June 6, 2000

British Columbia Securities Commission
Alberta Securities Commission
Saskatchewan Securities Commission
The Manitoba Securities Commission
Ontario Securities Commission
Office of the Administrator, New Brunswick
Registrar of Securities, Prince Edward Island
Nova Scotia Securities Commission
Securities Division, Newfoundland and Labrador
Registrar of Securities, Northwest Territories
Registrar of Securities, Yukon Territory
Registrar of Securities, Nunavut

c/o John Stevenson, Secretary
Ontario Securities Commission
20 Queen Street West
Suite 800, Box 55
Toronto, Ontario
M5H 3S8

Claude St Pierre, Secrétaire
Commission des valeurs mobiliéres du Québec
800 Victoria Square
Stock Exchange Tower
P.O. Box 246, 22nd Floor
Montréal, Québec
H4Z 1G3

Dear Sirs and Mesdames:

Concept Proposal for an Integrated Disclosure System

The purpose of this letter is to respond to the Canadian Securities Administrators' ("CSA") Notice and Request for Comments regarding the Integrated Disclosure System ("IDS") Proposal. We have responded to some of the issues raised by the CSA in the Proposal and have also raised some other issues for consideration.

IDS Eligibility

Reporting issuer, or equivalent status, in all CSA jurisdictions should not be a condition of IDS eligibility. The majority of issuers are not reporting issuers in all CSA jurisdictions. Accordingly, IDS participation could be severely limited if reporting issuer status in all jurisdictions was a precondition of IDS eligibility. There should be no change in the long-standing principle and practice that issuers should be entitled to pick the jurisdictions in which

they distribute their securities and thereby have reporting issuer status. Further, with the instant availability of continuous disclosure documents in all jurisdictions through SEDAR, regardless of where the issuer reports or any investor resides, reporting issuer status is becoming of less significance.

Forcing issuers to become a reporting issuer in all jurisdictions will require them to comply with different technical or procedural requirements in numerous jurisdictions, without any significant difference in the substantive legal obligations. This is an onerous and expensive additional burden without any corresponding benefit. If reporting issuer status in all Canadian jurisdictions is not removed as a requirement of IDS eligibility, then the CSA should seek to harmonize the requirements of the various jurisdictions to reduce the burden on issuers.

We suggest that the CSA revise the Proposal so that there is no obligation to be a reporting issuer in more than one jurisdiction. However, it may be appropriate to grant to the other "non-reporting jurisdictions" the right to "opt-in" to any IDS review undertaken by a jurisdiction, in which an issuer is reporting, in connection an issuer's filings.

IDS Continuous Disclosure

It appears that the CSA may be imposing continuous disclosure obligations on issuers in connection with some of the SIF triggering events defined in the IDS in an attempt to combat insider-trading violations. We submit that this is an enforcement problem that cannot be solved by forcing issuers to make "too fine" or "too early" a judgment, particularly in the context of business combinations and dispositions of assets or a business. The environment in which these transactions occur is often constantly changing and making the type of assessment required for a SIF filing is extremely difficult. Under the IDS, the standard of disclosure to be met in these circumstances is set at an impractical level.

The following requirements to disclose information in a SIF are ambiguous:

- the requirement that an issuer or selling security holder must file a SIF when the issuer or selling security holder has formed a "reasonable expectation" that a distribution of securities "is likely to proceed"; and

- the requirement that an issuer must file a SIF upon a proposed business combination or disposition of assets or a business becoming "probable".

What constitutes a "reasonable expectation" that a distribution of securities "is likely to proceed" or that a business combination is "probable" is difficult to determine. In practice, issuers and selling security holders want to have a higher level of certainty before they disclose this type of information to the public. It may be misleading to investors if this information is disclosed prematurely as false expectations may be created.

We submit that, under the IDS, the requirement to disclose information in a SIF in connection with the distribution of securities, business combinations and dispositions of assets or a business should remain as it is under the securities legislation. Specifically, disclosure should only be required if there is a change in the business, operations, assets or ownership of the issuer that

would reasonably be expected to have a significant effect on the market price or value of any of the securities of the issuer, including a decision to implement that change.

Certification

The "full, true and plain disclosure of all material facts" standard of disclosure is too onerous for SIFs unless the certification is limited to the SIF itself. In practice, the question of whether or not this standard has been met will only be addressed at the time of signing or filing a document. It will not be addressed on an ongoing basis. An AIF and QIF would not normally be reviewed and updated at the time that a SIF is filed and certified. It is not realistic to force issuers to consider whether the standard of "full, true and plain disclosure of all material facts" is met on a day-to-day basis. The same issues will apply to non-IDS issuers if the standards of certification are extended to non-IDS documents such as material change reports. The alternative misrepresentation standard suggested for consideration would be more appropriate for the filing and certification of all interim documents such as a SIF.

Involvement of Advisors in Continuous Disclosure

Advisors ought to become more involved in the preparation and review of continuous disclosure documents. However, in practice, this is unlikely to occur, as has been the case with the POP System. The POP System has resulted in less participation by underwriters and outside counsel in due diligence. Issuers are reluctant to incur the expense until an offering is being undertaken and time limits then operate to constrain detailed due diligence. As issuers become familiar with the process under the IDS, much of the ongoing preparation of the continuous disclosure documents will be completed "in-house" unless an offering is imminent. This would particularly apply to interim documents other than the AIF. Accordingly, the IDS process is likely to result in a reduction of the level of the due diligence conducted by advisors.

IDS Prospectuses

An IDS preliminary prospectus should be delivered to investors to give investors the opportunity to review the information contained in the IDS preliminary prospectus and to advise investors where the disclosure incorporated by reference in the IDS preliminary prospectus may be obtained and reviewed. For this purpose, it should be clear that delivery of the IDS preliminary prospectus by electronic means, in accordance with *National Policy 11-201 – Delivery of Documents by Electronic Means,* satisfies the delivery requirement.

Pilot Introduction of the IDS

The main benefits of the IDS would be the speed at which the capital markets could be accessed by issuers. However, is not certain that issuers will be willing to participate in the IDS because of the costs of complying with the IDS and the increased exposure as a result of the certification requirements contained in the IDS.

We appreciate the opportunity to respond to the CSA Proposal and would be pleased to participate in any pilot introduction of the IDS. Please contact us if you have any questions regarding our comments. Please address any questions or concerns to the attention of Ms. Lisa Bugry. Please note that we are also sending an electronic version of this letter as requested in the Request for Comments.

Yours very truly,

LAWSON LUNDELL LAWSON & McINTOSH