securityholders a version of the document in the other language, the person or company must file that other version not later than when it is first delivered to securityholders.
- (3) In Québec, a reporting issuer must comply with linguistic obligations and rights prescribed by Québec law.

3.2 Filings Translated into French or English

If a person or company files a document under this Instrument that is a translation of a document prepared in a language other than French or English, the person or company must

- (a) attach a certificate as to the accuracy of the translation to the filed document; and
- (b) make a copy of the document in the original language available to a registered holder or beneficial owner of its securities, on request.

PART 4 FINANCIAL STATEMENTS

4.1 ~~Comparative Annual Financial Statements and Auditor’s Report~~ Comparative Annual Financial Statements and Audit

- (1) Subject to subsection 4.8(6), a reporting issuer must file annual financial statements that include
 - (a) an income statement, a statement of retained earnings, and a cash flow statement for
 - (i) the most recently completed financial year; and

- (ii) the financial year immediately preceding the most recently completed financial year, if any;
 - (b) a balance sheet as at the end of each of the periods referred to in paragraph (a); and
 - (c) notes to the financial statements.
- (2) Annual financial statements filed under subsection (1) must be ~~accompanied by an auditor's report~~ audited.

4.2 Filing Deadline for Annual Financial Statements

The audited annual financial statements and auditor's report required to be filed under section 4.1 must be filed

- (a) in the case of a reporting issuer other than a venture issuer, on or before the earlier of
 - (i) the 90th day after the end of its most recently completed financial year; and
 - (ii) the date of filing, in a foreign jurisdiction, annual financial statements for its most recently completed financial year; or
- (b) in the case of a venture issuer, on or before the earlier of
 - (i) the 120th day after the end of its most recently completed financial year; and
 - (ii) the date of filing, in a foreign jurisdiction, annual financial statements for its most recently completed financial year.

4.3 Interim Financial Statements

- ~~(1) A reporting issuer must file,~~
- ~~(a) if it has not completed its first financial year, interim financial statements for the interim periods of the reporting issuer's current financial year other than a period that is less than three months in length; or~~
 - ~~(b) if it has completed its first financial year, interim financial statements for the interim periods of the reporting issuer's current financial year.~~

(1) A reporting issuer must file interim financial statements for the interim periods of its current financial year.

- (2) Subject to subsections 4.7(4), 4.8(7), ~~and 4.8(8), and 4.10(3)~~, the interim financial statements required to be filed under subsection (1) must include
- (a) a balance sheet as at the end of the interim period and a balance sheet as at the end of the immediately preceding financial year, if any;
 - (b) an income statement, a statement of retained earnings and a cash flow statement, all for the year-to-date interim period, and comparative financial information for the corresponding interim period in the immediately preceding financial year, if any;
 - (c) for interim periods other than the first interim period in a reporting issuer's financial year, an income statement and cash flow statement for the three month period ending on the last day of the interim period and comparative financial information for the corresponding period in the preceding financial year, if any; and
 - (d) notes to the financial statements.

(3) Disclosure of Auditor Review of Interim Financial Statements

- (a) If an auditor has not performed a review of the interim financial statements required to be filed under subsection (1), the interim financial statements must be accompanied by a notice indicating that the financial statements have not been reviewed by an auditor.
- (b) If a reporting issuer engaged an auditor to perform a review of the interim financial statements required to be filed under subsection (1) and the auditor was unable to complete the review, the interim financial statements

must be accompanied by a notice indicating that the auditor was unable to complete a review of the interim financial statements and the reasons why the auditor was unable to complete the review.

- (c) If an auditor has performed a review of the interim financial statements required to be filed under subsection (1) and the auditor has expressed a reservation in the auditor's interim review report, the interim financial statements must be accompanied by a written review report from the auditor.

(4) **SEC Issuer - Restatement of Interim Financial Statements**

If an SEC issuer that is a reporting issuer

- (a) has filed interim financial statements prepared in accordance with Canadian GAAP for one or more interim periods since its most recently completed financial year for which financial statements have been filed; and
- (b) prepares its annual or interim financial statements for the period immediately following the periods referred to in paragraph (a) in accordance with U.S. GAAP,

the SEC issuer must

- (c) restate the interim financial statements for the periods referred to in paragraph (a) in accordance with U.S. GAAP and comply with the reconciliation requirements set out in Part 4 of National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency*; and
- (d) file the restated financial statements referred to in paragraph (c) by the filing deadline for the financial statements referred to in paragraph (b).

4.4 Filing Deadline for Interim Financial Statements

The interim financial statements required to be filed under subsection 4.3(1) must be filed

- (a) in the case of a reporting issuer other than a venture issuer, on or before the earlier of
 - (i) the 45th day after the end of the interim period; and
 - (ii) the date of filing, in a foreign jurisdiction, interim financial statements for a period ending on the last day of the interim period; or
- (b) in the case of a venture issuer, on or before the earlier of
 - (i) the 60th day after the end of the interim period; and
 - (ii) the date of filing, in a foreign jurisdiction, interim financial statements for a period ending on the last day of the interim period.

4.5 Approval of Financial Statements

- (1) The financial statements a reporting issuer is required to file under section 4.1 must be approved by the board of directors before the statements are filed.
- (2) The financial statements a reporting issuer is required to file under section 4.3 must be approved by the board of directors before the statements are filed.
- (3) In fulfilling the requirement in subsection (2), the board of directors may delegate the approval of the financial statements to the audit committee of the board of directors.

4.6 Delivery of Financial Statements

- ~~(1) Subject to subsection (2), a reporting issuer must send annually a request form to the registered holders and beneficial owners of its securities, other than debt instruments, that the registered holders and beneficial owners may use to request a copy of the reporting issuer's annual financial statements and MD&A for the annual financial statements, the interim financial statements and MD&A for the interim financial statements, or both.~~

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- ~~(2) For the purposes of subsection (1), the reporting issuer must, applying the procedures set out in National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer*, send the request form to the beneficial owners of its securities who are identified under that Instrument as having chosen to receive all securityholder materials sent to beneficial owners of securities.~~
- ~~(3) If a registered holder or beneficial owner requests the reporting issuer's annual or interim financial statements, the reporting issuer must send a copy of the requested financial statements to the person or company that made the request, without charge, by the later of~~
- ~~(a) the filing deadline for the financial statements requested; and~~
- ~~(b) 10 calendar days after the issuer receives the request.~~
- ~~(4) A reporting issuer is not required to send copies of annual or interim financial statements under subsection (3) that were filed more than two years before the issuer receives the request.~~
- ~~(5) Subsection (1) and the requirement to send annual financial statements under subsection (3) do not apply to a reporting issuer that sends its annual financial statements to all its securityholders, other than holders of debt instruments.~~
- ~~(6) If a reporting issuer sends financial statements under this section, the reporting issuer must also send, at the same time, the annual or interim MD&A relating to the financial statements.~~
- (1) If a registered holder or beneficial owner of securities of a reporting issuer requests the issuer's annual or interim financial statements, the reporting issuer must send a copy of the requested financial statements to the person or company that made the request, without charge, by the later of
- (a) in the case of a reporting issuer other than a venture issuer, 10 calendar days after the filing deadline in subparagraph 4.2(a)(i) or 4.4(a)(i), section 4.7, or subsection 4.10(2), as applicable, for the financial statements requested;
- (b) in the case of a venture issuer, 10 calendar days after the filing deadline in paragraph 4.2(b)(i) or 4.4(b)(i), section 4.7, or subsection 4.10(2), as applicable, for the financial statements requested; and
- (c) 10 calendar days after the issuer receives the request.
- (2) A reporting issuer is not required to send copies of annual or interim financial statements under subsection (1) that were filed more than two years before the issuer receives the request.
- (3) The requirement to send annual financial statements under subsection (1) does not apply to a reporting issuer that sends its annual financial statements to its securityholders, other than holders of debt instruments, within the time set out in paragraph (1)(a) or (1)(b), as applicable, and in accordance with National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer*.
- (4) If a reporting issuer sends financial statements under this section, the reporting issuer must also send, at the same time, the annual or interim MD&A relating to the financial statements.

4.7 Filing of Financial Statements After Becoming a Reporting Issuer

- (1) Despite any provisions of this Part other than subsections (2), (3) and (4) of this section, the first annual and interim financial statements that a reporting issuer must file under sections 4.1 and 4.3 are the financial statements for the financial year and interim periods immediately following the periods for which financial statements of the issuer were included in a document filed
- (a) that resulted in the issuer becoming a reporting issuer; or
- (b) in respect of a transaction that resulted in the issuer becoming a reporting issuer.
- (2) If, under subsection (1), a reporting issuer is required to file annual financial statements for a financial year that ended before the issuer became a reporting issuer, those financial statements must be filed on or before the later of
- (a) the 20th day after the issuer became a reporting issuer; and

- (b) the filing deadline in section 4.2.
- (3) If, under subsection (1), a reporting issuer is required to file interim financial statements for an interim period that ended before the issuer became a reporting issuer, those financial statements must be filed on or before the later of
 - (a) the 10th day after the issuer became a reporting issuer; and
 - (b) the filing deadline in section 4.4.
- (4) A reporting issuer is not required to provide comparative interim financial information for periods that ended before the issuer became a reporting issuer if
 - (a) to a reasonable person it is impracticable to present prior-period information on a basis consistent with subsection 4.3(2);
 - (b) the prior-period information that is available is presented; and
 - (c) the notes to the interim financial statements disclose the fact that the prior-period information has not been prepared on a basis consistent with the most recent interim financial information.

4.8 Change in Year-End

- (1) **Exemption from Change in Year-End Requirements** – ~~This section does not apply to an~~ An SEC issuer satisfies this section if
 - (a) it complies with the requirements of U.S. laws relating to a change of fiscal year; and
 - (b) it files a copy of all materials required by U.S. laws relating to a change of fiscal year at the same time as, or as soon as practicable after, they are filed with or furnished to the SEC and, in the case of financial statements, no later than the filing deadlines prescribed under sections 4.2 and 4.4.
- (2) **Notice of Change** – If a reporting issuer decides to change its financial year-end by more than 14 days, it must file a notice containing the information set out in subsection (3) as soon as practicable, and, in any event, not later than the earlier of
 - (a) the filing deadline, based on the reporting issuer's old financial year-end, for the next financial statements required to be filed, either annual or interim, whichever comes first; and
 - (b) the filing deadline, based on the reporting issuer's new financial year-end, for the next financial statements required to be filed, either annual or interim, whichever comes first.
- (3) The notice referred to in subsection (2) must state
 - (a) that the reporting issuer has decided to change its year-end;
 - (b) the reason for the change;
 - (c) the reporting issuer's old financial year-end;
 - (d) the reporting issuer's new financial year-end;
 - (e) the length and ending date of the periods, including the comparative periods, of the interim and annual financial statements to be filed for the reporting issuer's transition year and its new financial year; and
 - (f) the filing deadlines, prescribed under sections 4.2 and 4.4, for the interim and annual financial statements for the reporting issuer's transition year.
- (4) **Maximum Length of Transition Year** – For the purposes of this section,
 - (a) a transition year must not exceed 15 months; and
 - (b) the first interim period after an old financial year must not exceed four months.

- (5) **Interim Period Ends Within One Month of Year-End** – Despite ~~paragraph~~subsection 4.3(1)(b), a reporting issuer is not required to file interim financial statements for any period in its transition year that ends ~~with~~not more than one month
- (a) after the last day of its old financial year; or
 - (b) before the first day of its new financial year.
- (6) **Comparative Financial Information in Annual Financial Statements for New Financial Year** – If a transition year is less than nine months in length, the reporting issuer must include as comparative financial information to its financial statements for its new financial year
- (a) a balance sheet and income statement, a statement of retained earnings and a cash flow statement for its transition year; and
 - (b) a balance sheet and income statement, a statement of retained earnings and a cash flow statement for its old financial year.
- (7) **Comparative Financial Information in Interim Financial Statements if Interim Periods Not Changed in Transition Year** – If interim periods for the reporting issuer's transition year end three, six, nine or twelve months after the end of its old financial year, the reporting issuer must include
- (a) as comparative financial information in its interim financial statements during its transition year, the comparative financial information required by subsection 4.3(2), except if an interim period during the transition year is 12 months in length and the reporting issuer's transition year is longer than 13 months, the comparative financial information must be the balance sheet and income statement, statement of retained earnings and cash flow statement for the 12 month period that constitutes its old financial year; and
 - (b) as comparative financial information in its interim financial statements during its new financial year
 - (i) a balance sheet as at the end of its transition year; and
 - (ii) the income statement, statement of retained earnings and cash flow statement for the periods in its transition year or old financial year, for the same calendar months as, or as close as possible to, the calendar months in the interim period in the new financial year.
- (8) **Comparative Financial Information in Interim Financial Statements if Interim Periods Changed in Transition Year** – If interim periods for a reporting issuer's transition year end twelve, nine, six or three months before the end of the transition year, the reporting issuer must include
- (a) as comparative financial information in its interim financial statements during its transition year
 - (i) a balance sheet as at the end of its old financial year; and
 - (ii) the income statement, statement of retained earnings and cash flow statement for periods in its old financial year, for the same calendar months as, or as close as possible to, the calendar months in the interim period in the transition year; and
 - (b) as comparative financial information in its interim financial statements during its new financial year
 - (i) a balance sheet as at the end of its transition year; and
 - (ii) the income statement, statement of retained earnings and cash flow statement in its transition year or old financial year, or both, as appropriate, for the same calendar months as, or as close as possible to, the calendar months in the interim period in the new financial year.

4.9 Change in Corporate Structure

~~_____ If a reporting issuer is party to an amalgamation, arrangement, merger, winding up, reverse takeover, reorganization or other transaction that will result in~~

- ~~(a) _____ the reporting issuer ceasing to be a reporting issuer;~~

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- (b) — another entity becoming a reporting issuer;
- (c) — a change in the reporting issuer's financial year end; or
- (d) — a change in the name of the reporting issuer;

~~the issuer must, as soon as practicable, and in any event not later than the deadline for the first filing required under this Instrument following the transaction, file a notice stating~~

- ~~(e) — the names of the parties to the transaction;~~
- ~~(f) — a description of the transaction;~~
- ~~(g) — the effective date of the transaction;~~
- ~~(h) — the names of each party, if any, that ceased to be a reporting issuer subsequent to the transaction and of each continuing entity;~~
- ~~(i) — the date of the reporting issuer's first financial year end subsequent to the transaction; and~~
- ~~(j) — the periods, including the comparative periods, if any, of the interim and annual financial statements required to be filed for the reporting issuer's first financial year subsequent to the transaction.~~

If an issuer is party to a restructuring transaction or other transaction that resulted in,

- (a) — the issuer becoming a reporting issuer; or
- (b) — if the issuer was already a reporting issuer, in
 - (i) — the issuer ceasing to be a reporting issuer,
 - (ii) — a change in the reporting issuer's financial year end, or
 - (iii) — a change in the name of the reporting issuer;

the issuer must, as soon as practicable, and in any event not later than the deadline for the first filing required under this Instrument following the transaction, file a notice stating

- (c) — the names of the parties to the transaction;
- (d) — a description of the transaction;
- (e) — the effective date of the transaction;
- (f) — the names of each party, if any, that ceased to be a reporting issuer subsequent to the transaction and of each continuing entity;
- (g) — the date of the reporting issuer's first financial year-end subsequent to the transaction; and
- (h) — the periods, including the comparative periods, if any, of the interim and annual financial statements required to be filed for the reporting issuer's first financial year subsequent to the transaction.

4.10 Reverse Takeovers

- (1) **Change in Year End** - If a reporting issuer must comply with section 4.9 because it was a party to a reverse takeover, the reporting issuer must comply with section 4.8 unless
 - (a) the reporting issuer had the same year-end as the reverse takeover acquirer before the transaction; or
 - (b) the reporting issuer changes its year-end to be the same as that of the reverse takeover acquirer.
- (2) **Financial Statements of the Reverse Takeover Acquirer for Periods Ending Before a Reverse Takeover** - If a reporting issuer completes a reverse takeover, it must

- (a) file financial statements for the reverse takeover acquirer for all annual and interim periods ending
 - (i) after the date of the financial statements included in an information circular ~~filed~~ or similar document prepared in connection with the transaction; and
 - (ii) before the date of the reverse takeover,

unless the financial statements have already been filed;

- (b) file the annual financial statements required by paragraph (a) on or before the later of
 - (i) the 20th day after the date of the reverse takeover;
 - (ii) the 90th date after the end of the financial year; and
 - (iii) the 120th day after the end of the financial year if the reporting issuer is a venture issuer; and
- (c) file the interim financial statements required by paragraph (a) on or before the later of
 - (i) the 10th day after the date of the reverse takeover;
 - (ii) the 45th day after the end of the interim period; and
 - (iii) the 60th day after the end of the interim period if the reporting issuer is a venture issuer.

(3) **Comparative Financial Information in Interim Financial Statements after a Reverse Takeover** – A reporting issuer is not required to provide comparative interim financial information for the reverse takeover acquirer for periods that ended before the date of a reverse takeover if

- (a) to a reasonable person it is impracticable to present prior-period information on a basis consistent with subsection 4.3(2);
- (b) the prior-period information that is available is presented; and
- (c) the notes to the interim financial statements disclose the fact that the prior-period information has not been prepared on a basis consistent with the most recent interim financial information.

