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**RE: 51-102 Continuous Disclosure Obligations: Proposed National Instrument and Rule 71-102 Continuous Disclosure and Other Exemptions Relating to Foreign Issuers: Proposed National Instrument.**

We have read the above-mentioned documents and agree with most of the proposed recommendations.

We wish to, however, make the following comments for your consideration:

**51-102 Continuous Disclosure Obligations: Proposed National Instrument**

**Shorter Filing Deadlines:**

The most significant concern we have is with respect to the tighter deadlines to file financial statements. We are concerned that the potentially reduced reliability of the reports would exceed the incremental timeliness produced by accelerating the due dates. Timely financial reporting is a key component of how relevant the financial statements are to users, however, reliability must be considered with equal importance. Timely information is of no use if it is unreliable or perceived to be potentially unreliable which we feel is a risk due to the increased time pressures being placed on preparers and auditors of financial statements.

At this time we do not feel that the Rule should change to reflect the recent SEC changes for the reasons stated above. In particular we believe that the filing deadline for smaller issuers should not be shortened from the proposed 120 days.

**Disclosure of Financial Results:**

The Companion Policies states that staff believes the financial information extracted from financial statements should not be released until the financial statements have been reviewed by the board or the audit committee.

We suggest that this be addressed in the rule. There is too much pressure for auditors to match the numbers released in the press release when they are released by the company before the financial statements have been appropriately reviewed.

**Criteria for identifying small issuers:**

We believe that it is confusing to have different definitions for certain exemptions and recommend that one definition be used.

We would prefer that smaller issuer be defined based on a market-cap test and suggest that the $75MI threshold used for purposes of qualification under the short form prospectus rules be used.

If this definition is adopted we recommend that small issuers not be exempt from filing an AIF, but that consideration be given to requiring certain simpler disclosures.

Alternatively, we wonder whether consideration has been given to implement a system similar to the US where there are separate rules for smaller issuers in regulation S-B.

**Other general issues:**

- A requirement to file all filings at one time should be put in place (i.e. Financial Statements, MD&A, AIF etc.). When the AIF is filed later there is a risk that this filing could be different than other items previously filed.

- We noted that it is not necessary to have interim financial statements approved, we recommend that the rule should require interim statements to also be approved and not simply reviewed.

- Canadian issuers are now allowed to issue statements following US GAAP, we recommend that consideration be given to also allow International GAAP for entities that file such statements with another acceptable regulatory jurisdiction.

**<u>Specific Comments</u>**

**PART 4 – Financial Statements:**

- Section 4.9 - the Balance Sheet disclosure items are detailed but there is no guidance on Income Statement disclosures or presentation. We suggest that there be some guidance on the Income Statement items also (i.e. what is included in operating income).

- Section 4.10 – this section states that “a development-stage issuer must include, as a schedule or note to the financial statements required under sections 4.1 and 4.4, for each period covered by those financial statements, a breakdown of material components of:” We feel that the section is vague and a definition of “material” should be included for further clarification.

- Section 4.14 – Paragraph 6 reads as though only one change in auditor notice will be prepared. In many cases, however, the timing between the resignation of an auditor and the appointment of another auditor would require that two notices be prepared.

  We believe that the rule should encourage the preparation of two notices in any case since the notice contains certain information which would not be known to the successor auditor (ie. disagreements) and other items that may not be known to the predecessor auditor (i.e. consultation). Therefore if there is only one notice issued, both auditors will need to disclaim knowledge for the items they cannot comment on.

- Paragraph 8 states that the former auditor must receive the change of auditor notice and respond to the applicable regulator within 20days of the termination. We feel that the auditor is not in control of when the change of audit notice is sent and therefore may not be able to meet this deadline, especially if they do not receive the notice within 20 days of the termination. It would be better if they were required to respond within 10 days after they receive the change of auditor notice.

**PART 8 – Business Acquisition Report and Disclosure of Significant Dispositions:**

- We recommend that paragraph 7 should include a discussion on acceptable reporting currencies or at least cross-reference this to the separate rule on acceptable currency.

