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British Columbia Securities Commission  
Commission des valeurs mobilières, du Québec  
Manitoba Securities Commission  
Nova Scotia Securities Commission  
Ontario Securities Commission  
Office of the Attorney General / Registrar of Securities, Prince Edward Island  
Registrar of Securities, Department of Justice, Government of Northwest Territories  
Registrar of Securities, Government of Yukon  
Registrar of Securities, Legal Registries Division, Department of Justice, Government of Nunavut  
Saskatchewan Securities Commission  
Securities Administration Branch / Office of Administrator, New Brunswick  
Securities Commission of Newfoundland and Labrador

c/o

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Dear Sir/Madam:

**Re: National Instrument 51-102 et al; and  
National Instrument 52-110 et al**

I am writing in connection with the June 20, 2003 request for comments on proposed NI 51-102 (continuous disclosure obligations) and the June 27, 2003 request for comments on proposed NI 52-110 (audit committees). I have combined my comments, as the proposed instrument on audit committees requires additional disclosures within an issuer's annual information form ("AIF") and its management information circular ("Circular") that are not dealt with in the instrument on continuous disclosure.

My comments are directed at the time frame for filing and the content of the various disclosure documents. The comments in this letter are my own and should not be construed to be those of my employer or anyone else. I am merely someone that has to deal with implementing reporting rules such as the above.

**Timing:**

I fully support the views expressed by others concerning the proposed tight deadline for year-end reporting. Why 90 days and not, say, 115 days? I believe quality is more important than shortening the deadline by a few weeks. You cannot imagine the logistics of coordinating board and committee meetings, receiving completed officer and director questionnaires, printers to print, design firms to design and format, lawyers to vet, auditors to review and audit, translators to translate, registrars and transfer agents to mail, the SEDAR filing agent to format and management to draft and redraft. Combining the above with the Mail Date, Bulk Delivery Date, Record Date and other dates set out in NI 54-101, makes for a challenging process.

**MD&A Filing:**

Is it really necessary to have a separate filing of the MD&A within SEDAR? My view is that anyone reading an MD&A needs to have the full set of financial statements (year end or interim) in front of them in order to get through what is a very dry document. In any event, a person solely interested in the MD&A could merely select the print function that reduces the print range on SEDAR.

**Content:**

I welcome newly introduced disclosure rules and the trend towards improved corporate governance. However, the current content rules for the AIF, Circular, annual reports and other filings already result in lengthy documents. The new proposals appear to add more length and I question the value. For example:

- (a) The proposed NI 52-110F1 requires that the issuer "[d]isclose the text of the audit committee's charter." Audit committee charters can easily exceed four pages, and these will lengthen as companies amend them to specifically address all of the proposed new rules in NI 52-110. The added length to the AIF, and the necessarily different wording style of a charter, will conflict with the "Plain Language" requirements of proposed NI 51-102F1. I suggest that proposed NI 52-110F1 be amended so that the issuer is permitted to summarize the significant elements of its audit committee's mandate so that the issuer can use definitions, language and drafting style similar to the rest of the AIF.
- (b) There are existing requirements (NI 51-102F6, part 10) for disclosing the issuer's total return versus the broader market index under the "Performance Graph." This requirement made sense before the widespread availability of the internet. However, the time and difficulty in calculating and graphing the total return of the index(es) and the issuer's security (and inserting the related Excel<sup>TM</sup> file into the Word<sup>TM</sup> file to then be imported into a MAC<sup>TM</sup> file) is no longer warranted. The chance of an error being made within the calculations is significant, yet the value to the reader is modest since most investors have access to real-time graphing and share price information from where they are also retrieving the AIF and Circular. In any event, should it not be the job of the issuer to report its results and other filings properly and be the market's job to price and trade the

stock as it sees fit? Investors tend to already know when their investment has performed badly or well.

- (c) The proposed NI 51-102F1 (part 8.1) requires that the monthly volume and price ranges of the stock price be listed within the AIF. Please see my comments above on the total return graph.
- (d) New requirements in NI 51-102F1 (part 7.3) entail lengthy disclosures on credit ratings etc. If a reader does not know all of the details of a credit rating system, it should not be the issuer's responsibility to provide that information. I suggest that merely the rating, the agency involved together with the agency's public web site be required to be provided within the AIF.
- (e) The existing requirements for disclosure of executive compensation within the Circular at NI 51-102F6 part 2 (as well as the proposed AIF section on disclosure of audit and related fees NI-52-110F1 part 7) requires that the issuer provide more than one year of information. I suggest that the current year be the focus for such disclosures. If someone is interested in seeing prior year information, that can easily be accomplished by "calling up" the prior year's document. Again, every effort should be made to encourage shorter filings so that the substance can be read easily without clutter.
- (f) In NI 51-102F1 part (5.1)(c), does a potential or existing investor really need to know the "*payment terms, expiration dates and terms of any renewal options of any leases .... , whether they are in good standing and, if applicable, that the landlord ... is not at arm's length with your company.*" Surely a leased premises or equipment operating lease is not material to any company with a market capitalization above, say, \$30 million. The related party disclosure requirements, and the future obligations, are already dealt with elsewhere in the filings including the notes to the financial statements. I recognize that Part 1 of NI 51-102FI qualifies most of the requirements with the "materiality" concept. However, a less onerous requirement could still be drafted.
- (g) The existing rule for the AIF (NI 51-102F1, part 10.2) and proposed rules for disclosure within the Circular (NI 51-102F5, part 7.2) in respect of directors and officers that were previously involved in a bankruptcy etc of another company are interesting. My personal belief is that anyone who has lived through an insolvency event has better experience and knowledge than one who has not. Indeed, I could argue that such persons are now "financial experts." The current and proposed disclosure requirements may have the unintended consequence of board selection committees not recommending new people who are actually extremely smart, experienced and ethical. For example, such board members might not allow management to take on too much leverage or remain unhedged as it relates to currency, commodity or interest-rate exposures. Maybe your concern is criminal, or similar activity, associated with cease trade orders and insolvency events? If so, you should consider modify the wording accordingly.
- (h) The new proposed rule for disclosure of "Social and Environmental Policies" (NI 51-102F1, part 5.1(4)) is a recipe for motherhood drafting. It will add clutter to reporting that does not help the investing public or even people who are quite rightly concerned about the environment and social policy. Please keep in mind that the issuer's senior executives, the board committees and the board have to read and sign off on all public filings. For them to read these long documents means they are spending less time on running the business and ensuring that such filings are accurately written and complete.

In summary, I believe some effort should be given to being reasonable on the timing requirement of reporting and to reducing the size of public filings. I am available anytime to discuss or assist with this matter and can be reached at the above address.

Yours very truly,

Stephen D. Rotz, CA, CFA