4.11 Change of Auditor

(1) **Definitions** - In this section

“appointment” means, in relation to a reporting issuer, the earlier of

- (a) the appointment as its auditor of a different person or company than its former auditor; and
- (b) the decision by the board of directors of the reporting issuer to propose to holders of qualified securities to appoint as its auditor a different person or company than its former auditor;

“consultation” means advice provided by a successor auditor, whether or not in writing, to a reporting issuer during the relevant period, which the successor auditor concluded was an important factor considered by the reporting issuer in reaching a decision concerning

- (a) the application of accounting principles or policies to a transaction, whether or not the transaction is completed;
- (b) a report provided by an auditor on the reporting issuer’s financial statements;
- (c) scope or procedure of an audit or review engagement; or
- (d) financial statement disclosure;

“disagreement” means a difference of opinion between personnel of a reporting issuer responsible for finalizing the reporting issuer’s financial statements and the personnel of a former auditor responsible for authorizing the issuance of

audit reports on the reporting issuer's financial statements or authorizing the communication of the results of the auditor's review of the reporting issuer's interim financial statements, if the difference of opinion

- (a) resulted in a reservation in the former auditor's audit report on the reporting issuer's financial statements for any period during the relevant period;
- (b) would have resulted in a reservation in the former auditor's audit report on the reporting issuer's financial statements for any period during the relevant period if the difference of opinion had not been resolved to the former auditor's satisfaction, not including a difference of opinion based on incomplete or preliminary information that was resolved to the satisfaction of the former auditor upon the receipt of further information;
- (c) resulted in a qualified or adverse communication or denial of assurance in respect of the former auditor's review of the reporting issuer's interim financial statements for any interim period during the relevant period; or
- (d) would have resulted in a qualified or adverse communication or denial of assurance in respect of the former auditor's review of the reporting issuer's interim financial statements for any interim period during the relevant period if the difference of opinion had not been resolved to the former auditor's satisfaction, not including a difference of opinion based on incomplete or preliminary information that was resolved to the satisfaction of the former auditor upon the receipt of further information;

"former auditor" means the auditor of a reporting issuer that is the subject of the most recent termination or resignation;

"qualified securities" means securities of a reporting issuer that carry the right to participate in voting on the appointment or removal of the reporting issuer's auditor;

"relevant information circular" means

- (a) if a reporting issuer's constating documents or applicable law require holders of qualified securities to take action to remove the reporting issuer's auditor or to appoint a successor auditor
 - (i) the information circular required to accompany or form part of every notice of meeting at which that action is proposed to be taken; or
 - (ii) the disclosure document accompanying the text of the written resolution provided to holders of qualified securities; or
- (b) if paragraph (a) does not apply, the information circular required to accompany or form part of the first notice of meeting to be sent to holders of qualified securities following the preparation of a reporting package concerning a termination or resignation;

~~"relevant period" means the period commencing at the beginning of the reporting issuer's two most recently completed financial years and ending on the date of termination or resignation;~~

"relevant period" means the period

- (a) commencing at the beginning of the reporting issuer's two most recently completed financial years and ending on the date of termination or resignation; or
- (b) during which the former auditor was the reporting issuer's auditor, if the former auditor was not the reporting issuer's auditor throughout the period described in paragraph (a);

"reportable event" means a disagreement, a consultation, or an unresolved issue;

"reporting package" means

- (a) the documents referred to in subparagraphs (5)(a)(i) and (6)(a)(i);
- (b) the letter referred to in clause (5)(a)(ii)(B), if received by the reporting issuer, unless an updated letter referred to in clause (6)(a)(iii)(B) has been received by the reporting issuer;
- (c) the letter referred to in clause (6)(a)(ii)(B), if received by the reporting issuer; and
- (d) any updated letter referred to in clause (6)(a)(iii)(B) received by the reporting issuer;

“resignation” means notification from an auditor to a reporting issuer of the auditor’s decision to resign or decline to stand for reappointment;

“successor auditor” means the person or company

- (a) appointed;
- (b) that the board of directors have proposed to holders of qualified securities be appointed; or
- (c) that the board of directors have decided to propose to holders of qualified securities be appointed,

as the reporting issuer’s auditor after the termination or resignation of the reporting issuer’s former auditor;

“termination” means, in relation to a reporting issuer, the earlier of

- (a) the removal of its auditor before the expiry of the auditor’s term of appointment, the expiry of its auditor’s term of appointment without reappointment, or the appointment of a different person or company as its auditor upon expiry of its auditor’s term of appointment; and
- (b) the decision by the board of directors of the reporting issuer to propose to holders of its qualified securities that its auditor be removed before, or that a different person or company be appointed as its auditor upon, the expiry of its auditor’s term of appointment;

“unresolved issue” means any matter that, in the former auditor’s opinion, has, or could have, a material impact on the financial statements, or reports provided by the auditor relating to the financial statements, for any financial period during the relevant period, and about which the former auditor has advised the reporting issuer if

- (a) the former auditor was unable to reach a conclusion as to the matter’s implications before the date of termination or resignation;
- (b) the matter was not resolved to the former auditor’s satisfaction before the date of termination or resignation; or
- (c) the former auditor is no longer willing to be associated with any of the financial statements;

(2) **Meaning of “Material”** - For the purposes of this section, the term “material” has a meaning consistent with the discussion of the term “materiality” in the Handbook.

(3) **Exemption from Change of Auditor Requirements** - This section does not apply if

(a) the following three conditions are met:

- (i) ~~(i)~~ a termination, or resignation, and appointment occur in connection with an amalgamation, arrangement, takeover or similar transaction involving the reporting issuer or a reorganization of the reporting issuer;
- (ii) the termination, or resignation, and appointment have been disclosed in a news release that has been filed or in a disclosure document that has been delivered to holders of qualified securities and filed; and
- (iii) no reportable event has occurred;

(b) the change of auditor is required by the legislation under which the reporting issuer exists or carries on its activities; or

(c) the change of auditor arises from an amalgamation, merger or other reorganization of the auditor.

(4) **Exemption From Change of Auditor Requirements – SEC Issuers** - ~~This section does not apply to an~~ An SEC issuer satisfies this section if it

- (a) complies with the requirements of U.S. laws relating to a change of auditor;
- (b) files a copy of all materials required by U.S. laws relating to a change of auditor at the same time as, or as soon as practicable after, they are filed with or furnished to the SEC;

- (c) issues and files a news release describing the information disclosed in the materials referred to in paragraph (b), if there are any reportable events; and
 - (d) includes the materials referred to in paragraph (b) with each relevant information circular.
- (5) **Requirements Upon Auditor Termination or Resignation** - Upon a termination or resignation of its auditor, a reporting issuer must
- (a) within 10 days after the date of termination or resignation
 - (i) prepare a change of auditor notice in accordance with subsection (7) and deliver a copy of it to the former auditor; and
 - (ii) request the former auditor to
 - (A) review the reporting issuer's change of auditor notice;
 - (B) prepare a letter, addressed to the applicable regulator or securities regulatory authority, stating, for each statement in the change of auditor notice, whether the auditor
 - (I) agrees,
 - (II) disagrees, and the reasons why, or
 - (III) has no basis to agree or disagree; and
 - (C) deliver the letter to the reporting issuer within 20 days after the date of termination or resignation;
 - (b) within 30 days after the date of termination or resignation
 - (i) have the audit committee of its board of directors or its board of directors review the letter referred to in clause (5)(a)(ii)(B) if received by the reporting issuer, and approve the change of auditor notice;
 - (ii) file a copy of the reporting package with the regulator or securities regulatory authority;
 - (iii) deliver a copy of the reporting package to the former auditor;
 - (iv) if there are any reportable events, issue and file a news release describing the information in the reporting package; and
 - (c) include with each relevant information circular
 - (i) a copy of the reporting package as an appendix; and
 - (ii) a summary of the contents of the reporting package with a cross-reference to the appendix.
- (6) **Requirements upon Auditor Appointment** - Upon an appointment of a successor auditor, a reporting issuer must
- (a) within 10 days after the date of appointment
 - (i) prepare a change of auditor notice in accordance with subsection (7) and deliver it to the successor auditor and to the former auditor;
 - (ii) request the successor auditor to
 - (A) review the reporting issuer's change of auditor notice;
 - (B) prepare a letter addressed to the applicable regulator or securities regulatory authority, stating, for each statement in the change of auditor notice, whether the auditor
 - (I) agrees,

- (II) disagrees, and the reasons why, or
 - (III) has no basis to agree or disagree; and
 - (C) deliver that letter to the reporting issuer within 20 days after the date of appointment; and
 - (iii) request the former auditor to, within 20 days after the date of appointment,
 - (A) confirm that the letter referred to in clause (5)(a)(ii)(B) does not have to be updated; or
 - (B) prepare and deliver to the reporting issuer an updated letter to replace the letter referred to in clause (5)(a)(ii)(B);
 - (b) within 30 days after the date of appointment,
 - (i) have the audit committee of its board of directors or its board of directors review the letters referred to in clauses (6)(a)(ii)(B) and (6)(a)(iii)(B) if received by the reporting issuer, and approve the change of auditor notice;
 - (ii) file a copy of the reporting package with the regulator or securities regulatory authority;
 - (iii) deliver a copy of the reporting package to the successor auditor and to the former auditor; and
 - (iv) if there are any reportable events, issue and file a news release disclosing the appointment of the successor auditor and either describing the information in the reporting package or referring to the news release required under subparagraph (5)(b)(iv).
- (7) **Change of Auditor Notice Content** - A change of auditor notice must state
- (a) the date of termination or resignation;
 - (b) whether the former auditor
 - (i) resigned on the former auditor's own initiative or at the reporting issuer's request;
 - (ii) was removed or is proposed to holders of qualified securities to be removed during the former auditor's term of appointment; or
 - (iii) was not reappointed or has not been proposed for reappointment;
 - (c) whether the termination or resignation of the former auditor and any appointment of the successor auditor were considered or approved by the audit committee of the reporting issuer's board of directors or the reporting issuer's board of directors;
 - (d) whether the former auditor's report on any of the reporting issuer's financial statements relating to the relevant period contained any reservation and, if so, a description of each reservation;
 - (e) if there is a reportable event, the following information:
 - (i) for a disagreement,
 - (A) a description of the disagreement;
 - (B) whether the audit committee of the reporting issuer's board of directors or the reporting issuer's board of directors discussed the disagreement with the former auditor; and
 - (C) whether the reporting issuer authorized the former auditor to respond fully to inquiries by any successor auditor concerning the disagreement and, if not, a description of and reasons for any limitation;
 - (ii) for a consultation,
 - (A) a description of the issue that was the subject of the consultation;

- (B) a summary of the successor auditor's oral advice, if any, provided to the reporting issuer concerning the issue;
 - (C) a copy of the successor auditor's written advice, if any, received by the reporting issuer concerning the issue; and
 - (D) whether the reporting issuer consulted with the former auditor concerning the issue and, if so, a summary of the former auditor's advice concerning the issue; and
- (iii) for an unresolved issue,
- (A) a description of the issue;
 - (B) whether the audit committee of the reporting issuer's board of directors or the reporting issuer's board of directors discussed the issue with the former auditor; and
 - (C) whether the reporting issuer authorized the former auditor to respond fully to inquiries by any successor auditor concerning the issue and, if not, a description of and reasons for any limitation; and
- (f) if there are no reportable events, a statement to that effect.
- (8) **Auditor's Obligations to Report Non-Compliance** - Except in British Columbia, Alberta and Manitoba, if the successor auditor becomes aware that the change of auditor notice required by this section has not been prepared and filed by the reporting issuer, the auditor must, within 7 days, advise the reporting issuer in writing and deliver a copy of the letter to the applicable regulator or securities regulatory authority.

PART 5 MANAGEMENT'S DISCUSSION & ANALYSIS

5.1 Filing of MD&A

- (1) A reporting issuer must file MD&A relating to its annual and interim financial statements required under Part 4.
- ~~(1.1) Despite subsection (1), a reporting issuer does not have to file MD&A relating to the annual and interim financial statements required under sections 4.7 and 4.10 for financial years and interim periods that ended before the issuer became a reporting issuer.~~
- (2) Subject to section 5.2, the MD&A required to be filed under subsection (1) must be filed by the earlier of
- (a) the filing deadlines for the annual and interim financial statements set out in sections ~~4.2, 4.44.2~~ and ~~4.7, 4.4~~, as applicable; and
 - (b) the date the reporting issuer files the financial statements under subsections 4.1(1), ~~4.3(1)~~ or ~~4.74.3(1)~~, as applicable.

5.2 Filing of MD&A and Supplement for SEC Issuers

- ~~(1) If an SEC issuer is filing its annual or interim MD&A prepared in accordance with Item 303 of Regulation S-K or Item 303 of Regulation S-B under the 1934 Act, then the SEC issuer must file~~
- ~~(a) that document on or before the earlier of~~
 - ~~(i) the date the SEC issuer would be required to file that document under section 5.1; and~~
 - ~~(ii) the date the SEC issuer files that document with the SEC; and~~
 - ~~(b) at the same time, a supplement prepared in accordance with subsection (2) if the SEC issuer~~
 - ~~(i) has based the discussion in the MD&A on financial statements prepared in accordance with U.S. GAAP; and~~
 - ~~(ii) is required by subsection 4.1(1) of National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency* to provide a reconciliation to Canadian GAAP.~~

Request for Comments

- (1) If an SEC issuer that is a reporting issuer is filing its annual or interim MD&A prepared in accordance with Item 303 of Regulation S-K or Item 303 of Regulation S-B under the 1934 Act, then the SEC issuer must file that document on or before the earlier of
- (a) the date the SEC issuer would be required to file that document under section 5.1; and
 - (b) the date the SEC issuer files that document with the SEC.
- (1.2) An SEC issuer that is a reporting issuer must file a supplement prepared in accordance with subsection (2) at the same time it files its annual or interim MD&A, if the SEC issuer
- (i) has based the discussion in the MD&A on financial statements prepared in accordance with U.S. GAAP; and
 - (ii) is required by subsection 4.1(1) of National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency* to provide a reconciliation to Canadian GAAP.
- (2) A supplement required under subsection (11.2) must restate, based on financial information of the reporting issuer prepared in accordance with or reconciled to Canadian GAAP, those parts of the MD&A that
- (a) are based on financial statements of the reporting issuer prepared in accordance with U.S. GAAP; and
 - (b) would contain material differences if they were based on financial statements of the reporting issuer prepared in accordance with Canadian GAAP.

5.3 Additional Disclosure for Venture Issuers Without Significant Revenue

- (1) A venture issuer that has not had significant revenue from operations in either of its last two financial years, must disclose in its MD&A or in its MD&A supplement if one is required under section 5.2, for each period referred to in subsection (2), a breakdown of material components of
- (a) capitalized or expensed exploration and development costs;
 - (b) expensed research and development costs;
 - (c) deferred development costs;
 - (d) general and administration expenses; and
 - (e) any material costs, whether capitalized, deferred or expensed, not referred to in paragraphs (a) through (d);
- and if the venture issuer's business primarily involves mining exploration and development, the analysis of capitalized or expensed exploration and development costs must be presented on a property-by-property basis.
- (2) The disclosure in subsection (1) must be provided for the following periods:
- (a) in the case of annual MD&A, for the two most recently completed financial years; and
 - (b) in the case of interim MD&A, for the most recent year-to-date interim period and the comparative year-to-date period presented in the interim financial statements.
- (3) Subsection (1) does not apply if the information required under that subsection has been disclosed in the financial statements to which the MD&A or MD&A supplement relates.

5.4 Disclosure of Outstanding Share Data

- (1) A reporting issuer must disclose in its MD&A, or in its MD&A supplement if one is required under section 5.2, the designation and number or principal amount of
- (a) each class and series of voting or equity securities of the reporting issuer for which there are securities outstanding;

- (b) each class and series of securities of the reporting issuer for which there are securities outstanding if the securities are convertible into, or exercisable or exchangeable for, voting or equity securities of the reporting issuer; and
 - (c) subject to subsection (2), each class and series of voting or equity securities of the reporting issuer that are issuable on the conversion, exercise or exchange of outstanding securities of the reporting issuer.
- (2) If the exact number or principal amount of voting or equity securities of the reporting issuer that are issuable on the conversion, exercise or exchange of outstanding securities of the reporting issuer is not determinable, the reporting issuer must disclose the maximum number or principal amount of each class and series of voting or equity securities that are issuable on the conversion, exercise or exchange of outstanding securities of the reporting issuer and, if that maximum number or principal amount is not determinable, the reporting issuer must describe the exchange or conversion features and the manner in which the number or principal amount of voting or equity securities will be determined.
- (3) The disclosure under subsections (1) and (2) must be prepared as of the latest practicable date.

5.5 Approval of MD&A

- (1) The annual MD&A and any annual MD&A supplement that a reporting issuer is required to file under this Part must be approved by the board of directors before being filed.
- (2) The interim MD&A and any interim MD&A supplement that a reporting issuer is required to file under this Part must be approved by the board of directors before being filed.
- (3) In fulfilling the requirement in subsection (2), the board of directors may delegate the approval of the interim MD&A and any MD&A supplement required to be filed under this Part to the audit committee of the board of directors.

5.6 Delivery of MD&A

- ~~(1) If a registered holder or beneficial owner requests the reporting issuer's annual or interim MD&A, the reporting issuer must send a copy of the requested MD&A and any MD&A supplement required under section 5.2 to the person or company that made the request, without charge, by the later of~~
 - ~~(a) the filing deadline for the MD&A requested; and~~
 - ~~(b) 10 calendar days after the issuer receives the request.~~
- (1) If a registered holder or beneficial owner of securities of a reporting issuer requests the reporting issuer's annual or interim MD&A, the reporting issuer must send a copy of the requested MD&A and any MD&A supplement required under section 5.2 to the person or company that made the request, without charge, by the delivery deadline set out in subsection 4.6(1) for the annual or interim financial statements to which the MD&A relates.
- (2) A reporting issuer is not required to send copies of any MD&A or MD&A supplement under subsection (1) that was filed more than two years before the issuer receives the request.
- (3) The requirement to send annual MD&A and any related MD&A supplement under subsection (1) does not apply to a reporting issuer that sends its annual MD&A and any related MD&A supplement to all its securityholders, other than holders of debt instruments, within the time set out in paragraph 4.6(1)(a) or 4.6(1)(b), as applicable, and in accordance with National Instrument 54-101 Communication with Beneficial Owners of Securities of a Reporting Issuer.
- (4) If a reporting issuer sends MD&A under this section, the reporting issuer must also send, at the same time, the annual or interim financial statements to which the MD&A relates.

5.7 Additional Disclosure for Reporting Issuers with Significant Equity Investees

- (1) A reporting issuer that has a significant equity investee must disclose in its MD&A, or in its MD&A supplement if one is required under section 5.2, for each period referred to in subsection (2),
 - (a) summarized information as to the assets, liabilities and results of operations of the equity investee; and
 - (b) the reporting issuer's proportionate interest in the equity investee and any contingent issuance of securities by the equity investee that might significantly affect the reporting issuer's share of earnings.

(2) The disclosure in subsection (1) must be provided for the following periods:

(a) in the case of annual MD&A, for the two most recently completed financial years; and

(b) in the case of interim MD&A, for the most recent year-to-date interim period and the comparative year-to-date period presented in the interim financial statements.

(3) Subsection (1) does not apply if

(a) the information required under that subsection has been disclosed in the financial statements to which the MD&A or MD&A supplement relates; or

(b) the issuer files separate financial statements of the equity investee for the periods referred to in subsection (2).

PART 6 ANNUAL INFORMATION FORM

6.1 Requirement to File an AIF

A reporting issuer that is not a venture issuer must file an AIF.

6.2 Filing Deadline for an AIF

An AIF required to be filed under section 6.1 must be filed,

(a) subject to paragraph (b), on or before the 90th day after the end of the reporting issuer's most recently completed financial year; or

(b) in the case of a reporting issuer that is an SEC issuer filing its AIF in Form 10-K, Form 10-KSB or Form 20-F, on or before the earlier of

(i) the 90th day after the end of the reporting issuer's most recently completed financial year; and

(ii) the date the reporting issuer files its Form 10-K, Form 10-KSB or Form 20-F with the SEC.

~~6.3 Incorporated Documents to be Filed~~

~~— A reporting issuer that files an AIF must at the same time file copies of all material incorporated by reference in the AIF and not previously filed.~~

~~**6.3** [repealed]~~

PART 7 MATERIAL CHANGE REPORTS

7.1 Publication of Material Change

(1) Subject to subsection (2), if a material change occurs in the affairs of a reporting issuer, the reporting issuer must

(a) immediately issue and file a news release authorized by a senior officer disclosing the nature and substance of the change; and

(b) as soon as practicable, and in any event within 10 days of the date on which the change occurs, file a Form 51-102F3 Material Change Report with respect to the material change.