**Answers to Specific Questions:**

1. (a) Is it appropriate to use TSE non-exempt company criteria to determine deadlines for filing financial statements? If not, why not, and what other criteria should we consider?

No, we suggest the definition of a small business issuer be defined and this definition should be used as the criteria.

1. (d) Is the $75 million criteria that is used in the Rule as one of the triggers of the AIF requirement, and in NI 44-101 for short form prospectus eligibility, appropriate?

Yes, we recommend that this criteria be given serious consideration.

2. Issuers will have to disclose annually in their AIFs and information circulars that the financial statements and MD&A are available without charge and how to obtain them. Do you agree with this approach? Why or why not? What approach would you suggest?

Yes, we are in agreement with this approach.

3. *SEC Developments* - Under the heading "Recent SEC Developments" above, we identify SEC Releases that propose changes to corporate disclosure requirements for SEC registrants.

Should we change the Rule to reflect the proposed SEC requirements?

No, we do not think the Rule should be changed to accept the proposed SEC requirements. We feel this will create undue pressures to issuers and auditors, in particular for small issuers.

4. Should we combine financial statement and MD&A filing requirements?

Yes, as mentioned in our earlier comments we suggest the AIF also be combined.

6. Would it be better or worse to have only one threshold for determining significance with a requirement for two years of financial statements when the threshold is met? If you support this approach, what would you suggest as an appropriate threshold and why?

Yes, however there should be an exemption available for small business issuers to allow them to only have audited numbers for one year only.

8. Are these ways of identifying small issuers appropriate? Is there one definition that would be appropriate for all purposes? Why or why not?

We strongly feel there should only be one definition of the small business issuer, having all these different definitions is very confusing and cumbersome for financial statement preparers.

9. With respect to the cost-benefit analysis for small business issuers we feel that this could be narrowed by allowing that the extent of the disclosures required take into account the simplicity of the operations of the small business issuer. We agree that disclosures are still required, but they should be less detailed that other issuers.

10. Cost – Benefit analysis.

Please see our opening comments with respect to timeliness vs. accuracy of information.

**71-102 Continuous Disclosure and Other Exemptions Relating to Foreign Issuers: Proposed National Instrument.**

**General Comments**

We feel there is some confusion over the definitions of eligible, designated and SEC foreign issuer. We do not feel the definitions as stated are clear and further clarification would be beneficial.

We are also concerned that there is no reconciliation to Canadian GAAP required. There should at least be a transitional requirement to do the reconciliation to Canadian GAAP rather than simply changing the reporting base.

The Rule is quite complex and repetitious and likely could be simplified by stating that all documents are required to be filed and then list the exceptions.

**Answers to Specific Questions:**

1. What is your assessment of the costs and benefits of the Rule?

We feel that there will no doubt be significant cost savings due to acceptable reporting basis change, however, there will also be a significant cost with respect to comparability. Without a Canadian GAAP reconciliation the comparability of the reporting will be lost.

2. Have we included the appropriate countries in the definition of "designated foreign jurisdiction"? If not, please explain in detail why any countries should be added or removed, with reference to the laws of that country.

Yes, we feel the designated foreign jurisdictions are adequate as currently listed.

3. Should we use the threshold of having not more than 10 percent equity security ownership in Canada for determining which foreign issuers may file financial statements prepared in accordance with the accounting principles accepted in the designated foreign jurisdiction, without a reconciliation to Canadian GAAP? If not, what threshold would be appropriate?

As noted earlier, we feel a reconciliation should be required which would eliminate this threshold issue.

4. Should we use the threshold of having not more than 10 percent equity security ownership in Canada for determining, which foreign issuers may satisfy Canadian CD requirements by complying with the requirements of a designated foreign jurisdiction? If not, what threshold would be appropriate?

We believe that the 10% threshold is appropriate.

5. Do you agree that foreign issuers should not be exempt from the disclosure requirements of NI 43-101 and NI 51-101? Why or why not?

Yes, we agree that the foreign issuers should not be exempt from the disclosure requirements since we do not feel there are any significant issues that should allow them to receive this exemption.

Thank you for your consideration of the above-noted comments.

Yours truly,

BDO Dunwoody LLP