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BY TELECOPIER

February 28, 2005

Autorite des marches financiers
800 Square Victoria, Tour de la Bourse
C.P. 246, 22nd Floor
Montreal, Quebec H4Z 1G3

Attention: Anne-Marie Beaudoin

Ontario Securities Commission
20 Queen Street West
Suite 1800
Toronto, Ontario M5H 3S8

Attention: Mr. John Stevenson, Secretary

Ladies and Gentlemen:

Re: Comments on Proposed MI 52-111 and Related Matters

This letter represents my personal and without prejudice comments (and not those of the firm or any client) with respect to the proposed amendments to MI 52-111 and related matters. They are in no particular order.

We should remember that the original US requirements were adopted in haste and are far from perfect in their drafting and concept, and we have largely copied them. Problems and difficulties are emerging, which I believe should be corrected.

1. European-listed and other non-U.S.-listed (and perhaps U.S.-listed) small-cap issuers should be treated similarly to Canadian venture issuers.

2. All other issuers exempt from MI 52-110 (i.e. subsidiary entities) should similarly be exempt from MI 52-111.

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3. The requirement to maintain the evidence for the same period as accounting records are maintained under the *Income Tax Act* (Canada) should be adjusted for non-Canadian issuers, who may well not subject to that Act. Their primary local tax laws should apply, presumably.

4. Fundamentally, the unclear dividing line between disclosure controls and procedures and internal controls remains. CP 52-109 refers to a "substantial overlap". The most reasonable approach is to view them as separate and distinct, i.e. that disclosure controls and procedures should apply to non-financial matters, leaving internal controls to operate in the financial sphere. Otherwise, a number of problems arise, including those related to duplicativeness in procedures and disclosure.

5. The reference in the MI 52-109 certificates to "designing" internal controls to provide reasonable assurance could be seen to imply, on a plain English language basis, that they are effective. It should be clarified that while they may have been "designed" to do so, there is no assurance via this form of certification that they in fact do so. That assurance would come from a separate MI 52-111 "effectiveness" report, if, as and when required.

6. The effect of MI 52-109 and 52-111 on new officers needs to be addressed. It is a somewhat stretched use of language to say that "reviewing" equals "designing". And some CEOs will not have expertise in internal control design or operation. How are they expected to certify such financial matters?

7. The impact of not being able to certify under MI 52-109 is troubling. I believe that one should be able to expressly qualify one's certification, with an explanation, without putting the issuer and others off-side and thus liable to penalties for not filing the forms in the exact form required. If the qualifications are of concern, then the CSA can take appropriate steps, such as cease-trading the issuer. But the choice should not be between lying and violating the law. One should be able to tell the truth without the issuer or others violating the law of the land. The current approach is very strange conceptually in a disclosure-based statutory scheme.

8. Can you please attach the definition of variable interest entity to the rule or policy, to assist the legal community and other non-accountants.

9. Query whether it is appropriate for a regulatory instrument to delegate fundamental definitions and standards to the CICA, as this instrument does. It could in this way be indirectly material amended without going through the requisite notice and comment and ministerial approval process.

10. Should the words "policies and procedures that" in the definition of "internal control over financial reporting" not be replaced by "policies and procedures

that are designed to", in order to conform to the "designed" wording earlier and clarify that perfection is not mandated.

11. If a reorganization leads to a successor issuer, should the successor not benefit from the same transitional status as the original issuer (as short-form prospectus issuers do, for example)? Otherwise a late year reorganization could cause insurmountable difficulties.

12. If an issuer suffers a fire or other data loss event, could it be prosecuted under section 2.3? If so, should this not be subject to a reasonableness standard?

13. The term "material interest" in section 2.5(1)(f) is not defined.

14. If an issuer's board refuses to approve an internal control report, are they in violation of section 2.6? If so, this would appear to be inappropriate. A better formulation might be to say that the report cannot be filed unless it has been so approved.

15. Should section 3.2(2) permit other, say European, standards as well?

16. Will section 6.1(3) require translation of these reports, or not?

17. Given the fact that the CRA cost-benefit analysis found that, based on mid-ranges, measured costs exceeded measured benefits for all issuers, may I suggest that an issuer be entitled to opt out of MI 52-111 with express approval of shareholders at a meeting by a majority of votes cast on the issue. This could be required to be repeated not less than every 3 years, and prominently disclosed.

Thank you for considering these comments.

Yours truly,

Simon Romano

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