(2) Subsection (1) does not apply if,

(a) in the opinion of the reporting issuer, and if that opinion is arrived at in a reasonable manner, the disclosure required by subsection (1) would be unduly detrimental to the interests of the reporting issuer; or

(b) the material change consists of a decision to implement a change made by senior management of the reporting issuer who believe that confirmation of the decision by the board of directors is probable, and senior management of the reporting issuer has no reason to believe that persons with knowledge of the material change have made use of that knowledge in purchasing or selling securities of the reporting issuer,

and the reporting issuer immediately files the report required under paragraph (1)(b) marked so as to indicate that it is confidential, together with written reasons for non-disclosure.

- (3) In Québec, subsection (1) does not apply to a reporting issuer in Québec if
- (a) senior management of the reporting issuer has reasonable grounds to believe that disclosure required by subsection (1) would be seriously prejudicial to the interests of the reporting issuer and that no trade in the securities of the reporting issuer has been or will be carried out on the basis of the information not generally known; and
 - (b) the reporting issuer immediately files the report required under paragraph (1)(b) marked so as to indicate that it is confidential, together with written reasons for non-disclosure.
- (4) If a reporting issuer relies on subsection (3), the reporting issuer must comply with subsection (1) when the circumstances that justify non-disclosure have ceased to exist.
- (5) If a report has been filed under subsection (2) or (3), the reporting issuer must advise the regulator or securities regulatory authority in writing if it believes the report should continue to remain confidential, within 10 days of the date of filing of the initial report and every 10 days thereafter until the material change is generally disclosed in the manner referred to in paragraph (1)(a), or, if the material change consists of a decision of the type referred to in paragraph (2)(b), until that decision has been rejected by the board of directors of the reporting issuer.
- (6) Despite subsection (5), in Ontario, the reporting issuer must advise the securities regulatory authority.
- (7) If a report has been filed under subsection (2) or (3), the reporting issuer must promptly generally disclose the material change in the manner referred to in ~~paragraph~~ subsection (1)(a) upon the reporting issuer becoming aware, or having reasonable grounds to believe, that persons or companies are purchasing or selling securities of the reporting issuer with knowledge of the material change that has not been generally disclosed.

PART 8 BUSINESS ACQUISITION REPORT

8.1 Interpretation and Application

- (1) In this Part,
- “acquisition” includes an acquisition of an interest in a business that is consolidated for accounting purposes or accounted for by another method, such as the equity method;
- “acquisition of related businesses” means the acquisition of two or more businesses if
- (a) the businesses were under common control or management before the acquisitions were completed;
 - (b) each acquisition was conditional upon the completion of each other acquisition; or
 - (c) the acquisitions were contingent upon a single common event; and
- “business” includes an interest in an oil and gas property to which reserves, as defined in National Instrument 51-101 Standards of Disclosure for Oil and Gas Activities, have been specifically attributed.
- ~~(2) This Part does not apply to an acquisition made by a reporting issuer if the reporting issuer files its own information circular or that of another person or company, or a filing statement prepared in accordance with the policies and requirements of the TSX Venture Exchange, and~~
- ~~(a) the information circular or filing statement either~~
 - ~~(i) contains the information and financial statements that would be required by section 14.2 of Form 51-102F5 concerning the acquisition of the business or related businesses; or~~
 - ~~(ii) is an information circular or filing statement prepared in connection with a Qualifying Transaction for an issuer that is a capital pool company under the TSX Venture Exchange’s policy on Capital Pool Companies, and the reporting issuer complies with the policies and requirements of the TSX Venture Exchange in respect of the Qualifying Transaction;~~

- ~~(b) the date of the acquisition is within nine months of the date of the information circular or filing statement; and~~
- ~~(c) between the date of the information circular or filing statement and the date of acquisition there has been no material change in the terms of the significant acquisition from those disclosed in the information circular or filing statement.~~

~~(2) [repealed]~~

8.2 Obligation to File a Business Acquisition Report

- (1) If a reporting issuer completes a significant acquisition, as determined under section 8.3, it must file a business acquisition report within 75 days after the date of acquisition.
- (2) Despite subsection (1), if the financial year of the acquired business referred to in clause 8.4(1)(a)(i)(A) ended 45 days or less before the acquisition, then a reporting issuer must file a business acquisition report
 - (a) within 90 days after the date of acquisition, in the case of a reporting issuer other than a venture issuer, or
 - (b) within 120 days after the date of acquisition, in the case of a venture issuer.

8.3 Determination of Significance

- (1) Significant Acquisitions - Subject to subsection (3) and subsections 8.10(1) and 8.10(2), an acquisition of a business or related businesses is a significant acquisition,
 - (a) for a reporting issuer that is not a venture issuer, if the acquisition satisfies any of the three significance tests set out in subsection (2); and
 - (b) for a venture issuer, if the acquisition satisfies either of the significance tests set out in paragraphs (2)(a) or (b) if “20 percent” is read as “40 percent”.
- (2) Required Significance Tests - For the purposes of subsection (1), the significance tests are:
 - (a) **The Asset Test.** The reporting issuer's proportionate share of the consolidated assets of the business or related businesses exceeds 20 percent of the consolidated assets of the reporting issuer calculated using the audited financial statements of each of the reporting issuer and the business or the related businesses for the most recently completed financial year of each that ended before the date of the acquisition.
 - (b) **The Investment Test.** The reporting issuer's consolidated investments in and advances to the business or related businesses as at the date of the acquisition exceeds 20 percent of the consolidated assets of the reporting issuer as at the last day of the most recently completed financial year of the reporting issuer ended before the date of the acquisition, excluding any investments in or advances to the business or related businesses as at that date.
 - (c) **The Income Test.** The reporting issuer's proportionate share of the consolidated income from continuing operations of the business or related businesses exceeds 20 percent of the consolidated income from continuing operations of the reporting issuer calculated using the audited financial statements of each of the reporting issuer and the business or related businesses for the most recently completed financial year of each ended before the date of acquisition.
- (3) Optional Significance Tests - Despite subsection (1) and subject to subsections 8.10(1) and 8.10(2), if an acquisition of a business or related businesses is significant based on the significance tests in subsection (2),
 - (a) a reporting issuer that is not a venture issuer may re-calculate the significance using the optional significance tests in subsection (4); and
 - (b) a venture issuer may re-calculate the significance using the optional significance tests in paragraphs (4)(a) or (b) if “20 percent” is read as “40 percent”.
- (4) For the purposes of subsection (3), the optional significance tests are:
 - (a) **The Asset Test.** The reporting issuer's proportionate share of the consolidated assets of the business or related businesses, as at the last day of the reporting issuer's most recently completed interim period or

financial year, exceeds 20 percent of the consolidated assets of the reporting issuer, as at the last day of the reporting issuer's most recently completed interim period or financial year, without giving effect to the acquisition.

(b) **The Investment Test.** The reporting issuer's consolidated investments in and advances to the business or related businesses as at the date of the acquisition exceeds 20 percent of the consolidated assets of the reporting issuer as at the last day of the most recently completed interim period or financial year of the reporting issuer ~~ended before the date of the acquisition~~, excluding any investments in or advances to the business or related businesses as at that date.

(c) **The Income Test.** The income from continuing operations calculated under the following ~~item 1 paragraph (i)~~ exceeds 20 percent of the income from continuing operations calculated under the following ~~item 2 paragraph (ii)~~:

~~1-(i)~~ The reporting issuer's proportionate share of the consolidated income from continuing operations of the business or related businesses for the later of

(A) the most recently completed financial year of the business or related businesses, or

(B) the 12 months ended on the last day of the most recently completed interim period of the business or related businesses.

~~2-(ii)~~ The reporting issuer's consolidated income from continuing operations for the later of

(C) the most recently completed financial year, without giving effect to the acquisition, or

(D) the 12 months ended on the last day of the most recently completed interim period of the reporting issuer, without giving effect to the acquisition.

~~(5) If a reporting issuer re-calculates the significance of an acquisition of a business or of related businesses under subsection (4) and none of the significance tests in that subsection is met, the acquisition is not a significant acquisition for purposes of this Instrument.~~

~~(5) If an acquisition does not meet any of the significance tests under subsection (4), the acquisition is not a significant acquisition.~~

(6) Despite subsection (3), the significance of an acquisition of a business or related businesses may be re-calculated using financial statements for periods that ended after the date of acquisition only if, after the date of acquisition, the business or related businesses remained substantially intact and were not significantly reorganized, and no significant assets or liabilities were transferred to other entities.

(7) **Application of the Income Test if a Loss Occurred** - For the purposes of paragraphs (2)(c) and (4)(c), if any of the reporting issuer, the business or the related businesses has incurred a loss, the significance test must be applied using the absolute value of the loss.

~~(8) **Application of the Income Test if Lower Than Average Income for the Most Recent Year** - For the purposes of paragraph (2)(c) and clause (4)(c)2.(A), if the reporting issuer's consolidated income from continuing operations for the most recently completed financial year was~~

~~(a) positive; and~~

~~(b) lower by 20 percent or more than the average consolidated income from continuing operations of the reporting issuer for the three most recently completed financial years, then the average consolidated income from continuing operations for the three most recently completed financial years may, subject to subsection (10), be substituted in determining whether the significance test set out in paragraph (2)(c) or (4)(c) is satisfied.~~

~~(9) **Application of the Optional Income Test if Lower Than Average Income for the Most Recent Year** - For the purpose of clause (4)(c)2.(B) if the reporting issuer's consolidated income from continuing operations for the most recently completed 12-month period was~~

~~(a) positive; and~~

(b) lower by 20 percent or more than the average consolidated income from continuing operations of the reporting issuer for the three most recently completed 12 month periods, then the average consolidated income for the three most recently completed 12 month periods may, subject to subsection (10), be substituted in determining whether the significance test set out in paragraph (4)(c) is satisfied.

(8) Application of the Income Test if Lower Than Average Income for the Most Recent Year - For the purposes of paragraph (2)(c) and clause (4)(c)(ii)(A), if the reporting issuer's consolidated income from continuing operations for the most recently completed financial year was lower by 20 percent or more than its average consolidated income from continuing operations for the three most recently completed financial years, then the issuer may, subject to subsection (10), substitute the average consolidated income from continuing operations for the three most recently completed financial years in determining whether the significance test set out in paragraph (2)(c) or (4)(c) is satisfied.

(9) Application of the Optional Income Test if Lower Than Average Income for the Most Recent Year - For the purpose of clause (4)(c)(ii)(B) if the reporting issuer's consolidated income from continuing operations for the most recently completed 12-month period was lower by 20 percent or more than its average consolidated income from continuing operations for the three most recently completed 12-month periods, then the issuer may, subject to subsection (10), substitute the average consolidated income for the three most recently completed 12-month periods in determining whether the significance test set out in paragraph (4)(c) is satisfied.

(10) **Lower than Average Income of the Issuer if a Loss Occurred** - If the reporting issuer's consolidated income from continuing operations for either of the two earlier financial periods referred to in subsections (8) and (9) is a loss, the reporting issuer's income from continuing operations for that period is considered to be zero for the purposes of calculating the average consolidated income for the three financial periods.

(11) **Application of Significance Tests – Step-By-Step Acquisitions** - If a reporting issuer has made a “step-by-step” purchase as described in the Handbook, then for the purposes of applying subsections (2) and (4),

- (a) if the initial investment and one or more incremental investments were made during the same financial year, the investments must be aggregated and tested on a combined basis;
- (b) if one or more incremental investments were made in a financial year subsequent to the financial year in which an initial or incremental investment was made and the initial or previous incremental investments are reflected in audited annual financial statements of the reporting issuer previously filed, the reporting issuer must apply the significance tests set out in subsections (2) and (4) on a combined basis to the incremental investments not reflected in audited financial statements of the reporting issuer previously filed; and
- (c) if one or more incremental investments were made in a financial year subsequent to the financial year in which the initial investment was made and the initial investment is not reflected in audited annual financial statements of the issuer previously filed, the reporting issuer must apply the significance tests set out in subsections (2) and (4) to the initial and incremental investments on a combined basis.

(11.1) Application of the Optional Income Test based on Pro Forma Financial Information. For the purposes of calculating the optional income test under clause (4)(c)(ii)(A), a reporting issuer may use pro forma consolidated income from continuing operations for its most recently completed financial year that was included in a previously filed document if

- (a) the reporting issuer has made a significant acquisition of a business subsequent to its most recently completed financial year; and
- (b) the previously filed document included
 - (i) audited financial statements of that acquired business for the periods required by this Part; and
 - (ii) the pro forma financial information required by subsection 8.4(5).

(12) **Application of Significance Tests – Related Businesses** - In determining whether an acquisition of related businesses is a significant acquisition, related businesses acquired after the ending date of the most recently filed annual audited financial statements of the reporting issuer must be considered on a combined basis.

(13) **Application of Significance Tests – Accounting Principles and Currency** - For the purposes of the significance tests in subsections (2) and (4), financial statements of the business or related businesses must be reconciled to the accounting principles used to prepare the reporting issuer's financial statements and translated into the same reporting currency as that used in the reporting issuer's financial statements.

- (14) **Application of Significance Tests – Use of Unaudited Financial Statements** - Despite subsections (2) and (4), the significance of an acquisition of a business or related businesses may be calculated using unaudited financial statements of the business or related businesses that comply with subsection 6.1(1) of National Instrument 52-107 Acceptable Accounting Principles, Auditing Standards and Reporting Currency if the financial statements of the business or related businesses for the most recently completed financial year have not been audited.

8.4 Financial Statement Disclosure for Significant Acquisitions

- ~~(1) **Annual Financial Statements** - If an acquisition of a business or related businesses is a significant acquisition under subsection 8.3(1) or 8.3(3), subject to sections 8.6 through 8.11, a business acquisition report must include the following financial statements of each business or related businesses:~~

- ~~(a) an income statement, a statement of retained earnings and a cash flow statement for the periods specified in section 8.5;~~
- ~~(b) a balance sheet as at the date on which each of the periods specified in section 8.5 ended;~~
- ~~(c) notes to the financial statements; and~~
- ~~(d) an auditor's report on the financial statements for each of the periods specified in section 8.5.~~

- ~~(2) **Interim Financial Statements** - Subject to sections 8.6 through 8.11, if a reporting issuer must include financial statements in a business acquisition report under subsection (1), the business acquisition report must include interim financial statements for~~

- ~~(a) either
 - ~~(i) the most recently completed interim period of the business that started the day after the balance sheet date specified in paragraph (1)(b) and ended before the date of acquisition; or~~
 - ~~(ii) the period that started the day after the balance sheet date specified in paragraph (1)(b) and ended on a day that is more recent than the ending date of the period in subparagraph (i) and is not later than the date of acquisition; and~~~~
- ~~(b) the comparable period in the preceding financial year of the business.~~

- ~~(3) **Pro Forma Financial Statements Required in a Business Acquisition Report** - If a reporting issuer is required to include financial statements in a business acquisition report under subsection (1) or (2), the business acquisition report must include~~

- ~~(a) a pro forma balance sheet of the reporting issuer as at the date of the reporting issuer's most recent balance sheet filed that gives effect, as if they had taken place as at the date of the pro forma balance sheet, to significant acquisitions that have been completed, but are not reflected in the reporting issuer's most recent annual or interim balance sheet;~~
- ~~(b) a pro forma income statement of the reporting issuer that gives effect to significant acquisitions completed after the ending date of the reporting issuer's most recently completed financial year for which financial statements are required to have been filed, as if they had taken place at the beginning of that financial year, for each of the following financial periods:
 - ~~(i) the reporting issuer's most recently completed financial year for which financial statements are required to have been filed; and~~
 - ~~(ii) the reporting issuer's most recently completed interim period that ended after the period in subparagraph (i) for which financial statements are required to have been filed;~~~~
- ~~(c) pro forma earnings per share based on the pro forma financial statements referred to in paragraph (b); and~~
- ~~(d) a compilation report accompanying the pro forma financial statements required under paragraphs (a) and (b) signed by the reporting issuer's auditor and prepared in accordance with the Handbook.~~

- ~~(4) **Preparation of Pro Forma Financial Statements** - If a reporting issuer is required to include pro forma financial statements in a business acquisition report under subsection (3);~~

- ~~(a) the reporting issuer must identify in the pro forma financial statements each significant acquisition, if the pro forma financial statements give effect to more than one significant acquisition;~~
- ~~(b) the reporting issuer must include in the pro forma financial statements a description of the underlying assumptions on which the pro forma financial statements are prepared, cross-referenced to each related pro forma adjustment;~~
- ~~(c) if the financial year end of the business differs from the reporting issuer's year end by more than 93 days, for the purpose of preparing the pro forma income statement for the reporting issuer's most recently completed financial year, the reporting issuer must construct an income statement of the business for a period of 12 consecutive months ending no more than 93 days before or after the reporting issuer's year end, by adding the results for a subsequent interim period to a completed financial year of the business and deducting the comparable interim results for the immediately preceding year;~~
- ~~(d) if a constructed income statement is required under paragraph (c), the pro forma financial statements must disclose the period covered by the constructed income statement on the face of the pro forma financial statements and must include a note stating that the financial statements of the business used to prepare the pro forma financial statements were prepared for the purpose of the pro forma financial statements and do not conform with the financial statements for the business included elsewhere in the business acquisition report;~~
- ~~(e) if a reporting issuer is required to prepare a pro forma income statement for an interim period required by subparagraph (3)(b)(ii), and the pro forma income statement for the most recently completed financial year includes results of the business which are also included in the pro forma income statement for the interim period, the reporting issuer must disclose in a note to the pro forma financial statements the revenue, expenses, gross profit and income from continuing operations included in each pro forma income statement for the overlapping period; and~~
- ~~(f) an audit report is not required for a constructed period referred to in paragraph (c).~~
- ~~(5) **Financial Statements of Related Businesses** — If a reporting issuer is required under subsection (1) to include financial statements for more than one business because the significant acquisition involves an acquisition of related businesses, the financial statements required under subsection (1) must be presented separately for each business, except for the periods during which the businesses have been under common control or management, in which case the reporting issuer may present the financial statements of the businesses on a combined basis.~~
- ~~(1) **Comparative Annual Financial Statements** - If a reporting issuer must file a business acquisition report under section 8.2, subject to sections 8.6 through 8.11, the business acquisition report must include the following for each business or related businesses:
 - ~~(a) an income statement, a statement of retained earnings and a cash flow statement for the following periods:
 - ~~(i) if the business has completed one financial year,
 - ~~(A) the most recently completed financial year ended on or before the date of acquisition; and~~
 - ~~(B) the financial year immediately preceding the most recently completed financial year, if any;~~~~
 - ~~or~~
 - ~~(ii) if the business has not completed one financial year, the financial period commencing on the date of formation and ending on a date not more than 45 days before the date of acquisition;~~~~
 - ~~(b) a balance sheet as at the end of each of the periods specified in paragraph (a); and~~
 - ~~(c) notes to the financial statements.~~~~
- ~~(2) **Audit** – The most recently completed financial period referred to in subsection (1) must be audited.~~
- ~~(3) **Interim Financial Statements** - Subject to sections 8.6 through 8.11, if a reporting issuer must include financial statements in a business acquisition report under subsection (1), the business acquisition report must include financial statements for
 - ~~(a) either~~~~

- (i) the most recently completed interim period of the business that started the day after the date of the balance sheet specified in paragraph (1)(b) and ended before the date of acquisition; or
 - (ii) the period that started the day after the date of the balance sheet specified in paragraph (1)(b) and ended after the interim period referred to in subparagraph (i) and before the date of acquisition; and
- (b) the comparable period in the preceding financial year of the business.

