March 6, 2006

British Columbia Securities Commission
Alberta Securities Commission
Saskatchewan Financial Services Commission - Securities Division
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
New Brunswick Securities Commission
Registrar of Securities, Prince Edward Island
Nova Scotia Securities Commission
Newfoundland and Labrador Securities Commission
Registrar of Securities, Northwest Territories
Registrar of Securities, Yukon Territory
Registrar of Securities, Nunavut

Attention of:

Mrs Rosann Youck, Chair of the Continuous Disclosure Harmonization Committee
British Columbia Securities Commission
PO Box 10142, Pacific Centre
701 West Georgia Street
Vancouver, British Columbia
V7Y 1L2

Mrs Anne-Marie Beaudoin, Secretary
Autorité des marchés financiers
Stock Exchange Tower
800 Victoria Square
P.O. Box 246, 22nd Floor
Montréal, Québec
H4Z 1G3

RE: CANADIAN SECURITIES ADMINISTRATORS REQUEST FOR COMMENTS – VENTURE ISSUERS AND DEBT-ONLY ISSUERS

La Caisse centrale Desjardins du Québec ("**Caisse centrale**") welcomes the opportunity to comment on the proposed amendments to National Instrument 51-102 *Continuous Disclosure Obligations* ("**NI 51-102**"), and more particularly on the accommodations to be made for issuers that issue only non-convertible debt to the public. As stated hereunder, Caisse centrale is of the view that all debt-issuers should benefit, at the very least, from the same accommodations as those currently available to venture issuers under NI 51-102.

The present letter introduces Caisse centrale, explains why debt-only issuers should benefit from accommodations under NI 51-102 and it describes why foreign exchange listing of debt should not influence the access to such accommodations.

Caisse centrale

Caisse centrale, established on June 22, 1979, is a financial services cooperative governed by an Act respecting the Mouvement Desjardins (S.Q.2000, c-77) and by an Act respecting financial services cooperatives (Québec). Caisse centrale is part of the Desjardins Group. Due to its cooperative nature, Caisse centrale is not allowed, pursuant to its governing laws, to list equity securities on any marketplace.

Caisse centrale is a reporting issuer in each Canadian province since 1985 and is currently issuing Medium Term Deposit Notes pursuant to a Medium Term Note Program detailed in a Short Form Base Shelf Prospectus dated August 23, 2005 (the "Canadian Notes"). Caisse centrale does not have any debt listed on a marketplace in Canada or in the United States of America.

Caisse centrale has also issued notes in Europe (the "European Notes"), pursuant to a Euro Medium Note Program first established in 1992, which are listed on the London Stock Exchange[1] (in a specific listing category that only includes debt securities). The European Notes also include deposit notes and bonds listed respectively on the Euronext Paris Exchange, the Luxembourg Stock Exchange and on the Swiss Exchange pursuant to specific offering circulars and prospectuses. The European Notes are mainly issued to institutional investors and are not distributed in Canada.

The "venture issuer" definition

A distinction between venture issuers and other issuers is found in NI 51-102; Multilateral Instrument 52-110 *Audit Committees* ("MI 52-110"), and National Instrument 58-101 *Disclosure of Corporate Governance Practices* ("NI 58-101") (together, the "Applicable Instruments").

In all Applicable Instruments, the definition of venture issuer refers to "an issuer that, as at the applicable time, did not have any of its securities listed or quoted on any of the Toronto Stock Exchange, a U.S. marketplace or a marketplace outside of Canada or the United States of America […]". The word "marketplace" is defined in NI 51-102:

(a) an exchange,
(b) a quotation and trade reporting system,
(c) a person or company not included in paragraph (a) or (b) that
    (i) constitutes, maintains or provides a market or facility for bringing together buyers and sellers of securities;
    (ii) brings together the orders for securities of multiple buyers and sellers; and
    (iii) uses established, non-discretionary methods under which the orders interact with each other, and the buyers and sellers entering the orders agree to the terms of the trade, or
(d) a dealer that executes a trade of an exchange-traded security outside of a marketplace,

but does not include an inter-dealer bond broker.

[1] Notes issued under the Euro Medium Note Program are required under the *United Kingdom Financial Services and Markets Act of 2000* to be admitted to the official list of the *United Kingdom Listing Authority* and to trading on the *London Stock Exchange plc's Gilt Edged and Fixed Interest Market* which is a regulated market for the purposes of applicable European Union securities laws.

