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August 13, 2004

British Columbia Securities Commission
Alberta Securities Commission
Saskatchewan Financial Services Commission
The Manitoba Securities Commission
Ontario Securities Commission
L'autorité des marchés financiers
Office of the Administrator, New Brunswick
Registrar of Securities, Prince Edward Island
Nova Scotia Securities Commission
Department of Government Services and Lands, Newfoundland and Labrador
Registrar of Securities, Northwest Territories
Registrar of Securities, Yukon
Registrar of Securities, Nunavut

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

Dear Sirs and Madames:

Re: Proposed Amendments to National Instrument 55-101 – Exemption from Certain Insider Reporting Requirements

The Canadian Bankers Association appreciates this opportunity to provide you with comments on National Instrument 55-101, *Exemption from Certain Insider Reporting Requirements* (the "Proposed Instrument"), and Companion Policy 55-101CP, *Exemption from Certain Insider Reporting Requirements* (the "Proposed Policy").

We welcome the proposed non-executive officer exemption that aims to codify many exemption orders granted in recent years that have provided relief from insider filing requirements. These exemptions gave recognition to the fact that individuals who hold the title "vice-president" or similar nominal titles should not be required to file insider reports if they do not ordinarily have access to material undisclosed information prior to general disclosure and do not meet certain functional criteria.

Our specific comments about the proposed National Instrument and Companion Policy are as follows:

Definition of "investment issuer"

A comparison of some MRRS decisions that have been issued subsequent to CSA Staff Notice 55-306 and the proposed amendments to NI 55-101, suggests that the relief under the proposed amendment would be more restrictive, given the proposed definition of "investment issuer". The difference lies in the exclusion of subsidiaries in subparagraph (b) of the definition of "investment issuer". We recommend that subparagraph (b) be deleted.

The exclusion of subsidiaries from the definition of "investment issuer", we believe, would allow for the illogical situation where all the vice-presidents of a bank and the numerous subsidiaries of the bank who are not in charge of a principal business of the bank or a major subsidiary and who have no access in the ordinary course to undisclosed material information about the bank or about any investment issuer would be relieved from reporting with respect to securities of the bank and securities of all non-subsidiary issuers of which the bank is an insider. But, they would still have to file insider reports with respect to any investment issuers which are subsidiaries of the bank. It is not consistent, in our view, to tie the reporting requirement to the status of whether that investment issuer is a subsidiary of the bank or not, as distinct from, and in addition to the fundamental exemption criteria that apply for all other securities. MRRS decisions that have been issued pursuant to CSA Staff Notice 55-306 rest on exemption criteria that are based on officer function and access to information, and do not distinguish between types of investment issuers. The language of the NI 55-101 amendment would, in our mind, require revising the existing instructions to all of these people and would result in unnecessary reporting, which should continue to be exempt.

We believe that the exclusion of subsidiaries in the definition of "investment issuer" is also unnecessary, since the objectives are met by the basic exemption criteria, which would exclude the exemption of any officer who receives or has access to undisclosed material information about the particular subsidiary investment issuer.

Alternatively, we would ask that issuers and insiders be allowed to continue to rely upon the relief in previously granted MRRS Decisions, notwithstanding their stated provisions for expiry upon implementation of an amended NI 55-101.

Acceptable Summary Form

For the annual reporting of acquisitions (and specific dispositions) in automatic purchase plans, we would suggest that the wording be amended slightly to allow for the reporting all plans together, or individual plans in summary form. A number of issuers offer securities categories that identify certain plans, to facilitate reporting based on the plan statements. Some insiders find it easier to keep track of what has been reported by comparing totals to the plan statements. Others prefer to combine the annual totals for all the plans or, plan-by-plan, into the common share category. We believe that tt is important to make the reporting process manageable for the individual, so long as the required information is reported in a standard and clear manner. Acknowledgement of this currently accepted flexibility, we believe, can be accomplished by deleting the word "all" from subparagraph (a) of the definition of "acceptable summary form", or by including a comment in the Companion Policy.

Specified Disposition Amendment

We support the inclusion of the specified disposition amendment.

List of Exempt Insiders

The regulators have stated that a principal benefit or objective of the amendments is a significant reduction in the regulatory burden associated with insider reporting on insiders and issuers, as well as on regulatory authorities. In a large institution, we question the utility of the [even infrequent] delivery of lists of hundreds of exempt vice-presidents when a valid process is in place to determine the reporting insiders on the basis of the criteria. We note that the compilation can be labour intensive due to the global nature of our members' operations and due to differences in personnel data support systems and variations in local/translated titles. We question the point of labelling and listing people who fail to meet the criteria for reporting. We, therefore, recommend the removal of the requirement to file a list of all insiders of the reporting issuer who are exempted from the insider reporting requirement. As well, we have previously brought to your attention that there are related privacy legislation considerations in connection with the contemplated lists. A number of MRRS decisions recognize this by providing that the issuer will make a list available to the regulators upon request "to the extent permitted by law". We request inclusion of the same language in the National Instrument.

Definition amendment

Rather than distinguishing between reporting and non-reporting insiders, we suggest that the criteria for reporting insiders should be brought into the basic definition of "insider". Regulators have acknowledged that the definition of "insider" in Canadian securities legislation related to developments in the 1960's, at a time when the title "vice-president" generally denoted a senior officer function. The regulators have recognized that it is no longer appropriate to require all persons who are vice-presidents to file insider reports. For the same reasons, it is no longer appropriate to require all vice-presidents to be defined as insiders.

We therefore recommend that the regulators take the next logical step, to change the basic definition of "insider" in securities legislation so that the definition can be based on the executive officer definition and non-executive officer exemption criteria.

In Closing

We appreciate the CSA's consideration of our comments and we would be happy to meet with you at your convenience to discuss any questions or issues that may arise from our letter.

Yours truly,