(4) Exemption from Interim Financial Statement Requirements – Subsection (3) does not apply to a reporting issuer if

- (a) the issuer filed a document before the date of acquisition that provided prospectus-level disclosure for the acquired business;
- (b) the issuer incorporates by reference into the business acquisition report any interim financial statements for the acquired business's current financial year that were included in the document referred to in paragraph (a);
- (c) the financial statements included in the document referred to in paragraph (a) are for the interim period or financial year, or a period ending after that interim period or financial year, immediately preceding the interim period referred to in subsection (3);
- (d) a reasonable investor would not regard the issuer's primary business to be the business acquired by the issuer; and
- (e) the issuer will not account for the acquisition as continuity of interests.

(5) Pro Forma Financial Statements Required in a Business Acquisition Report - If a reporting issuer is required to include financial statements in a business acquisition report under subsection (1) or (3), the business acquisition report must include

- (a) a pro forma balance sheet of the reporting issuer, as at the date of
 - (i) the reporting issuer's most recent balance sheet filed, that gives effect, as if they had taken place as at the date of the pro forma balance sheet, to significant acquisitions that have been completed, but are not reflected in the reporting issuer's most recent balance sheet for an annual or interim period, or
 - (ii) the acquired business's most recent balance sheet, if the reporting issuer has not filed a balance sheet for an annual or interim period, that gives effect, as if they had taken place as at the date of the pro forma balance sheet, to significant acquisitions that have been completed;
- (b) a pro forma income statement of the reporting issuer for each of the following financial periods:
 - (i) the reporting issuer's
 - (A) most recently completed financial year for which it has been required to file financial statements, and
 - (B) most recently completed interim period for which it has been required to file financial statements that started after the period in clause (A) and ended before the acquisition date or, at the issuer's option, ended after the acquisition date,
that gives effect to significant acquisitions completed after the ending date of the reporting issuer's most recently completed financial year for which financial statements are required to have been filed, as if they had taken place at the beginning of that financial year; or
 - (ii) if the reporting issuer has not been required to file financial statements, for the acquired business's
 - (A) most recently completed financial year that ended before the date of acquisition, and
 - (B) period for which financial statements are included in the business acquisition report under paragraph 8.4(3)(a),

that gives effect to significant acquisitions completed as if they had taken place at the beginning of the period referred to in clause (A); and

(c) pro forma earnings per share based on the pro forma financial statements referred to in paragraph (b).

(6) **Exemption from Pro Forma Financial Statement Requirements** – Paragraph 8.4(5)(a) and clauses 8.4(5)(b)(i)(B) and 8.4(5)(b)(ii)(B) do not apply to a reporting issuer if

(a) the issuer filed a document before the date of acquisition that provided prospectus-level disclosure for the acquired business;

(b) the issuer incorporates by reference into the business acquisition report the pro forma financial statements relating to the acquisition that were included in the document referred to in paragraph (a);

(c) the pro forma financial statements referred to in paragraph (b) are,

(i) in the case of the income statement, for the interim period or financial year, or a period ending after the interim period or financial year, immediately preceding the period referred to in clause 8.4(5)(b)(i)(B) or 8.4(5)(b)(ii)(B), as applicable, and

(ii) in the case of the pro forma balance sheet, as at the last date of the period covered by the income statement referred to in subparagraph (i);

(d) a reasonable investor would not regard the issuer's primary business to be the business acquired by the issuer; and

(e) the issuer will not account for the acquisition as continuity of interests.

(7) **Preparation of Pro Forma Financial Statements** - If a reporting issuer is required to include pro forma financial statements in a business acquisition report under subsection (5),

(a) the reporting issuer must identify in the pro forma financial statements each significant acquisition, if the pro forma financial statements give effect to more than one significant acquisition;

(b) the reporting issuer must include in the pro forma financial statements a description of the underlying assumptions on which the pro forma financial statements are prepared, cross-referenced to each related pro forma adjustment;

(c) if the financial year-end of the business differs from the reporting issuer's year-end by more than 93 days, for the purpose of preparing the pro forma income statement for the reporting issuer's most recently completed financial year, the reporting issuer must construct an income statement of the business for a period of 12 consecutive months ending no more than 93 days before or after the reporting issuer's year-end, by adding the results for a subsequent interim period to a completed financial year of the business and deducting the comparable interim results for the immediately preceding year;

(d) if a constructed income statement is required under paragraph (c), the pro forma financial statements must disclose the period covered by the constructed income statement on the face of the pro forma financial statements and must include a note stating that the financial statements of the business used to prepare the pro forma financial statements were prepared for the purpose of the pro forma financial statements and do not conform with the financial statements for the business included elsewhere in the business acquisition report;

(e) if a reporting issuer is required to prepare a pro forma income statement for an interim period required by paragraph (5)(b), and the pro forma income statement for the most recently completed financial year includes results of the business which are also included in the pro forma income statement for the interim period, the reporting issuer must disclose in a note to the pro forma financial statements the revenue, expenses, gross profit and income from continuing operations included in each pro forma income statement for the overlapping period; and

(f) a constructed period referred to in paragraph (c) does not have to be audited.

(8) **Financial Statements of Related Businesses** - If a reporting issuer is required under subsection (1) to include financial statements for more than one business because the significant acquisition involves an acquisition of related businesses, the financial statements required under subsection (1) must be presented separately for each business.

except for the periods during which the businesses have been under common control or management, in which case the reporting issuer may present the financial statements of the businesses on a combined basis.

8.5 ~~Reporting Periods~~[repealed]

~~(1) **Reporting Issuers that are not Venture Issuers**—The periods for which the financial statements are required under subsection 8.4(1) for a reporting issuer that is not a venture issuer as at the date of acquisition must be determined by reference to the significance tests set out in subsections 8.3(2) and 8.3(4) as follows:~~

~~1. **Acquisitions significant between 20 percent and 40 percent**—If none of the significance tests is satisfied if “20 percent” is read as “40 percent”, financial statements must be included for~~

~~(A) the most recently completed financial year of the business ended more than 45 days before the date of acquisition; or~~

~~(B) if the business has not completed one financial year, or the business has completed its first financial year that ended 45 or fewer days before the date of acquisition, the financial period commencing on the date of formation and ending on a date not more than 45 days before the date of acquisition.~~

~~2. **Acquisitions significant over 40 percent**—If any of the significance tests are satisfied if “20 percent” is read as “40 percent”, financial statements must be included for~~

~~(A) each of the two most recently completed financial years of the business ended more than 45 days before the date of acquisition;~~

~~(B) if the business has not completed two financial years, any completed financial year ended more than 45 days before the date of acquisition; or~~

~~(C) if the business has not completed one financial year, or the business has completed its first financial year that ended 45 or fewer days before the date of acquisition, a financial period commencing on the date of formation and ending on a date not more than 45 days before the date of acquisition.~~

~~(2) **Venture Issuers**—The period for which the financial statements are required under subsection 8.4(1) for a reporting issuer that is a venture issuer as at the date of acquisition is~~

~~(a) the most recently completed financial year of the business ended more than 45 days before the date of acquisition; or~~

~~(b) if the business has not completed one financial year, or the business has completed its first financial year that ended 45 or fewer days before the date of acquisition, the financial period commencing on the date of formation and ending on a date not more than 45 days before the date of acquisition.~~

8.6 **Exemption for Significant Acquisitions Accounted for Using the Equity Method**

A reporting issuer is exempt from the requirements in section 8.4 if

(a) the acquisition is, or will be, of an investment accounted for using the equity method investee;

(b) the business acquisition report includes disclosure for the periods for which financial statements are otherwise required under subsection 8.4(1) that

(i) summarizes information as to the assets, liabilities and results of operations of the business equity investee; and

(ii) describes the reporting issuer's proportionate interest in the business equity investee and any contingent issuance of securities by the business equity investee that might significantly affect the reporting issuer's share of earnings;

(c) the financial information provided under paragraph (b) for any completed financial year

(i) has been derived from audited financial statements of the business equity investee; or

(ii) has been audited; and

- (d) the business acquisition report
 - (i) identifies the financial statements referred to in subparagraph (c)(i) from which the disclosure provided under paragraph (b) has been derived; or
 - (ii) discloses that the financial information provided under paragraph (b), if not derived from audited financial statements, has been audited; and
 - (iii) discloses that the audit opinion with respect to the financial statements referred to in subparagraph (i), or the financial information referred to in subparagraph (ii), was issued without a reservation.

8.7 — Exemptions for Significant Acquisitions if More Recent Statements Included~~[repealed]~~

- ~~(1) If under item 8.5(1)2, a reporting issuer is required to provide financial statements of a business for two completed financial years, the reporting issuer may omit the financial statements for the oldest financial year, if~~
 - ~~(a) audited financial statements of the business are included for a financial year ended 45 days or less before the date of acquisition; or~~
 - ~~(b) (i) audited financial statements are included in the business acquisition report for a period of at least nine months commencing the day after the most recently completed financial year for which financial statements are required under item 8.5(1)2.;~~
 - ~~(ii) the business is not seasonal; and~~
 - ~~(iii) the reporting issuer has not included audited financial statements in the business acquisition report for a period of less than 12 months using the exemption set out in section 8.8.~~
- ~~(2) A reporting issuer is exempt from the requirement in subsection 8.4(2) to provide interim financial statements if the reporting issuer includes annual audited or unaudited financial statements of the business for a financial year ended 45 days or less before the date of acquisition.~~

8.8 Exemption for Significant Acquisitions if Financial Year End Changed

If under section ~~8.58.4~~ a reporting issuer is required to provide financial statements for two completed financial years for a business acquired and the business changed its financial year end during either of the financial years required to be included, the reporting issuer may include financial statements for the transition year in satisfaction of the financial statements for one of the years, provided that the transition year is at least nine months.

8.9 Exemption from Comparatives if Financial Statements Not Previously Prepared

A reporting issuer is not required to provide comparative information for interim financial statements required under subsection 8.4(~~23~~) for a business acquired if

- (a) to a reasonable person it is impracticable to present prior-period information on a basis consistent with the most recently completed interim period of the acquired business;
- (b) the prior-period information that is available is presented; and
- (c) the notes to the interim financial statements disclose the fact that the prior-period information has not been prepared on a basis consistent with the most recent interim financial information.

8.10 Exemption for Acquisition of an Interest in an Oil and Gas Property

~~A reporting issuer is exempt from the requirements in section 8.4 if~~

- ~~(a) the significant acquisition is~~
 - ~~(i) an acquisition of a business that is an interest in an oil and gas property; or~~
 - ~~(ii) an acquisition of related businesses that are interests in oil and gas properties;~~

- ~~(b) the reporting issuer is unable to provide the financial statements in respect of the significant acquisition otherwise required under this Part because those financial statements do not exist or because the reporting issuer does not have access to those financial statements;~~
- ~~(c) the acquisition does not constitute a reverse takeover;~~
- ~~(d) the business or related businesses did not, immediately before the time of completion of the acquisition, constitute a "reportable segment" of the vendor, as defined in the Handbook;~~
- ~~(e) in respect of the business or related businesses, for each of the financial years for which financial statements would, but for this section, be required under section 8.4, the business acquisition report includes
 - ~~(i) an operating statement, accompanied by a report of an auditor, presenting for the business or related businesses at least the following:
 - ~~(A) gross revenue;~~
 - ~~(B) royalty expenses;~~
 - ~~(C) production costs; and~~
 - ~~(D) operating income;~~~~
 - ~~(ii) a description of the property or properties and the interest acquired by the reporting issuer; and~~
 - ~~(iii) disclosure of the annual oil and gas production volumes from the business or related businesses; and~~~~
- ~~(f) the business acquisition report discloses
 - ~~(i) the estimated reserves and related future net revenue attributable to the business or related businesses, the material assumptions used in preparing the estimates and the identity and relationship to the reporting issuer or to the vendor of the person who prepared the estimates; and~~
 - ~~(ii) the estimated oil and gas production volumes from the business or related businesses for the first year reflected in the estimates disclosed under subparagraph (f)(i).~~~~

8.10 Acquisition of an Interest in an Oil and Gas Property

- ~~(1) **Asset Test** - Despite subsections 8.3(2) and 8.3(4), the asset tests in paragraphs 8.3(2)(a) and 8.3(4)(a) do not apply to an acquisition of
 - ~~(a) a business that is an interest in an oil and gas property; or~~
 - ~~(b) related businesses that are interests in oil and gas properties.~~unless the acquisition is of securities of another issuer.~~
- ~~(2) **Income Test** - Despite subsections 8.3(2), 8.3(4), 8.3(8), 8.3(9), 8.3(10) and 8.3(12), a reporting issuer must substitute "operating income" for "consolidated income from continuing operations" for the purposes of the income test in paragraphs 8.3(2)(c) and 8.3(4)(c) if the acquisition is one described in subsection (1).~~
- ~~(3) **Exemption from Financial Statement Disclosure** - A reporting issuer is exempt from the requirements in section 8.4 if
 - ~~(a) the significant acquisition is an acquisition described in subsection (1);~~
 - ~~(b) the reporting issuer is unable to provide the financial statements in respect of the significant acquisition otherwise required under this Part because those financial statements do not exist or because the reporting issuer does not have access to those financial statements;~~
 - ~~(c) the acquisition does not constitute a reverse takeover;~~~~

- (d) the business or related businesses did not, immediately before the time of completion of the acquisition, constitute a “reportable segment” of the vendor, as defined in the Handbook;
- (e) in respect of the business or related businesses, for each of the financial periods for which financial statements would, but for this section, be required under section 8.4, the business acquisition report includes
 - (i) an operating statement, accompanied by a report of an auditor, presenting for the business or related businesses at least the following:
 - (A) gross revenue;
 - (B) royalty expenses;
 - (C) production costs; and
 - (D) operating income;
 - (ii) a pro forma operating statement of the reporting issuer that gives effect to significant acquisitions completed after the ending date of the reporting issuer’s most recently completed financial year for which financial statements are required to have been filed, as if they had taken place at the beginning of that financial year, for each of the financial periods referred to in paragraph 8.4(5)(b);
 - (iii) a description of the property or properties and the interest acquired by the reporting issuer; and
 - (iv) disclosure of the annual oil and gas production volumes from the business or related businesses; and
- (f) the business acquisition report discloses
 - (i) the estimated reserves and related future net revenue attributable to the business or related businesses, the material assumptions used in preparing the estimates and the identity and relationship to the reporting issuer or to the vendor of the person who prepared the estimates; and
 - (ii) the estimated oil and gas production volumes from the business or related businesses for the first year reflected in the estimates disclosed under subparagraph (f)(i).

8.11 Exemption for Step-By-Step Acquisitions

Despite section 8.4, a reporting issuer is exempt from the requirements to file financial statements for an acquired business, other than the pro forma financial statements required by subsection 8.4(35), in a business acquisition report if the reporting issuer has made a “step-by-step” purchase as described in the Handbook and the acquired business has been consolidated in the reporting issuer’s most recent annual financial statements that have been filed.

PART 9 PROXY SOLICITATION AND INFORMATION CIRCULARS

9.1 Sending of Proxies and Information Circulars

- (1) If management of a reporting issuer gives notice of a meeting to its registered holders of voting securities, management must, at the same time as or before giving that notice, send to each registered holder of voting securities who is entitled to notice of the meeting a form of proxy for use at the meeting.
- (2) Subject to section 9.2, a person or company that solicits proxies from registered holders of voting securities of a reporting issuer must,
 - (a) in the case of a solicitation by or on behalf of management of a reporting issuer, send an information circular with the notice of meeting to each registered securityholder whose proxy is solicited; or
 - (b) in the case of any other solicitation, concurrently with or before the solicitation, send an information circular to each registered securityholder whose proxy is solicited.
- (3) In Québec, subsections (1) and (2) apply, adapted as required, to a meeting of holders of debt securities of an issuer that is a reporting issuer in Québec, whether called by management of the reporting issuer or by the trustee of the debt securities.

9.2 Exemptions from Sending Information Circular

- (1) Subsection 9.1(2) does not apply to a solicitation by a person or company in respect of securities of which the person or company is the beneficial owner.
- (2) Paragraph 9.1(2)(b) does not apply to a solicitation if the total number of securityholders whose proxies are solicited is not more than 15.
- (3) For the purposes of subsection (2), two or more persons or companies who are joint registered owners of one or more securities are considered to be one securityholder.

9.3 Filing of Information Circulars and Proxy-Related Material

A person or company that is required under this Instrument to send an information circular or form of proxy to registered securityholders of a reporting issuer must promptly file a copy of the information circular, form of proxy and all other material required to be sent by the person or company in connection with the meeting to which the information circular or form of proxy relates.

9.4 Content of Form of Proxy

- (1) A form of proxy sent to securityholders of a reporting issuer by a person or company soliciting proxies must indicate in bold-face type whether or not the proxy is solicited by or on behalf of the management of the reporting issuer, provide a specifically designated blank space for dating the form of proxy and specify the meeting in respect of which the proxy is solicited.
- (2) An information circular sent to securityholders of a reporting issuer or the form of proxy to which the information circular relates must
 - (a) indicate in bold-face type that the securityholder has the right to appoint a person or company to represent the securityholder at the meeting other than the person or company if any, designated in the form of proxy; and
 - (b) contain instructions as to the manner in which the securityholder may exercise the right referred to in paragraph (a).
- (3) If a form of proxy sent to securityholders of a reporting issuer contains a designation of a named person or company as nominee, it must provide an option for the securityholder to designate in the form of proxy some other person or company as the securityholder's nominee.
- (4) A form of proxy sent to securityholders of a reporting issuer must provide an option for the securityholder to specify that the securities registered in the securityholder's name will be voted for or against each matter or group of related matters identified in the form of proxy, in the notice of meeting or in an information circular, other than the appointment of an auditor and the election of directors.
- (5) A form of proxy sent to securityholders of a reporting issuer may confer discretionary authority with respect to each matter referred to in subsection (4) as to which a choice is not specified if the form of proxy or the information circular states in bold-face type how the securities represented by the proxy will be voted in respect of each matter or group of related matters.
- (6) A form of proxy sent to securityholders of a reporting issuer must provide an option for the securityholder to specify that the securities registered in the name of the securityholder must be voted or withheld from voting in respect of the appointment of an auditor or the election of directors.
- (7) An information circular sent to securityholders of a reporting issuer or the form of proxy to which the information circular relates must state that
 - (a) the securities represented by the proxy will be voted or withheld from voting in accordance with the instructions of the securityholder on any ballot that may be called for; and
 - (b) if the securityholder specifies a choice under subsection (4) or (6) with respect to any matter to be acted upon, the securities will be voted accordingly.
- (8) A form of proxy sent to securityholders of a reporting issuer may confer discretionary authority with respect to

- (a) amendments or variations to matters identified in the notice of meeting; and
 - (b) other matters which may properly come before the meeting,
- if,
- (c) the person or company by whom or on whose behalf the solicitation is made is not aware within a reasonable time before the time the solicitation is made that any of those amendments, variations or other matters are to be presented for action at the meeting; and
 - (d) a specific statement is made in the information circular or in the form of proxy that the proxy is conferring such discretionary authority.
- (9) A form of proxy sent to securityholders of a reporting issuer must not confer authority to vote
- (a) for the election of any person as a director of a reporting issuer unless a bona fide proposed nominee for that election is named in the information circular; or
 - (b) at any meeting other than the meeting specified in the notice of meeting or any adjournment of that meeting.

