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**Subject: CSA Proposed National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency***

We have two comments on proposed National Instrument 52-107, *Acceptable Accounting Principles, Auditing Standards and Reporting Currency*. We have not repeated the comments that we submitted in connection with the original proposals included in proposed National Instrument 51-102, *Continuous Disclosure Obligations*.

**Requirement for Canadian auditors with financial statements involving Canadian GAAP and GAAS**

Subsection 3.3(2) of the proposed Instrument is new. This subsection essentially requires that a Canadian incorporated company, whose financial statements are prepared in accordance with Canadian generally accepted accounting principles (“GAAP”) and audited in accordance with Canadian generally accepted auditing standards (“GAAS”), must have its financial statements audited by a Canadian auditor. The background material explains the rationale for this, saying, "Canadian auditors are the most knowledgeable with respect to Canadian GAAP and Canadian GAAS."

While we agree that Canadian auditors should be the most knowledgeable in this respect, we believe that other auditors are also capable of possessing sufficient expertise in Canadian GAAP and GAAS, or resources with which to consult, such that they should not be precluded from signing an audit report on financial statements prepared in accordance with Canadian GAAP and GAAS. In fact, this appears to be the position taken in Section 4.4 of the Companion Policy.

Section 4.4 envisages circumstances in which a foreign auditor issues a report on financial statements prepared and audited in accordance with accounting principles and auditing standards that do not correspond to its home jurisdiction. Clearly, in requesting a letter from the foreign auditor describing its expertise in the GAAP and GAAS applied, the CSA envisages that foreign auditors may possess sufficient expertise to report in accordance with another GAAP and GAAS. Section 4.4 would appear to permit an auditor of a company incorporated in a foreign country to issue a report on that company’s financial statements in accordance with Canadian GAAP and GAAS, if the auditor could support his expertise in Canadian GAAP and GAAS. However, the auditor would be precluded from doing the same thing for a Canadian incorporated company. For consistency, a similar principle should extend to subsection 3.3(2) of the proposed Instrument.

There are practical difficulties to making the proposals operational. We have seen a number of cases, for example, where a Canadian incorporated company, for the large part, has its mind and management and/or principal operations in the United States or some other foreign jurisdiction. The key books and records required for the audit may be located outside of Canada in such cases. For the large part, the audit work of such companies is conducted outside of Canada.

Licensing issues may preclude a Canadian auditor from conducting the audit. Each U.S. state has different licensing requirements. We are aware of arguments raised by some of the licensing bodies that audit work done in the location of the books and records being audited, or in the location where the majority of operations take place, could require that the accountant be licensed in that location.

It might be assumed that where the auditor has international affiliations, the audit work could be done by the local firm, and the report could be signed by the Canadian firm affiliate. That creates significant liability and insurance related issues for the Canadian firm. As separate legal entities, the Canadian firm does not generally assume responsibility for the work of foreign firms, and vice versa.

Situations can also arise where the company prepares financial statements in accordance with, say, U.S. GAAP for filing with the SEC, but the company also prepares Canadian GAAP financial statements for statutory purposes. The proposals would lead to the possibility that a U.S. auditor would sign the U.S. GAAP financial statements while another auditor would be required to sign the Canadian GAAP financial statements. In the extreme, this could lead to a second audit, unless the Canadian auditor was prepared to rely almost entirely on the work conducted by the U.S. auditor.

It is important to note that even the SEC does not preclude Canadian, U.K., Australian and French auditors, to name a few, from opining in accordance with U.S. GAAS on financial statements prepared in accordance with U.S. GAAP.

There is a practical solution to these problems, and it has been addressed by the SEC in the requirements of the AICPA SEC Practice Section. There is a requirement that the U.S. firm must ensure that there is involvement with the financial statements of a person knowledgeable in U.S. accounting and auditing in SEC filings made by its affiliated firms. That involvement can include the designation by the U.S. firm of foreign individuals who are qualified in U.S. GAAP and GAAS. A similar process could work for Canada.

However, given the nature and small number of companies expected to be affected, we believe that the most that should be required is what is proposed in Section 4.4 – the foreign auditor should be required to provide a letter describing its expertise in Canadian GAAP and GAAS. It would be appropriate that such expertise could come from consultation with or involvement by the auditor's Canadian affiliate, with a requirement that the auditor maintain evidence of that consultation or involvement.

We would suggest, however, that such an approach should be limited to situations that are justified by appropriate business circumstances. Appropriate business circumstances would be where the principal operations of the company subject to audit and the essential books and records required for the audit are located outside of Canada.

### **Reconciliation of pro forma financial statements**

Under the proposed requirements, an issuer may file financial statements prepared in accordance with U.S. GAAP, IFRS or generally accepted accounting principles of designated foreign jurisdictions without reconciliation to Canadian GAAP in accordance with subsection 5.1(a)-(d). In these circumstances, when pro forma financial statements are prepared and filed, there is no requirement under subsection 7.1 for the pro forma financial statements to include a reconciliation to Canadian GAAP.

Where the financial statements are prepared in accordance with accounting principles other than those noted in the previous paragraph, and those principles cover the same core subject matter as Canadian GAAP, an issuer is required to include a reconciliation to Canadian GAAP in those financial statements in accordance with subsection 5.1(e). Similarly, if pro forma financial statements are required, those pro forma financial statements must also include a reconciliation to Canadian GAAP under subsection 7.1(3).

In some circumstances, a Canadian issuer may choose to report in accordance with U.S. GAAP rather than Canadian GAAP. In those circumstances, subsection 4.1(2) requires that the issuer's annual and interim financial statements for the first two years after the change to U.S. GAAP include a reconciliation to Canadian GAAP. If pro forma financial statements are required, it is not clear whether a reconciliation to Canadian GAAP would also be required for purposes of the pro forma financial statements. In fact, subsection 7.1 does not appear to require it as presently drafted even though the underlying financial statements in these circumstances would include a GAAP reconciliation. We expect that this question will arise and suggest that the situation be clarified now for consistency of interpretation and application.

If you wish to discuss our comments, please contact Michael A. Tambosso ([michael.a.tambosso@ca.pwc.com](mailto:michael.a.tambosso@ca.pwc.com) or 416-941-8388) or Vicki Kovacs ([vicki.kovacs@ca.pwc.com](mailto:vicki.kovacs@ca.pwc.com) or 416-941-8363).

Yours very truly,

***“PricewaterhouseCoopers LLP”***

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