9.5 — Exemption from Part 9

~~_____ This Part does not apply to a reporting issuer that complies with the requirements of the laws of the jurisdiction in which it is incorporated, organized or continued, if the requirements are substantially similar to the requirements of this Part.~~

9.5 Exemption

Sections 9.1 to 9.4 do not apply to a reporting issuer that complies with the requirements of the laws under which it is incorporated, organized or continued, if

- (a) _____ the requirements are substantially similar to the requirements of this Part; and
- (b) _____ the person or company promptly files a copy of any information circular, form of proxy and all other material sent by the person or company in connection with the meeting.

PART 10 RESTRICTED SECURITY DISCLOSURE

10.1 Restricted Security Disclosure

- (1) Except as otherwise provided in section 10.3, if a reporting issuer has outstanding restricted securities, or securities that are directly or indirectly convertible into or exercisable or exchangeable for restricted securities or securities that will, when issued, result in an existing class of outstanding securities being considered restricted securities, each document referred to in subsection (2) must
- (a) refer to restricted securities using a term that includes the appropriate restricted security term;
 - (b) not refer to securities by a term that includes “common”, or “preference” or “preferred”, unless the securities are common shares or preference shares, respectively;
 - (c) describe any restrictions on the voting rights of restricted securities;
 - (d) describe the rights to participate, if any, of holders of restricted securities if a takeover bid is made for securities of the reporting issuer with voting rights superior to those attached to the restricted securities;
 - (e) state the percentage of the aggregate voting rights attached to the reporting issuer’s securities that are represented by the class of restricted securities; and
 - (f) if holders of restricted securities have no right to participate if a takeover bid is made for securities of the reporting issuer with voting rights superior to those attached to the restricted securities, contain a statement to that effect in bold-face type.
- (2) Subsection (1) applies to the following documents except as provided in subsections (3) and (6):

- (a) an information circular;
 - (b) a document required by this Instrument to be delivered upon request by a reporting issuer to any of its securityholders; and
 - (c) an AIF prepared by a reporting issuer.
- (3) Despite subsection (2), annual financial statements, interim financial statements and MD&A or other accompanying discussion by management of those financial statements are not required to include the details referred to in paragraphs (1)(c), (d), (e) and (f).
- (4) Each reference to restricted securities in any document not referred to in subsection (2) that a reporting issuer sends to its securityholders must include the appropriate restricted security term.
- (5) A reporting issuer must not refer, in any of the documents described in subsection (4), to securities by a term that includes “common” or “preference” or “preferred”, unless the securities are common shares or preference shares, respectively.
- (6) Despite paragraph (1)(b) and subsection (5), a reporting issuer may, in one place only in a document referred to in subsection (2) or (4), describe the restricted securities by the term used in the constating documents of the reporting issuer, to the extent that term differs from the appropriate restricted security term, if the description is not on the front page of the document and is in the same type face and type size as that used generally in the document.

10.2 Dissemination of Disclosure Documents to Holder of Restricted Securities

- (1) If a reporting issuer sends a document to all holders of any class of its equity securities the document must also be sent by the reporting issuer at the same time to the holders of its restricted securities.
- (2) A reporting issuer that is required by this Instrument to arrange for, or voluntarily makes arrangements for, delivery of the documents referred to in subsection (1) to the beneficial owners of any securities of a class of equity securities registered in the name of a registrant, must make similar arrangements for delivery of the documents to the beneficial owners of securities of a class of restricted securities registered in the name of the registrant.

10.3 Exemptions for Certain Reporting Issuers

The provisions of sections 10.1 and 10.2 do not apply to

- (a) securities that carry a right to vote subject to a restriction on the number or percentage of securities that may be voted or owned by persons or companies that are not citizens or residents of Canada or that are otherwise considered as a result of any law applicable to the reporting issuer to be non-Canadians, but only to the extent of the restriction; and
- (b) securities that are subject to a restriction, imposed by any law governing the reporting issuer, on the level of ownership of the securities by any person, company or combination of persons or companies, but only to the extent of the restriction.

PART 11 ADDITIONAL ~~FILING~~ DISCLOSURE REQUIREMENTS

11.1 Additional Filing Requirements

- (1) A reporting issuer must file a copy of any disclosure material
- (a) that it sends to its securityholders; ~~or~~
 - (b) in the case of an SEC issuer, that it files with or furnishes to the SEC under the 1934 Act, including material filed as exhibits to other documents, if the material contains information that has not been included in disclosure already filed in a jurisdiction by the SEC issuer; or
 - (c) that it files with another provincial or territorial securities regulatory authority or regulator other than in connection with a distribution.
- (2) A reporting issuer must file the material referred to in subsection (1) on the same date as, or as soon as practicable after, the earlier of

- (a) the date on which the reporting issuer sends the material to its securityholders;
- ~~(b) the date on which the reporting issuer files or furnishes the material to the SEC; and~~
- (c) the date on which the reporting issuer files ~~or furnishes the material to the SEC~~ that material with the other provincial or territorial securities regulatory authority or regulator.

11.2 Change of Status Report

A reporting issuer must file a notice promptly after the occurrence of either of the following:

- (a) the reporting issuer becomes a venture issuer; or
- (b) the reporting issuer ceases to be a venture issuer.

11.3 Voting Results

A reporting issuer that is not a venture issuer must, promptly following a meeting of securityholders at which a matter was submitted to a vote, file a report that discloses, for each matter voted upon

- (a) a brief description of the matter voted upon and the outcome of the vote; and
- (b) if the vote was conducted by ballot, including a vote on a matter in which votes are cast both in person and by proxy, the number or percentage of votes cast for, against or withheld from the vote.

11.4 Financial Information

A reporting issuer must file a copy of any news release issued by it that discloses information regarding its historical or prospective results of operations or financial condition for a financial year or interim period.

11.5 Re-filing Documents

If a reporting issuer decides it will re-file a document, or re-state information in a document, filed under this Instrument, and the information in the re-filed document, or re-stated information, will differ materially from the information in the original document, the issuer must immediately issue and file a news release authorized by a senior officer disclosing the nature and substance of the change or proposed changes.

PART 12 FILING OF CERTAIN DOCUMENTS

12.1 Filing of Documents Affecting the Rights of Securityholders

- (1) A reporting issuer must file copies of the following documents, and any amendments to the following documents, unless previously filed:
 - (a) articles of incorporation, amalgamation, continuation or any other constating or establishing documents of the issuer, unless the constating or establishing document is a statutory or regulatory instrument;
 - (b) by-laws or other corresponding instruments currently in effect;
 - (c) any securityholder or voting trust agreement that the reporting issuer has access to and that can reasonably be regarded as material to an investor in securities of the reporting issuer;
 - (d) any securityholders' rights plans or other similar plans; and
 - (e) any other contract of the issuer or a subsidiary of the issuer that creates or can reasonably be regarded as materially affecting the rights or obligations of its securityholders generally.
- (2) A document required to be filed under subsection (1) may be filed in paper format if
 - (a) it is dated before March 30, 2004; and

- (b) it does not exist in an acceptable electronic format under ~~National Instrument 13-101~~ *System for Electronic Document Analysis and Retrieval* (SEDAR).

12.2 Filing of Other Material Contracts

- (1) Unless previously filed, a reporting issuer must file a copy of any contract that it or any of its subsidiaries is a party to, other than a contract entered into in the ordinary course of business, that is material to the issuer and was entered into within the last financial year, or before the last financial year but is still in effect.
- (2) If an executive officer of the reporting issuer has reasonable grounds to believe that disclosure of certain provisions of a contract required by subsection (1) to be filed would be seriously prejudicial to the interests of the reporting issuer, or would violate confidentiality provisions, the reporting issuer may file the contract with those certain provisions omitted or marked so as to be unreadable.
- (3) Despite subsection (1), a reporting issuer is not required to file a contract entered into before January 1, 2002.

12.3 Time for Filing of Documents

The documents required to be filed under sections 12.1 and 12.2 must be filed no later than the time the reporting issuer files a material change report in Form 51-102F3, if the making of the document constitutes a material change for the issuer, and

- (a) no later than the time the reporting issuer's AIF is filed under section 6.1, if the document was made or adopted before the date of the issuer's AIF; or
- (b) if the reporting issuer is not required to file an AIF under section 6.1, within 120 days after the end of the issuer's most recently completed financial year, if the document was made or adopted before the end of the issuer's most recently completed financial year.

PART 13 EXEMPTIONS

13.1 Exemptions from this Instrument

- (1) The regulator or securities regulatory authority may grant an exemption from this Instrument, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.
- (2) Despite subsection (1), in Ontario only the regulator may grant such an exemption.
- ~~(3) Except in Ontario, an exemption referred to in subsection (1) is granted under the statute referred to in Appendix B of National Instrument 14-101 *Definitions* opposite the name of the local jurisdiction.~~

13.2 Existing Exemptions

- (1) A reporting issuer that was entitled to rely on an exemption, waiver or approval granted to it by a regulator or securities regulatory authority relating to continuous disclosure requirements of securities legislation or securities directions existing immediately before this Instrument came into force is exempt from any substantially similar provision of this Instrument to the same extent and on the same conditions, if any, as contained in the exemption, waiver or approval.
- (2) A reporting issuer must, at the time that it first intends to rely on subsection (1) in connection with a filing requirement under this Instrument, inform the securities regulatory authority in writing of
- (a) the general nature of the prior exemption, waiver or approval and the date on which it was granted; and
- (b) the requirement under prior securities legislation or securities directions in respect of which the prior exemption, waiver or approval applied and the substantially similar provision of this Instrument.

13.3 Exemption for Certain Exchangeable Security Issuers

- (1) In this section:

"designated exchangeable security" means an exchangeable security which provides the holder of the security with economic and voting rights which are, as nearly as possible except for tax implications, equivalent to the underlying securities;

“exchangeable security” means a security of an issuer that is exchangeable for, or carries the right of the holder to purchase, or of the parent issuer to cause the purchase of, an underlying security;

“exchangeable security issuer” means a person or company that has issued an exchangeable security;

“parent issuer”, when used in relation to an exchangeable security issuer, means the person or company that issues the underlying security; and

“underlying security” means a security of a parent issuer issued or transferred, or to be issued or transferred, on the exchange of an exchangeable security.

(2) Except as provided in this subsection, an exchangeable security issuer satisfies the requirements in this Instrument does not apply to an exchangeable security issuer if

(a) the parent issuer is the direct or indirect beneficial owner of all the issued and outstanding voting securities of the exchangeable security issuer;

~~(b) the parent issuer is an SEC issuer with a class of securities listed or quoted on a U.S. marketplace;~~

~~(b) the parent issuer is either~~

~~(i) an SEC issuer with a class of securities listed or quoted on a U.S. marketplace; or~~

~~(ii) a reporting issuer in Alberta, British Columbia, Manitoba, Nova Scotia, Ontario, Québec or Saskatchewan that has filed all documents it is required to file under this Instrument;~~

(c) the exchangeable security issuer does not issue any securities, other than

(i) designated exchangeable securities;

(ii) securities issued to the parent issuer or an affiliate of the parent issuer; or

(iii) debt securities issued to banks, loan corporations, loan and investment corporations, savings companies, trust corporations, treasury branches, savings or credit unions, financial services cooperatives, insurance companies or other financial institutions;

~~(d) the exchangeable security issuer files copies of all documents the parent issuer is required to file with the SEC, at the same time as, or as soon as practicable after, the filing by the parent issuer of those documents with the SEC;~~

~~(e) the exchangeable security issuer concurrently sends to all holders of designated exchangeable securities, in the manner and at the time required by U.S. laws and the requirements of any U.S. marketplace on which securities of the parent issuer are listed or quoted, all disclosure materials that are sent to holders of the underlying securities;~~

~~(f) the parent issuer is in compliance with U.S. laws and the requirements of any U.S. marketplace on which the securities of the parent issuer are listed or quoted in respect of making public disclosure of material information on a timely basis, and immediately issues in Canada and files any news release that discloses a material change in its affairs;~~

~~(d) the exchangeable security issuer files in electronic format,~~

~~(i) if the parent issuer is not a reporting issuer in a jurisdiction listed in subparagraph (b)(ii), copies of all documents the parent issuer is required to file with the SEC under the 1934 Act, at the same time as, or as soon as practicable after, the filing by the parent issuer of those documents with the SEC; or~~

~~(ii) if the parent issuer is a reporting issuer in a jurisdiction listed in subparagraph (b)(ii),~~

~~(A) a notice indicating that the exchangeable security issuer is relying on the continuous disclosure documents filed by its parent issuer and setting out where those documents can be found in electronic format, if the parent issuer is a reporting issuer in the local jurisdiction; or~~

- (B) copies of all documents the parent issuer is required to file under securities legislation, other than in connection with a distribution, at the same time as the filing by the parent issuer of those documents with a securities regulatory authority or regulator;
- (e) the exchangeable security issuer concurrently sends to all holders of designated exchangeable securities all disclosure materials that are sent to holders of the underlying securities in the manner and at the time required by
 - (i) U.S. laws and any U.S. marketplace on which securities of the parent issuer are listed or quoted, if the parent issuer is an SEC issuer; or
 - (ii) securities legislation, if the parent issuer is not an SEC issuer;
- (f) the parent issuer
 - (i) complies with U.S. laws and the requirements of any U.S. marketplace on which the securities of the parent issuer are listed or quoted if the parent issuer is an SEC issuer, or securities legislation if the parent issuer is not an SEC issuer, in respect of making public disclosure of material information on a timely basis; and
 - (ii) immediately issues in Canada and files any news release that discloses a material change in its affairs;
- (g) the exchangeable security issuer issues in Canada a news release and files a material change report in accordance with Part 7 of this Instrument for all material changes in respect of the affairs of the exchangeable security issuer that are not also material changes in the affairs of its parent issuer; and
- (h) the parent issuer includes in all mailings of proxy solicitation materials to holders of designated exchangeable securities a clear and concise statement that
 - (i) explains the reason the mailed material relates solely to the parent issuer;
 - (ii) indicates that the designated exchangeable securities are the economic equivalent to the underlying securities; and
 - (iii) describes the voting rights associated with the designated exchangeable securities.
- (3) The insider reporting requirement and the requirement to file an insider profile under National Instrument 55-102 *System for Electronic Disclosure by Insiders* does not apply to any insider of an exchangeable security issuer in respect of securities of the exchangeable security issuer so long as,
 - ~~(a) the insider does not receive, in the ordinary course, information as to material facts or material changes concerning the parent issuer before the material facts or material changes are generally disclosed;~~
 - ~~(b) the insider is not an insider of the parent issuer in any capacity other than by virtue of being an insider of the exchangeable security issuer;~~
 - ~~(c) the parent issuer is the direct or indirect beneficial owner of all of the issued and outstanding voting securities of the exchangeable security issuer;~~
 - (a) if the insider is not the parent issuer,
 - (i) the insider does not receive, in the ordinary course, information as to material facts or material changes concerning the parent issuer before the material facts or material changes are generally disclosed, and
 - (ii) the insider is not an insider of the parent issuer in any capacity other than by virtue of being an insider of the exchangeable security issuer;
 - (b) the parent issuer is the beneficial owner of all of the issued and outstanding voting securities of the exchangeable security issuer;

- (c) ~~if the insider is the parent issuer, the insider does not beneficially own any designated exchangeable securities;~~
- (d) ~~the parent issuer is an SEC issuer or a reporting issuer in Alberta, British Columbia, Manitoba, Nova Scotia, Ontario, Québec or Saskatchewan;~~ and
- (e) the exchangeable security issuer has not issued any securities, other than
 - (i) designated exchangeable securities;
 - (ii) securities issued to the parent issuer or an affiliate of the parent issuer; or
 - (iii) debt securities issued ~~to the parent issuer or to~~ banks, loan corporations, loan and investment corporations, savings companies, trust corporations, treasury branches, savings or credit unions, financial services cooperatives, insurance companies or other financial institutions.

13.4 Exemption for Certain Credit Support Issuers

- (1) In this section:

“credit support issuer” means an issuer of securities for which a credit supporter has provided a guarantee;

“credit supporter” means a person or company that provides a guarantee for any of the payments to be made by an issuer of securities as stipulated in the terms of the securities or in an agreement governing rights of, or granting rights to, holders of the securities; and

“designated credit support securities” means

- (a) non-convertible debt that has an approved rating; or
- (b) non-convertible preferred shares that have an approved rating,

in respect of which a credit supporter has provided a full and unconditional guarantee of the payments to be made by the credit support issuer, as stipulated in the terms of the securities or in an agreement governing the rights of holders of the securities, that results in the holder of such securities being entitled to receive payment from the credit supporter within 15 days of any failure by the credit support issuer to make a payment;

~~“SEC MJDS issuer” means an issuer that~~

- ~~(a) is incorporated or organized under the laws of the United States of America or any state or territory of the United States of America or the District of Columbia;~~
- ~~(b) either~~
 - ~~(i) has a class of securities registered under section 12(b) or 12(g) of the 1934 Act, or~~
 - ~~(ii) is required to file reports under section 15(d) of the 1934 Act;~~
- ~~(c) has filed with the SEC all 1934 Act filings for a period of 12 calendar months immediately before the date on which the person or company seeks to rely on the exemptions in subsections (2) or (3);~~
- ~~(d) is not registered or required to be registered as an investment company under the *Investment Company Act of 1940* of the United States of America, as amended; and~~
- ~~(e) is not an issuer formed and operated for the purpose of investing in commodity futures contracts, commodity futures, related products, or a combination of them.~~

- (2) Except as provided in this subsection, a credit support issuer satisfies the requirements in this Instrument ~~does not apply to a credit support issuer if,~~

- ~~(a) the credit supporter is the direct or indirect beneficial owner of all the issued and outstanding voting securities of the credit support issuer;~~
- ~~(b) the credit supporter is an SEC MJDS issuer;~~

- (a) the credit support issuer is a direct or indirect wholly-owned subsidiary of the credit supporter;
- (b) the credit supporter is either
 - (i) an SEC issuer; or
 - (ii) a reporting issuer Alberta, British Columbia, Manitoba, Nova Scotia, Ontario, Québec or Saskatchewan that has filed all documents it is required to file under this Instrument;
- (c) the credit support issuer does not issue any securities, other than
 - (i) designated credit support securities;
 - (ii) securities issued to the credit supporter or an affiliate of the credit supporter; or
 - (iii) debt securities issued to banks, loan corporations, loan and investment corporations, savings companies, trust corporations, treasury branches, savings or credit unions, financial services cooperatives, insurance companies or other financial institutions;
- ~~(d) the credit support issuer files copies of all documents the credit supporter is required to file with the SEC, at the same time or as soon as practicable after the filing by the credit supporter of those documents with the SEC;~~
- ~~(e) the credit supporter is in compliance with the requirements of U.S. laws and any U.S. marketplace on which securities of the credit supporter are listed or quoted in respect of making public disclosure of material information on a timely basis and immediately issues in Canada and files any news release that discloses a material change in its affairs;~~
- (d) the credit support issuer files in electronic format,
 - (i) if the credit supporter is an SEC issuer, copies of all documents the credit supporter is required to file with the SEC under the 1934 Act, at the same time or as soon as practicable after the filing by the credit supporter of those documents with the SEC; or
 - (ii) if the credit supporter is not an SEC issuer,
 - (A) a notice indicating that the credit support issuer is relying on the continuous disclosure documents filed by the credit supporter and setting out where those documents can be found for viewing in electronic format, if the credit support issuer is a reporting issuer in the local jurisdiction; or
 - (B) copies of all documents the credit supporter is required to file under securities legislation, other than in connection with a distribution, at the same time as the filing by the credit supporter of those documents with a securities regulatory authority or regulator;
- (e) the credit supporter
 - (i) complies with U.S. laws and the requirements of any U.S. marketplace on which securities of the credit supporter are listed or quoted if the credit supporter is an SEC issuer, or securities legislation if the credit supporter is not an SEC issuer, in respect of making public disclosure of material information on a timely basis; and
 - (ii) immediately issues in Canada and files any news release that discloses a material change in its affairs;
- (f) the credit support issuer issues in Canada a news release and files a material change report in accordance with Part 7 of this Instrument for all material changes in respect of the affairs of the credit support issuer that are not also material changes in the affairs of the credit supporter;
- ~~(g) in the case of a credit support issuer that has operations, other than minimal operations, that are independent of the credit supporter, the credit support issuer files, in electronic format,~~

- ~~(i) — annual comparative financial information, derived from the credit support issuer's audited consolidated financial statements for its most recently completed financial year, that is accompanied by a specified procedures report of the auditors to the credit support issuer and that includes the following line items for the most recently completed financial year and the financial year immediately preceding the most recently completed financial year:
 - ~~(A) — sales/revenues;~~
 - ~~(B) — net earnings from continuing operations before extraordinary items;~~
 - ~~(C) — net earnings;~~
 - ~~(D) — current assets;~~
 - ~~(E) — non-current assets;~~
 - ~~(F) — current liabilities; and~~
 - ~~(G) — non-current liabilities; and~~~~

- ~~(ii) — interim comparative financial information, derived from the credit support issuer's unaudited consolidated financial statements for its most recently completed interim period, that includes the following line items for the most recently completed interim period and, for items (A), (B) and (C), the corresponding interim period in the immediately preceding completed financial year, and for items (D), (E), (F) and (G), as at the end of the immediately preceding financial year:
 - ~~(A) — sales/revenues;~~
 - ~~(B) — net earnings or loss from continuing operations before extraordinary items;~~
 - ~~(C) — net earnings or loss;~~
 - ~~(D) — current assets;~~
 - ~~(E) — non-current assets;~~
 - ~~(F) — current liabilities; and~~
 - ~~(G) — non-current liabilities;~~~~

- ~~(h) — in the case of designated credit support securities that include debt, the credit support issuer concurrently sends to all holders of such securities, in the manner and at the time required by U.S. laws and any U.S. marketplace on which securities of the credit supporter are listed or quoted, all disclosure materials that are sent to holders of non-convertible debt of the credit supporter that has an approved rating; and~~

- ~~(i) — in the case of designated credit support securities that include preferred shares, the credit support issuer concurrently sends to all holders of such securities, in the manner and at the time required by U.S. laws and any U.S. marketplace on which securities of the credit supporter are listed or quoted, all disclosure materials that are sent to holders of non-convertible preferred shares of the credit supporter that have an approved rating.~~

- (g) — in the case of a credit support issuer that has operations, other than minimal operations, that are independent of the credit supporter, the credit support issuer files the following financial information by the filing deadlines set out in sections 4.2 and 4.4, as applicable, in electronic format:
 - (i) — annual comparative financial information, derived from the credit support issuer's audited consolidated financial statements for its most recently completed financial year, that is accompanied by a specified procedures report of the auditors to the credit support issuer and that includes the following line items for the most recently completed financial year and the financial year immediately preceding the most recently completed financial year:
 - (A) — sales or revenues;

- (B) income from continuing operations;
 - (C) net earnings; and
 - (D) unless the issuer's GAAP permits the preparation of the credit support issuer's balance sheet without classifying assets and liabilities between current and non-current and the credit support issuer provides alternative meaningful financial information which is more appropriate to the industry.
 - (I) current assets;
 - (II) non-current assets;
 - (III) current liabilities; and
 - (IV) non-current liabilities; and
- (ii) interim comparative financial information, derived from the credit support issuer's unaudited consolidated financial statements for its most recently completed interim period, that includes the following line items for the most recently completed interim period and, for items (A), (B) and (C), the corresponding interim period in the immediately preceding completed financial year, and for item (D), if applicable, as at the end of the immediately preceding financial year:
- (A) sales or revenues;
 - (B) income from continuing operations;
 - (C) net earnings or loss; and
 - (D) unless the issuer's GAAP permits the preparation of the credit support issuer's balance sheet without classifying assets and liabilities between current and non-current and the credit support issuer provides alternative meaningful financial information which is more appropriate to the industry.
 - (I) current assets;
 - (II) non-current assets;
 - (III) current liabilities; and
 - (IV) non-current liabilities;
- (h) in the case of designated credit support securities that include debt, the credit support issuer concurrently sends to all holders of such securities, all disclosure materials that are sent to holders of non-convertible debt of the credit supporter that has an approved rating in the manner and at the time required by
- (i) U.S. laws and any U.S. marketplace on which securities of the credit supporter are listed or quoted, if the credit supporter is an SEC issuer; or
 - (ii) securities legislation, if the credit supporter is not an SEC issuer; and
- (i) in the case of designated credit support securities that include preferred shares, the credit support issuer concurrently sends to all holders of such securities all disclosure materials that are sent to holders of non-convertible preferred shares of the credit supporter that have an approved rating in the manner and at the time required by
- (i) U.S. laws and any U.S. marketplace on which securities of the credit supporter are listed or quoted, if the credit supporter is an SEC issuer; or
 - (ii) securities legislation, if the credit supporter is not an SEC issuer.

- (3) The insider reporting requirement and the requirement to file an insider profile under National Instrument 55-102 *System for Electronic Disclosure by Insiders* do not apply to an insider of a credit support issuer in respect of securities of the credit support issuer so long as:
- ~~(a) the insider does not receive, in the ordinary course, information as to material facts or material changes concerning the credit supporter before the material facts or material changes are generally disclosed;~~
 - ~~(b) the insider is not an insider of the credit supporter in any capacity other than by virtue of being an insider of the credit support issuer;~~
 - ~~(c) the credit supporter is the direct or indirect beneficial owner of all the issued and outstanding voting securities of the credit support issuer;~~
 - ~~(a) if the insider is not the credit supporter,~~
 - ~~(i) the insider does not receive, in the ordinary course, information as to material facts or material changes concerning the credit supporter before the material facts or material changes are generally disclosed, and~~
 - ~~(ii) the insider is not an insider of the credit supporter in any capacity other than by virtue of being an insider of the credit support issuer;~~
 - ~~(b) the credit supporter is the beneficial owner of all the issued and outstanding voting securities of the credit support issuer;~~
 - ~~(c) if the insider is the credit supporter, the insider does not beneficially own any designated credit support securities;~~
 - (d) the credit supporter is an SEC issuer or a reporting issuer in Alberta, British Columbia, Manitoba, Nova Scotia, Ontario, Québec or Saskatchewan; and
 - (e) the credit support issuer has not issued any securities, other than
 - (i) designated credit support securities;
 - (ii) securities issued to the credit supporter or an affiliate of the credit supporter; or
 - (iii) debt securities issued to banks, loan corporations, loan and investment corporations, savings companies, trust corporations, treasury branches, savings or credit unions, financial services cooperatives, insurance companies or other financial institutions.

PART 14 EFFECTIVE DATE AND TRANSITION

14.1 Effective Date

This Instrument comes into force on March 30, 2004.

14.2 Transition

Despite section 14.1, section 5.7 applies for financial years of the reporting issuer beginning on or after January 1, 2007.

APPENDIX I

AUTHORITY FOR AMENDMENTS – ONTARIO

In Ontario, the following provisions of the *Securities Act* (the Act) provide the Ontario Securities Commission (OSC) with authority to make the amendments.

Paragraph 143(1)22 authorizes the OSC to prescribe requirements in respect of the preparation and dissemination and other use, by reporting issuers, of documents providing for continuous disclosure that are in addition to the requirements under the Act, including requirements in respect of an annual report, an annual information form and supplemental analysis of financial statements.

Paragraph 143(1)23 authorizes the OSC to exempt reporting issuers from any requirement of Part XVIII (Continuous Disclosure) of the Act.

Paragraph 143(1)24 authorizes the OSC to require issuers or other persons and companies to comply, in whole or in part, with Part XVIII (Continuous Disclosure), or rules made under paragraph 143(1)22 of the Act.

Paragraph 143(1)25 authorizes the OSC to prescribe requirements in respect of financial accounting, reporting and auditing for the purposes of the Act, the regulations and the rules.

Paragraph 143(1)26 authorizes the OSC to prescribe requirements for the validity and solicitation of proxies.

Paragraph 143(1)38 authorizes the OSC to prescribe requirements in respect of reverse take-overs including requirements for disclosure that are substantially equivalent to that provided by a prospectus.

Paragraph 143(1)39 authorizes the OSC to make rules requiring or respecting the media, format, preparation, form, content, execution, certification, dissemination and other use, filing and review of all documents required under or governed by the Act, the regulations or the rules and all documents determined by the regulations or the rules to be ancillary to the documents, including financial statements, proxies and information circulars.

Paragraph 143(1)44 authorizes the OSC to vary the Act to permit or require the use of an electronic or computer-based system for the filing, delivery or deposit of:

- i. documents or information required under or governed by the Act, the regulations or rules, and
- ii. documents determined by the regulations or rules to be ancillary to documents required under or governed by the Act, the regulations or rules.

Paragraph 143(1)49 authorizes the OSC to vary the Act to permit or require methods of filing or delivery, to or by the OSC, issuers, registrants, security holders or others, of documents, information, notices, books, records, things, orders, authorizations or other communications required under or governed by Ontario securities laws.

Paragraph 143(1)56 authorizes the OSC to make rules providing for exemptions from or varying any or all time periods in the Act.

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Chapter 7

Insider Reporting

This chapter is available in the print version of the OSC Bulletin, as well as as in Carswell's internet service SecuritiesSource (see www.carswell.com).

This chapter contains a weekly summary of insider transactions of Ontario reporting issuers in the System for Electronic Disclosure by Insiders (SEDI). The weekly summary contains insider transactions reported during the seven days ending Sunday at 11:59 pm.

To obtain Insider Reporting information, please visit the SEDI website (www.sedi.ca).

Chapter 8

Notice of Exempt Financings

REPORTS OF TRADES SUBMITTED ON FORM 45-501F1

Transaction Date	# of Purchasers	Issuer/Security	Total Pur. Price (\$)	# of Securities Distributed
11/17/2005	1	Accellent Inc. - Notes	1,170,644.61	1,170,645.00
11/23/2005	1	Accredited Home Lenders Canada Trust - Notes	82,674,509.52	82,674,509.52
11/17/2005	1	Adex Mining Inc. - Debentures	59,025.00	59,025.00
12/01/2005	80	Alberta Clipper Energy Inc. - Flow-Through Shares	12,250,000.00	2,500,000.00
11/16/2005	88	Almaden Minerals Ltd. - Units	6,307,000.00	3,700,000.00
11/21/2005	18	AltaLink Investments, L.P. - Bonds	200,000,000.00	2,000,000.00
11/23/2005	1	American Capital Strategies, Ltd. - Common Shares	5,622,190.25	124,993.00
11/10/2005	29	Arbour Energy Inc. - Preferred Shares	1,781,559.90	1,319,674.00
11/16/2005	29	Arbour Energy Inc. - Preferred Shares	2,052,561.60	987,889.00
11/15/2005	22	Arsenal Energy Inc. - Flow-Through Shares	606,586.00	160,386.00
10/21/2005	14	Athlone Minerals Ltd. - Units	222,950.22	405,364.00
11/10/2005	9	Benton Resources Corp. - Flow-Through Shares	134,000.00	335,000.00
11/10/2005	5	Benton Resources Corp. - Units	70,000.00	200,000.00
11/21/2005	114	BlueGrouse Seismic Solutions Ltd. - Units	9,399,800.00	686,240.00
11/21/2005	2	Bluewave Energy Inc. - Common Shares	3.00	176,470.00
11/21/2005	6	Canadian Western Bank - Debentures	70,000,000.00	70,000,000.00
11/17/2005	1	Caxton Alpha Equity (BVI) Ltd. Class A - Units	237,660.00	200.00
11/14/2005	35	Cell-Loc Location Technologies Inc. - Units	2,303,000.00	11,515,000.00
11/07/2005	10	Century Oilfield Services Inc. - Common Shares	3,508,875.00	4,678,500.00
10/31/2005 to 11/14/2005	2	Chukchansi Economic Development Authority - Notes	590,050.00	50,000.00
03/15/2005	1	CMS Offshore Manager Select Fund, Ltd. - Common Shares	150,000.00	150.00
07/22/2005 to 08/31/2005	6	CMS Providence Condominium Fund Q, L.P. - Units	1,640,000.00	1.64
07/22/2005 to 08/31/2005	5	CMS Value Real Estate Fund Q, L.P. - L.P. Units	1,075,000.00	1.08

Notice of Exempt Financings

Transaction Date	# of Purchasers	Issuer/Security	Total Pur. Price (\$)	# of Securities Distributed
03/15/2005	3	CMS/KRG Capital Fund III-Q, L.P. - L.P. Units	850,000.00	0.85
06/10/2005	5	CMS/Procaccianti Hotel Opportunity Fund-Q, L.P. - L.P. Units	875,000.00	0.88
06/10/2005	1	CMS/Procaccianti Hotel Opportunity Fund II, L.P. - L.P. Units	200,000.00	0.20
11/22/2005	1	CNH Capital Canada Receivables Trust - Notes	50,000,000.00	1.00
11/28/2005	72	Colliers FirstService Fund Canada Limited Partnership - L.P. Units	4,613,640.60	3,958.00
11/22/2005	1	Compton Petroleum Finance Corporation - Debt	4,693,013.00	4,728,000.00
11/09/2005	1	Conservative Income Fund II - Units	2,375,000.00	250,000.00
11/15/2005	1	Constellation Copper Corporation - Common Shares	121,569.50	103,025.00
11/22/2005	30	Contec Innovations Inc. - Units	438,900.00	2,508,000.00
11/08/2005 to 11/18/2005	2	Crown Americas, LLC and Crown Americas Capital Corp. - Notes	1,023,384.60	500,000,000.00
11/23/2005	3	Cuervo Resources Inc. - Common Shares	50,000.00	500,000.00
11/23/2005	4	Cyrium Technologies Incorporated - Preferred Shares	1,500,000.00	3,715,630.00
11/08/2005	2	Dejour Enterprises Ltd. - Units	52,000.00	80,000.00
11/18/2005	19	Dia Bras Exploration Inc. - Common Shares	2,885,000.00	14,425,000.00
11/21/2005	23	Empire and Fovere Residential Development Fund I, LP - L.P. Units	6,500,000.00	650.00
11/21/2005	5	Entourage Mining Ltd. - Units	960,000.00	5,333,333.00
11/21/2005	46	Equigenesis 2005 Preferred Investment LP - Units	29,046,396.00	815.91
11/18/2005	1	Exploration Tom Inc. - Common Shares	8,625.00	25,000.00
11/14/2005 to 11/18/2005	28	General Motors Acceptance Corporation of Canada, Limited - Notes	8,268,147.93	8,268,147.93
05/21/2005 to 11/25/2005	18	General Motors Acceptance Corporation of Canada, Limited - Notes	7,445,431.40	7,445,431.40
11/17/2005	1	GMO Developed World Equity Investment Fund PLC - Units	86,002.34	3,015.00
10/31/2005	2	Goldman Sachs High Yield Fund - Units	420,000.00	52,976.00
10/31/2005	2	Goldman Sachs U.S. Mortgages Fund - Units	1,530,000.00	153,563.00
11/25/2005	4	Gossan Resources Limited - Units	800,000.00	1,777,776.00

Notice of Exempt Financings

Transaction Date	# of Purchasers	Issuer/Security	Total Pur. Price (\$)	# of Securities Distributed
11/09/2005	1	Guardian Exploration Inc. - Units	49,999.95	111,111.00
07/01/2005 to 09/13/2005	4	GWLIM Canadian Growth Fund - Trust Units	514,114.42	40,831.00
07/01/2005 to 09/13/2005	3	GWLIM Canadian Mid Cap Fund - Trust Units	317,884.95	25,104.00
07/01/2005 to 09/13/2005	5	GWLIM Corporate Bond Fund - Trust Units	1,204,055.03	116,580.00
07/01/2005 to 09/13/2005	2	GWLIM US Mid Cap Fund - Trust Units	206,122.25	17,952.00
11/29/2005	24	HTI Ventures Corp. - Units	406,340.00	3,386,166.00
11/23/2005	3	IG Realty Investments Inc. - Common Shares	5,485,118.10	46,662.00
12/01/2005	1	III Relative Value Credit Strategies Fund Ltd. - Common Shares	25,000,000.00	N/A
11/02/2005 to 11/10/2005	9	IMAGIN Diagnostic Centres, Inc. - Preferred Shares	85,000.00	42,500.00
11/16/2005	52	Jasper Mining Corporation - Common Shares	2,002,489.20	3,716,976.00
11/18/2005	2	KBSH Private - Special Equity Fund - Units	110,000.00	2,241.33
10/28/2005	4	Kelowna Flightcraft Ltd. - Notes	138,000,000.00	4.00
11/30/2005	3	Kensington Fund of Funds. II, L.P. - L.P. Units	28,886,000.00	28,886.00
11/23/2005	4	LaSalle Canadian Income & Growth Fund II Limited Partnership - Units	51,500,000.00	515,000.00
11/07/2005	19	Leeward Capital Corp. - Units	323,891.52	2,024,322.00
11/24/2005	19	Leisureworld Senior Care L.P. - Debentures	257,200,000.00	310,000,000.00
11/03/2005	67	Lemontonic Inc. - Receipts	1,231,988.00	20,533,130.00
07/01/2005 to 09/13/2005	3	LLIM Canadian Bond Fund - Trust Units	2,308,852.39	219,705.00
07/01/2005 to 09/13/2005	4	LLIM Canadian Diversified Equity Fund - Trust Units	544,786.84	44,182.00
07/01/2005 to 09/13/2005	4	LLIM Income Plus Fund - Trust Units	1,662,539.96	153,955.00
07/01/2005 to 09/13/2005	2	LLIM US Equity Fund - Trust Units	399,853.14	38,755.00
07/01/2005 to 09/13/2005	2	LLIM US Growth Sectors Fund - Trust Units	788,060.82	74,168.00
07/01/2005 to 09/13/2005	2	Mackenzie Ivy European Capital Class - Trust Units	450,836.29	42,801.00
07/01/2005 to 09/13/2005	2	Mackenzie Ivy Foreign Equity Fund - Trust Units	27,803,402.67	2,926,673.00
07/01/2005 to 09/13/2005	4	Mackenzie Maxxum Canadian Balanced Fund - Trust Units	5,557,434.02	483,255.00

Notice of Exempt Financings

Transaction Date	# of Purchasers	Issuer/Security	Total Pur. Price (\$)	# of Securities Distributed
07/01/2005 to 09/13/2005	4	Mackenzie Maxxum Canadian Equity Growth Fund - Trust Units	2,806,006.65	136,878.00
07/01/2005 to 09/13/2005	7	Mackenzie Maxxum Dividend Fund - Trust Units	10,060,690.39	591,805.00
07/01/2005 to 09/13/2005	2	Mackenzie Select Managers Canada Fund - Trust Units	172,885.66	15,059.00
07/01/2005 to 09/13/2005	3	Mackenzie Select Managers Far East Capital Class - Trust Units	580,521.51	50,480.00
07/01/2005 to 09/13/2005	2	Mackenzie Select Managers Japan Capital Class - Trust Units	406,473.27	42,787.00
07/01/2005 to 09/13/2005	2	Mackenzie Universal American Growth Capital Class Series S - Trust Units	420,166.85	37,182.00
12/07/2005 to 09/13/2005	7	Mackenzie Universal Canadian Resource Fund - Trust Units	8,689,019.50	445,590.00
07/01/2005 to 09/13/2005	4	Mackenzie Universal Emerging Markets Capital Class - Trust Units	1,672,480.73	123,887.00
07/01/2005 to 09/13/2005	4	Mackenzie Universal Global Future Fund - Trust Units	215,071.74	28,676.00
07/01/2005 to 09/13/2005	1	Mackenzie Universal International Stock Fund - Trust Units	22,609,467.19	2,379,943.00
07/01/2005 to 09/13/2005	1	Mackenzie Universal Precious Metals Fund - Trust Units	802,195.28	64,175.00
07/01/2005 to 09/13/2005	5	Mackenzie Universal U.S. Growth Leaders Fund - Trust Units	672,076.09	89,610.00
11/22/2005	1	Macquarie Media Group - N/A	4,676,386.00	1,700,504.00
11/16/2005	15	MetalCorp Limited - Flow-Through Shares	1,833,400.00	4,418,500.00
11/22/2005	1	Miramar Mining Corporation - Units	43,475,000.00	18,500,000.00
11/16/2005	276	Mission Oil & Gas Inc. - Receipts	104,271,400.00	12,566,000.00
11/08/2005	6	Monet Land Development Inc. - Common Shares	462,000.00	462.00
11/18/2005	1	N-Brook Funding Trust - Notes	876,367.34	1.00
11/18/2005	1	N-Brook Funding Trust - Notes	292,122.45	1.00
11/15/2005	1	New Solutions Financial (II) Corporation - Debentures	70,000.00	70,000.00
11/08/2005	1	North American Gem Inc. - Non Flow-Through Shares	5,000.00	50,000.00
11/08/2005	8	Northern Shield Resources Inc. - Units	749,999.96	5,357,142.00
11/22/2005 to 11/24/2005	92	Northpine Energy Ltd. - Common Shares	11,136,250.00	5,568,125.00

Notice of Exempt Financings

Transaction Date	# of Purchasers	Issuer/Security	Total Pur. Price (\$)	# of Securities Distributed
11/25/2005	20	Ona Exploration Inc. - Common Shares	812,500.00	1,250,000.00
11/22/2005	10	ONCAP II L.P. - Limited Partnership Interest	134,500,000.00	134,500,000.00
11/21/2005	1	Permal Europe Ltd. Class A - Common Shares	28,123.21	3.46
11/24/2005	1	Platespin Ltd. - Preferred Shares	8,672,060.00	7,563,093.00
07/01/2005 to 09/13/2005	2	Quadrus AIM Canadian Equity Growth Fund - Trust Units	40,341,349.90	2,444,930.00
07/01/2005 to 09/13/2005	5	Quadrus Laketon Fixed Income Fund - Trust Units	24,148,921.25	4,024,820.00
07/01/2005 to 09/13/2005	4	Quadrus Templeton Canadian Equity Fund - Trust Units	449,335.23	39,415.00
07/01/2005 to 09/13/2005	4	Quadrus Templeton International Equity Fund - Trust Units	1,319,500.65	117,812.00
07/01/2005 to 09/13/2005	5	Quadrus Trimark Balanced Fund - Trust Units	3,007,497.95	273,408.00
07/01/2005 to 09/13/2005	3	Quadrus Trimark Global Balanced Fund - Trust Units	794,694.19	75,685.00
11/22/2005	26	Quorum Secured Equity Trust - Units	735,848.03	7,586.00
11/21/2005	1	Rabobank Nederland Cooperatieve Centrale Raiffeisen-Boerenleenbank B.A. - Notes	250,000,000.00	1.00
12/02/2005	2	Radisson Mining Resources Inc. - Common Shares	3,000.00	10,000.00
11/17/2005	1	Real Assets Canadian Social Equity Index Fund - Units	36,000.00	3,620.00
11/16/2005	3	Regional Power Inc. - Common Shares	130,000.00	130,000.00
11/30/2005	1	RPFL-Kensington Private Equity Limited Partnership No. 1 - L.P. Units	500,000.00	10.00
11/17/2005	206	Saxon Energy Services Inc. - Units	79,380,000.00	16,200,000.00
11/30/2005	15	Sinclair Cockburn Mortgage Investment Corporation - Preferred Shares	2,163,200.00	2,163,200.00
11/30/2005	1	SMART Trust - Notes	1,009,707.51	1.00
11/22/2005	14	Spitfire Energy Ltd. - Common Shares	1,050,000.00	1,500,000.00
11/18/2005	4	Spotwave Wireless Canada Inc. - Preferred Shares	2,380,015.61	9,959,286.00
11/18/2005	14	Spotwave Wireless Inc. - Preferred Shares	8,906,889.14	36,554,299.00
11/07/2005	4	Sumco Corporation - Common Shares	947,068.00	28,400.00
11/16/2005	1	Sunpower Corporation - Stock Option	161,122.50	7,500.00
11/15/2005	13	Synenco Energy Inc. - Common Shares	5,005,000.00	220,000.00

Notice of Exempt Financings

Transaction Date	# of Purchasers	Issuer/Security	Total Pur. Price (\$)	# of Securities Distributed
11/09/2005	4	TCV V. L.P. - Units	68,465,250.00	1,666,980,000.00
11/16/2005	1	The Greenbrier Companies Inc. - Notes	2,364,000.00	2,000.00
11/17/2005	115	TransAtlantic Petroleum Corp. - Units	4,250,000.00	5,000,000.00
11/18/2005	2	Treat Systems Inc. - Common Shares	175,000.00	700,000.00
10/18/2005	47	Universal Uranium Ltd. - Units	994,399.12	2,259,998.00
11/18/2005	9	Vecta Energy Corporation - Flow-Through Shares	3,912,500.00	3,912,500.00
11/18/2005	9	Vecta Energy Corporation - Units	1,862,500.00	1,862,500.00
11/22/2005	62	Walton Cactus Springs Limited Partnership - L.P. Units	2,604,112.00	221,250.00
11/17/2005	1	Wolfden Resources Inc. - Common Shares	10,000,000.00	4,000,000.00
11/30/2005	1	xkoto Inc. - Debentures	625,000.00	1.00
11/07/2005	10	Xtra-Gold Resources Corp. - Common Shares	442,392.00	804,354.00
10/31/2005	5	YSV Ventures Inc. - Common Shares	161,984.00	1,619,840.00

Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:

CC&L Aggressive Equity Portfolio
CC&L Balanced Growth Portfolio
CC&L Balanced Income Portfolio
CC&L Balanced Portfolio
CC&L Conservative Portfolio
CC&L Growth Portfolio
Principal Regulator - Ontario

Type and Date:

Preliminary Simplified Prospectuses dated December 1, 2005
Mutual Reliance Review System Receipt dated December 1, 2005

Offering Price and Description:

Series A and F Units

Underwriter(s) or Distributor(s):

-

Promoter(s):

Connor, Clark & Lunn Managed Portfolios Inc.
Project #865891

Issuer Name:

Creststreet Resource Class
Principal Regulator - Ontario

Type and Date:

Preliminary Simplified Prospectus dated November 30, 2005
Mutual Reliance Review System Receipt dated December 1, 2005

Offering Price and Description:

(2006 Series Shares)

Underwriter(s) or Distributor(s):

-

Promoter(s):

Creststreet Asset Management Limited
Project #865372

Issuer Name:

Crew Energy Inc.
Principal Regulator - Alberta

Type and Date:

Preliminary Short Form Prospectus dated November 30, 2005
Mutual Reliance Review System Receipt dated November 30, 2005

Offering Price and Description:

\$19,999,980.00 - 1,098,900 Common Shares and
\$10,000,800.00 - 416,700 Flow-Through Shares
Price: \$18.20 per Common Share \$24.00 per Flow-Through Share

Underwriter(s) or Distributor(s):

Sprott Securities Inc.
Orion Securities Inc.
Tristone Capital Inc.
TD Securities Inc.
FirstEnergy Capital Corp.
Peters & Co. Limited
Raymond James Ltd.

Promoter(s):

-

Project #865385

Issuer Name:

Equinox Minerals Limited
Principal Regulator - Ontario

Type and Date:

Preliminary Short Form Prospectus dated December 2, 2005
Mutual Reliance Review System Receipt dated December 2, 2005

Offering Price and Description:

\$ * - * Common Shares Price: \$ * per Common Share

Underwriter(s) or Distributor(s):

Sprott Securities Inc.
Dundee Securities Corporation
GMP Securities L.P.
TD Securities Inc.
Paradigm Capital Inc.
Raymond James Ltd.
RBC Dominion Securities Inc.

Promoter(s):

-

Project #866294

Issuer Name:

First Capital Realty Inc.
Principal Regulator - Ontario

Type and Date:

Preliminary Short Form Prospectus dated November 30, 2005
Mutual Reliance Review System Receipt dated November 30, 2005

Offering Price and Description:

\$100,000,000.00 - 5.50% Convertible Unsecured
Subordinated Debentures Due September 30, 2017

Underwriter(s) or Distributor(s):

Desjardins Securities Inc.

Promoter(s):

-

Project #865324

Issuer Name:

Futuremed HealthCare Income Fund
Principal Regulator - Ontario

Type and Date:

Amended and Restated Preliminary Prospectus dated
December 2, 2005
Mutual Reliance Review System Receipt dated December 2, 2005

Offering Price and Description:

\$ * - * Units Price: \$10.00 per Unit

Underwriter(s) or Distributor(s):

CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
RBC Dominion Securities Inc.
National Bank Financial Inc.
TD Securities Inc.
Dundee Securities Corporation
Sprott Securities Inc.

Promoter(s):

Futuremed Health Care Products Limited Partnership
ONCAP L.P.
R & FS Holdings Limited
Project #862196

Issuer Name:

Glencairn Gold Corporation
Principal Regulator - Ontario

Type and Date:

Preliminary Short Form Prospectus dated December 5, 2005
Mutual Reliance Review System Receipt dated December 6, 2005

Offering Price and Description:

\$ * - * Units Price: \$ * per Unit

Underwriter(s) or Distributor(s):

Orion Securities Inc.
Dundee Securities Corporation
Haywood Securities Inc.

Promoter(s):

-

Project #867101

Issuer Name:

Gryphon Gold Corporation
Principal Regulator - British Columbia

Type and Date:

Second Amended and Restated Preliminary Prospectus
dated November 30, 2005
Mutual Reliance Review System Receipt dated December 1, 2005

Offering Price and Description:

\$5,100,000.00 - 6,000,000 Units Price: \$0.85 per Unit

Underwriter(s) or Distributor(s):

Desjardins Securities Inc.
CIBC World Markets Inc.
Bolder Investment Partners, Ltd.
Orion Securities Inc.

Promoter(s):

-

Project #820359

Issuer Name:

Hood Enhanced Income Index Fund

Type and Date:

Preliminary Simplified Prospectus dated November 30, 2005
Received on December 5, 2005

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

J.C. Hood Investment Counsel Inc.
Project #866810

Issuer Name:

NUCRYST Pharmaceuticals Corp.
Principal Regulator - Alberta

Type and Date:

Preliminary Prospectus dated December 2, 2005
Mutual Reliance Review System Receipt dated December 2, 2005

Offering Price and Description:

US\$ * - 5,770,000 Common Shares Price: \$ US * per
Common Share

Underwriter(s) or Distributor(s):

GMP Securities L.P.

Promoter(s):

The Westaim Corporation

Project #866231

Issuer Name:

Primaris Retail Real Estate Investment Trust
Principal Regulator - Ontario

Type and Date:

Preliminary Short Form Prospectus dated November 30, 2005
Mutual Reliance Review System Receipt dated November 30, 2005

Offering Price and Description:

\$79,870,000.00 - 4,900,000 Units Price: \$16.30 per Unit

Underwriter(s) or Distributor(s):

RBC Dominion Securities Inc.
CIBC World Markets Inc.
Canaccord Capital Corporation
National Bank Financial Inc.
BMO Nesbitt Burns Inc.
Scotia Capital Inc.
TD Securities Inc.
Desjardins Securities Inc.
Raymond James Ltd.

Promoter(s):

-

Project #865312

Issuer Name:

Rally Energy Corp.
Principal Regulator - Alberta

Type and Date:

Preliminary Short Form Prospectus dated December 2, 2005
Mutual Reliance Review System Receipt dated December 2, 2005

Offering Price and Description:

\$8,000,000.00 - 6,400,000 Units Price: \$1.25 per Unit

Underwriter(s) or Distributor(s):

Jennings Capital Inc.
Wellington West Capital Markets Inc.
Tristone Capital Inc.
Dundee Securities Corporation
Wolverton Securities Ltd.

Promoter(s):

-

Project #866538

Issuer Name:

RedStar Oil & Gas Inc. (formerly Pelorus Energy Corp.)
Principal Regulator - Alberta

Type and Date:

Preliminary Prospectus dated November 29, 2005
Mutual Reliance Review System Receipt dated December 1, 2005

Offering Price and Description:

\$45,101,370.00 - 14,562,700 Common Shares Issuable
Upon the Exercise of 14,562,700 Special Warrants

Underwriter(s) or Distributor(s):

GMP Securities Ltd.
Blackmont Capital Inc.
Canaccord Capital Corporation
Orion Securities Inc.
Raymond James Ltd.
Acumen Capital Finance Partners Limited
Jennings Capital Inc.

Promoter(s):

-

Project #865293

Issuer Name:

TERASEN GAS INC.
Principal Regulator - British Columbia

Type and Date:

Preliminary Short Form Shelf Prospectus dated December 1, 2005
Mutual Reliance Review System Receipt dated December 2, 2005

Offering Price and Description:

\$700,000,000.00 - MEDIUM TERM NOTE DEBENTURES
(Unsecured)

Underwriter(s) or Distributor(s):

BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
National Bank Financial Inc.
RBC Dominion Securities Inc.
Scotia Capital Inc.
TD Securities Inc.

Promoter(s):

-

Project #866428

Issuer Name:

Tim Hortons Inc.
Principal Regulator - Ontario

Type and Date:

Preliminary PREP Prospectus dated December 1, 2005
Mutual Reliance Review System Receipt dated December 2, 2005

Offering Price and Description:

\$ * - * Common Shares Price: \$ * per Common Share

Underwriter(s) or Distributor(s):

Goldman Sachs Canada Inc.
RBC Dominion Securities Inc.

Promoter(s):

-

Project #866070

Issuer Name:

Tm Bioscience Corporation
Principal Regulator - Ontario

Type and Date:

Preliminary Short Form Prospectus dated December 5, 2005

Mutual Reliance Review System Receipt dated December 5, 2005

Offering Price and Description:

\$10,080,000.00 - 5,600,000 Common Shares Price \$1.80 per Common Share

Underwriter(s) or Distributor(s):

Canaccord Capital Corporation
Versant Partners Inc.
WestWind Partners Inc.

Promoter(s):

-

Project #866805

Issuer Name:

Trinidad Energy Services Income Trust
Principal Regulator - Alberta

Type and Date:

Preliminary Short Form Prospectus dated December 2, 2005

Mutual Reliance Review System Receipt dated December 2, 2005

Offering Price and Description:

\$160,000,005.00 - 10,666,667 Trust Units Price: \$15.00 per Trust Unit

Underwriter(s) or Distributor(s):

Raymond James Ltd.
TD Securities Inc.
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
BlackMont Capital Inc.
Wellington West Capital Inc.
Haywood Securities Inc.
Sprott Securities Inc.

Promoter(s):

-

Project #866457

Issuer Name:

Zoolander Corporation
Principal Regulator - Ontario

Type and Date:

Preliminary CPC Prospectus dated December 2, 2005
Mutual Reliance Review System Receipt dated December 2, 2005

Offering Price and Description:

\$350,000.00 - 3,500,000 Common Shares Price: \$0.10 per Common Share

Underwriter(s) or Distributor(s):

Haywood Securities Inc.

Promoter(s):

Daniel Goodman
Michael Cooper

Project #866279

Issuer Name:

Algonquin Power Venture Fund Inc.

Type and Date:

Final Prospectus dated December 1, 2005
Received on December 2, 2005

Offering Price and Description:

Class A Series I Shares and Class A Series II Shares at net asset value

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #856514

Issuer Name:

AnorMED Inc.
Principal Regulator - British Columbia

Type and Date:

Final Short Form Prospectus dated December 1, 2005
Mutual Reliance Review System Receipt dated December 1, 2005

Offering Price and Description:

\$25,000,000.00 - 6,250,000 Common Shares Price: \$4.00 per Common Share

Underwriter(s) or Distributor(s):

Raymond James Ltd.
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
Canaccord Capital Corp.

Promoter(s):

-

Project #860083

Issuer Name:

Canadian Equity Growth Pool
Principal Regulator - Ontario

Type and Date:

Amendment #1 dated November 22, 2005 to the Simplified Prospectus and Annual Information Form dated July 26, 2005

Mutual Reliance Review System Receipt dated December 5, 2005

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

Assante Capital Management Ltd.
Assante Capital Management Ltd.
Assante Capital Management Ltd.

Promoter(s):

Assante Asset Management Ltd.

Project #797039

Issuer Name:

Canadian Medical Discoveries Fund II Inc.
Principal Regulator - Ontario

Type and Date:

Final Prospectus dated December 2, 2005
Mutual Reliance Review System Receipt dated December 5, 2005

Offering Price and Description:

Class A Shares @ Net Asset Value

Underwriter(s) or Distributor(s):

-

Promoter(s):

PIPSC Sponsor Corp.

Project #843487

Issuer Name:

Canadian Satellite Radio Holdings Inc.
Principal Regulator - Ontario

Type and Date:

Final Prospectus dated December 5, 2005
Mutual Reliance Review System Receipt dated December 6, 2005

Offering Price and Description:

\$55,000,000.00 - 3,437,500 Class A Subordinate Voting
Shares Price: \$16.00 Per Subordinate Voting Share

Underwriter(s) or Distributor(s):

RBC Dominion Securities Inc.
Genuity Capital Markets G.P.
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
GMP Securities Ltd.
National Bank Financial Inc.
TD Securities Inc.

Promoter(s):

Canadian Satellite Radio Investment Inc.

Project #849719

Issuer Name:

CAPVEST Income Corp.
Principal Regulator - Ontario

Type and Date:

Final Prospectus dated November 29, 2005
Mutual Reliance Review System Receipt dated November 30, 2005

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

Blackmont Capital Inc.
Canaccord Capital Corporation
Desjardins Securities Inc.
HSBC Securities (Canada) Inc.
Raymond James Ltd.
Berkshire Securities Inc.
Dundee Securities Corporation
Jory Capital Inc.
Research Capital Corporation
Wellington West Capital Inc.
Haywood Securities Inc.
Industrial Alliance Securities Inc.
IPC Securities Inc.
MGI Securities Inc.
Rothenberg Capital Management Ltd.
Union Securities Ltd.
Argosy Securities Inc.
Burgeonvest Securities Limited
Northern Securities Inc.

Promoter(s):

John F. Discroll

Project #846838

Issuer Name:

Duke Energy Income Fund
Principal Regulator - Alberta

Type and Date:

Final Prospectus dated December 5, 2005
Mutual Reliance Review System Receipt dated December 6, 2005

Offering Price and Description:

\$140,000,000.00 - 14,000,000 Units Price: \$10.00 per Unit

Underwriter(s) or Distributor(s):

CIBC World Markets Inc.
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
TD Securities Inc.
Canaccord Capital Corporation
Clarus Securities Inc.

Promoter(s):

WestCoast Energy Inc.

Project #849636

Issuer Name:

EGL Financial Holdings Inc.
Principal Regulator - Ontario

Type and Date:

Final Prospectus dated November 30, 2005
Mutual Reliance Review System Receipt dated December 1, 2005

Offering Price and Description:

\$35,070,000.00 - 3,340,000 Common Shares Price: \$10.50 per Common Share

Underwriter(s) or Distributor(s):

CIBC World Markets Inc.
Dundee Securities Corporation
TD Securities Inc.
GMP Securities Ltd.

Promoter(s):

-

Project #843775

Issuer Name:

Elliott & Page Strategic Income Fund
Manulife Simplicity Income Portfolio
Principal Regulator - Ontario

Type and Date:

Final Simplified Prospectuses dated November 28, 2005
Mutual Reliance Review System Receipt dated December 1, 2005

Offering Price and Description:

Advisor Series, Series F, Series I and Series D Securities

Underwriter(s) or Distributor(s):

Elliott & Page Limited
Elliott & Page Limited

Promoter(s):

Elliott & Page Limited

Project #848202

Issuer Name:

Enbridge Pipelines Inc.
Principal Regulator - Alberta

Type and Date:

Final Short Form Base Shelf Prospectus dated December 2, 2005
Mutual Reliance Review System Receipt dated December 2, 2005

Offering Price and Description:

\$600,000,000.00 - MEDIUM TERM NOTE DEBENTURES (UNSECURED)

Underwriter(s) or Distributor(s):

RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
HSBC Securities (Canada) Inc.
National Bank Financial Inc.
Scotia Capital Inc.
TD Securities Inc.

Promoter(s):

-

Project #860099

Issuer Name:

First Asset Renewable Power Flow-Through LP III (Limited Partnership Units)
Principal Regulator - Ontario

Type and Date:

Final Prospectus dated November 29, 2005
Mutual Reliance Review System Receipt dated November 30, 2005

Offering Price and Description:

Maximum Offering: \$26,500,000 (2,650,000 Limited Partnership Units @ \$10/unit)
Minimum Offering: \$8,500,000 (850,000 Limited Partnership Units @ \$10/unit)

Underwriter(s) or Distributor(s):

CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
TD Securities Inc.
Dundee Securities Corporation
Canaccord Capital Corporation
HSBC Securities (Canada) Inc.
Raymond James Ltd.
Berkshire Securities Inc.
Blackmont Capital Inc.
Desjardins Securities Inc.
Research Capital Corporation
Wellington West Capital Inc.
IPC Securities Corporation

Promoter(s):

First Asset Power Funds III Inc.
First Asset Funds Inc.

Project #848538

Issuer Name:

frontierAlt Resource 2005 Flow-Through Limited Partnership
Principal Regulator - Ontario

Type and Date:

Final Prospectus dated November 30, 2005
Mutual Reliance Review System Receipt dated December 2, 2005

Offering Price and Description:

Maximum Offering: \$25,000,000 (2,500,000 Units);
Minimum Offering: \$3,500,000 (350,000 Units)
Minimum Subscription: 250 Units Subscription Price: \$10.00 per Unit

Underwriter(s) or Distributor(s):

Blackmont Capital Inc.
Canaccord Capital Corporation
Dundee Securities Corporation
HSBC Securities (Canada) Inc.
Raymond James Ltd.
TD Securities Inc.
Research Capital Corporation
Wellington West Capital Inc.
Pacific International Securities Inc.
Richardson Partners Financial Limited

Promoter(s):

frontierAlta Investment Management Corporation

Project #844409

Issuer Name:

Hali Capital Corporation
Principal Regulator - Alberta

Type and Date:

Final CPC Prospectus dated November 24, 2005
Mutual Reliance Review System Receipt dated December 6, 2005

Offering Price and Description:

\$875,000.00 - 8,750,000 common shares Price: \$0.10 per common share

Underwriter(s) or Distributor(s):

Octagon Capital Corporation

Promoter(s):

Theodore J. A. Rousseau

Project #838789

Issuer Name:

High Ridge Resources Inc.
Principal Regulator - British Columbia

Type and Date:

Final Prospectus dated November 25, 2005
Mutual Reliance Review System Receipt dated November 30, 2005

Offering Price and Description:

\$1,500,000.00 - 5,000,000 Units (the "Units") Price: \$0.30 per Unit

Underwriter(s) or Distributor(s):

Bolder Investment Partners Ltd.

Promoter(s):

Gary W. Anderson
Brian Fairbank

Project #841728

Issuer Name:

KidsFutures Inc.
Principal Regulator - Ontario

Type and Date:

Final Prospectus dated November 29, 2005
Mutual Reliance Review System Receipt dated December 6, 2005

Offering Price and Description:

MINIMUM OFFERING: \$3,999,999.30 or 3,636,363 UNITS;
MAXIMUM OFFERING: \$6,999,999.60 or 6,363,636 UNITS
Price: \$1.10 per Unit

Underwriter(s) or Distributor(s):

Blackmont Capital Inc.
Haywood Securities Inc.
Wellington West Capital Markets Inc.
Canaccord Capital Corporation

Promoter(s):

-

Project #844506

Issuer Name:

MineralFields/EnergyFields Multi Series Fund Inc.
(Explorer Series Shares)

Type and Date:

Final Simplified Prospectus dated December 1, 2005
Receipted on December 2, 2005

Offering Price and Description:

Mutual Fund Shares @ Net Asset Value

Underwriter(s) or Distributor(s):

-

Promoter(s):

Mineralfields Fund Management Inc.

Project #848687

Issuer Name:

Miranda Technologies Inc.
Principal Regulator - Quebec

Type and Date:

Final Prospectus dated November 30, 2005
Mutual Reliance Review System Receipt dated November 30, 2005

Offering Price and Description:

\$140,880,848.00 - 12,522,742 common shares Price
\$11.25 per Common Share

Underwriter(s) or Distributor(s):

Genuity Capital Markets G.P.
BMO Nesbitt Burns Inc.
Desjardins Securities Inc.
National Bank Financial Inc.
TD Securities Inc.

Promoter(s):

-

Project #845063

Issuer Name:

Nordea International Equity Fund
Principal Regulator - Ontario

Type and Date:

Final Simplified Prospectus dated November 23, 2005
Mutual Reliance Review System Receipt dated December 2, 2005

Offering Price and Description:

Class O units, Class I units and Class P units

Underwriter(s) or Distributor(s):

-

Promoter(s):

SEI Investments Canada Company

Project #843380

Issuer Name:

Orezone Resources Inc.
Principal Regulator - Ontario

Type and Date:

Final Short Form Prospectus dated November 30, 2005
Mutual Reliance Review System Receipt dated November 30, 2005

Offering Price and Description:

Cdn.\$30,000,000.00 - 15,000,000 Common Shares Price:
Cdn.\$2.00 per Common Share

Underwriter(s) or Distributor(s):

BMO Nesbitt Burns Inc.
Canaccord Capital Corporation
CIBC World Markets Inc.
RBC Dominion Securities Inc.

Promoter(s):

-

Project #858006

Issuer Name:

Petrofund Energy Trust
Principal Regulator - Alberta

Type and Date:

Final Short Form Prospectus dated November 30, 2005
Mutual Reliance Review System Receipt dated November 30, 2005

Offering Price and Description:

\$250,000,000.00 - 12,500,000 Subscription Receipts, each representing the right to receive one trust unit

Underwriter(s) or Distributor(s):

CIBC World Markets Inc.
National Bank Financial Inc.
Scotia Capital Inc.
RBC Dominion Securities Inc.
TD Securities Inc.
BMO Nesbitt Burns Inc.
Canaccord Capital Corporation
FirstEnergy Capital Corp.
GMP Securities Ltd.
Raymond James Ltd.
Blackmont Capital Inc.
Sprott Securities Inc.
Tristone Capital Inc.

Promoter(s):

-

Project #857858

Issuer Name:

RBC DS Aggressive Growth Global Portfolio
RBC DS Balanced Global Portfolio
RBC DS Canadian Focus Fund
RBC DS Growth Global Portfolio
RBC DS North American Focus Fund
Principal Regulator - Ontario

Type and Date:

Final Simplified Prospectuses dated December 5, 2005
Mutual Reliance Review System Receipt dated December 6, 2005

Offering Price and Description:

Mutual fund trust units at net asset value

Underwriter(s) or Distributor(s):

RBC Dominion Securities Inc.
RBC Dominion Securities Inc.

Promoter(s):

RBC Asset Management Inc.

Project #848454

Issuer Name:

Renaissance Canadian Money Market Fund
(Class A units)

Renaissance Canadian T-Bill Fund
(Class A units)

Renaissance U.S. Money Market Fund
(Class A units)

Renaissance Canadian Bond Fund
(Class A and F units)

Renaissance Canadian Real Return Bond Fund
(Class A and F units)

Renaissance Canadian High Yield Bond Fund
(Class A and F units)

Renaissance Canadian Balanced Fund
(Class A and F units)

Renaissance Canadian Balanced Value Fund
(Class A and F units)

Renaissance Tactical Allocation Fund
(Class A and F units)

Renaissance Talvest Millennium High Income Fund
(Class A and F units)

Renaissance Canadian Income Trust Fund
(Class A and F units)

Renaissance Canadian Income Trust Fund II
(Class A and F units)

Renaissance Canadian Dividend Income Fund
(Class A and F units)

Renaissance Canadian Core Value Fund
(Class A and F units)

Renaissance Canadian Growth Fund
(Class A and F units)

Renaissance Canadian Small Cap Fund
(Class A and F units)

Renaissance U.S. Basic Value Fund
(Class A and F units)

Renaissance U.S. Fundamental Growth Fund
(Class A and F units)

Renaissance U.S. Index Fund (formerly Renaissance U.S.
RSP Index Fund)

(Class A and F units)

Renaissance International Growth Fund
(Class A and F units)

Renaissance International Index Fund (formerly Renaissance International RSP Index Fund) (Class A and F units)
Renaissance Global Growth Fund (Class A and F units)
Renaissance Global Opportunities Fund (Class A and F units)
Renaissance Global Sectors Fund (Class A and F units)
Renaissance Euro Fund (Class A and F units)
Renaissance Talvest China Plus Fund (Class A and F units)
Renaissance Developing Capital Markets Fund (Class A and F units)
Renaissance Talvest Global Health Care Fund (Class A and F units)
Renaissance Global Technology Fund (Class A and F units)
Talvest Money Market Fund (Class A units)
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Talvest International Equity Fund (Class A, F, and O units)

Talvest Global Equity Fund (Class A, F, and O units)
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Talvest Global Resource Fund (Class A, F, and O units)
Talvest Global Science & Technology Fund (Class A, F, and O units)
Principal Regulator - Ontario

Type and Date:

Final Simplified Prospectuses dated November 29, 2005
Mutual Reliance Review System Receipt dated December 6, 2005

Offering Price and Description:

Mutual fund trust units at net asset value

Underwriter(s) or Distributor(s):

CIBC Asset Management Inc.

Promoter(s):

CIBC Asset Management Inc.

Project #840741

Issuer Name:

Sanatana Diamonds Inc.
Principal Regulator - British Columbia

Type and Date:

Final Prospectus dated November 28, 2005
Mutual Reliance Review System Receipt dated November 30, 2005

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #851244

Issuer Name:

Sentry Select Canadian Resource Fund Ltd.
Principal Regulator - Ontario

Type and Date:

Amendment #1 dated November 24, 2005 to the Simplified Prospectus and Annual Information Form dated April 6, 2005

Mutual Reliance Review System Receipt dated December 6, 2005

Offering Price and Description:

Mutual Fund Shares @ Net Asset Value

Underwriter(s) or Distributor(s):

Sentry Select Capital Corp.

Promoter(s):

Sentry Select Capital Corp.

Project #741867

Issuer Name:

Somerset Entertainment Income Fund
Principal Regulator - Ontario

Type and Date:

Final Prospectus dated December 5, 2005

Mutual Reliance Review System Receipt dated December 6, 2005

Offering Price and Description:

\$32,550,000.00 - 4,200,000 Subscription Receipts, each representing the right to receive one Trust Unit Price: \$7.75 per Subscription Receipt

Underwriter(s) or Distributor(s):

BMO Nesbitt Burns Inc.

RBC Dominion Securities Inc.

TD Securities Inc.

CIBC World Markets Inc.

Raymond James Ltd.

WestWind Partners Inc.

Promoter(s):

-

Project #855805

Issuer Name:

Series A, F and O Units of:
Templeton Global Income Fund
Principal Regulator - Ontario

Type and Date:

Final Simplified Prospectus dated December 1, 2005

Mutual Reliance Review System Receipt dated December 2, 2005

Offering Price and Description:

Mutual fund units at net asset value

Underwriter(s) or Distributor(s):

Franklin Templeton Investments Corp.

Promoter(s):

-

Project #839880

Issuer Name:

Class A Shares of:
The VenGrowth Advanced Life Sciences Fund Inc.
The VenGrowth III Investment Fund Inc.
The Vengrowth Traditional Industries Fund Inc.
Principal Regulator - Ontario

Type and Date:

Final Prospectus dated December 2, 2005

Mutual Reliance Review System Receipt dated December 6, 2005

Offering Price and Description:

Class A shares

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #843035

Issuer Name:

Uranium Participation Corporation
Principal Regulator - Ontario

Type and Date:

Final Prospectus dated December 6, 2005

Mutual Reliance Review System Receipt dated December 6, 2005

Offering Price and Description:

\$60,000,000.00 - 10,000,000 Common Shares PRICE \$6.00 PER COMMON SHARE

Underwriter(s) or Distributor(s):

Sprott Securities Inc.

Dundee Securities Corporation

CIBC World Markets Inc.

National Bank Financial Inc.

Scotia Capital Inc.

TD Securities Inc.

Promoter(s):

E. Peter Farmer

James R. Anderson

Project #856557

Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
New Registration	GMP Securities L.P.	Investment Dealer	December 1, 2005
New Registration	GMP Private Client L.P.	Investment Dealer	December 1, 2005
Change in Category	Credit Suisse First Boston LLC	From: International Dealer To: International Dealer, International Adviser and Limited Market Dealer	November 30, 2005
New Registration	OptionsXpress Canada Corp.	Investment Dealer	December 1, 2005
New Registration	Fresno Securities Inc.	Limited Market Dealer	December 2, 2005
Change in Category	Martin Currie Inc.	From: International Adviser (Investment Counsel and Portfolio Manager) To: International Adviser (Investment Counsel and Portfolio Manager) & Commodity Trading Manager	December 5, 2005
Change of Name	From: Adams, Harkness & Hill, Inc. To: Adams Harkness Financial Group, Inc.	International Dealer	March 29, 2004

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Chapter 25

Other Information

25.1 Approvals

25.1.1 Tower Asset Management Inc. - s. 213(3)(b) of the LTCA

Headnote

Clause 213(3)(b) of the Loan and Trust Corporations Act – application by manager, with no prior track record acting as trustee, for approval to act as trustee of funds to be established and managed by the applicant and offered pursuant to a prospectus exemption.

Statutes Cited:

Loan and Trust Corporations Act, R.S.O. 1990, c. L.25, as am., s. 213(3)(b).

December 2 , 2005

Miller Thomson LLP
2500, 20 Queen Street West
Toronto, Ontario
Canada M5H 3S1

Attention: Tauna M. Staniland

Dear Sirs/Mesdames:

RE: Tower Asset Management Inc. (the “Applicant”)
Application pursuant to clause 213(3)(b) of the *Loan and Trust Corporations Act* (Ontario) for approval to act as trustee
Application #827/05

Further to your application dated November 25, 2005 (the “Application”) filed on behalf of the Applicant, and based on the facts set out in the Application, pursuant to the authority conferred on the Ontario Securities Commission (the “Commission”) in clause 213(3)(b) of the *Loan and Trust Corporations Act* (Ontario), the Commission approves the proposal that the Applicant act as trustee of AGII Performance Fund and AGII Bond Fund and other funds that may be established and managed by the Applicant from time to time, the securities of which will be offered pursuant to a prospectus exemption.

Yours truly,

"Robert Shirriff"

"Suresh Thakrar"

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