Because of the listing of its European Notes in Europe, Caisse centrale would likely not be considered as a venture issuer under such provisions and would therefore not be allowed to benefit from the accommodations available to other debt-only issuers which do not have securities listed in a foreign market, unless a specific exemption was granted by the Canadian Securities Administrators.

Accommodations should be allowed for Debt-Only Issuers

The Applicable Instruments generally apply to corporations with equity securities quoted on stock exchanges. They allow stockholders to receive accurate and complete information, in order to develop an informed judgment on the value of the securities that are offered by such corporations.

Because stockholders participate in the increase in value of the corporation's equity and assume a risk of any decrease in value, appropriate information regarding the prospects of a corporation will help them assess the value of their investment at any given time and the stockholders will expect the corporation to regularly update any information which would no longer be accurate or complete. Information on the operations of the corporation, systems of corporate governance, or adequacy of reporting controls and procedures, will help investors in their assessment of the risks related to a particular investment.

The needs and expectations of debtholders are, however, very different. Indeed, debtholders will generally focus mainly on the solvency of the corporation and will rely greatly on trustees and rating agencies.

Debt securities are generally governed by trust indentures or similar instruments, which include covenants that have been negotiated in function of the credit risk associated with such securities. Compliance with such covenants is generally monitored by a trustee or custodian, under the debt indenture, or by investors directly. Under applicable corporate law or pursuant to the terms of indentures, the issuer must generally send certificates of compliance to the trustee or custodian on a regular basis. Compliance with the covenants is of great importance for debtholders.

Another major difference between debt securities and equity securities is the role of rating agencies with respect to the risk assessment. In fact, debt-only issuers must be assessed by rating agencies in order for their securities to be admissible for investment by many institutional investors. The reputation and credibility of those rating agencies allow investors to base their risk assessment on the rankings developed by these agencies, which rankings are updated regularly.

In the context of the investigations of rating agencies, debt-only issuers disclose a lot of information to these agencies (i.e. financial statements, business plans, information on opportunities and threats, management systems, internal efficiency ratios, etc.). Much of this information is disclosed confidentially.

Because of the reliance of debt security holders on the protection mechanisms contained in trust indentures and because of the important role played by rating agencies, it is submitted that many of the requirements of the Applicable Instruments should not be applied to debt-only issuers.

One may argue that investors would benefit from the extra protection provided by the Applicable Instruments. However, when balancing the costs against the benefits of imposing such requirements on debt-only issuers, one must take into account the fact that investors who own debt securities are already protected by the fact that their claim ranks prior to equity and the value of their claim is less likely to fluctuate.

We believe that the Applicable Instruments should be amended to clearly allow debt-only issuers to benefit from the same accommodations as those applicable to venture issuers. In fact, based on the expectations of debtholders and on the special protection granted to them, the scope of

the accommodations for debt-only issuers should arguably be broader than what applies to venture issuers in general.

Alternatively, should there exist a concern by the Regulatory Authorities with respect to a difference between debt issuers that benefit from an "approved rating" from rating agencies and other debt issuers, as is presently the case under the current national Instrument 44-101 *Short Form Prospectus Distributions* which enables an issuer whose securities satisfy that requirement to qualify under certain regimes, the Regulatory Authorities could decide to grant to these same issuers whose debt securities have obtained an "approved rating" a regime similar to that of the venture issuers.

As it will be described in the next section, the listing of debt on a foreign exchange should not have any impact on the scope of such accommodations.

The impact of a Foreign Exchange Listing

As mentioned above, it could be argued that Caisse centrale would not currently qualify as a "venture issuer", because its European Notes could technically be considered as "listed" on a marketplace.

We believe that a foreign exchange listing of debt should not affect the obligations of a Canadian debt-only issuer under Canadian securities laws.

The only reason why European Notes of Caisse centrale are listed on certain European exchanges is to allow European institutional investors (by opposition to individuals or brokers) to invest in securities that satisfy their "legal for life" tests or internal investment policies. However, in Europe as in Canada, almost all trades of securities of Caisse centrale in secondary markets are made over-the-counter, outside of a formal exchange market. These trades are made between brokers or between brokers and institutional investors, through telephone or electronic means. Canadian Notes, which are similar to the European Notes and which are traded substantially through the same processes (i.e., over-the-counter), do not disqualify Caisse centrale as a venture issuer for the purposes of the Applicable Instruments.

Why should an entity that would otherwise qualify as a venture issuer be denied such qualification and the underlying accommodations only because of its debt listed in Europe? All European prospectuses governing Caisse centrale's European Notes include restrictions to the sale of such securities in Canada. In particular, the prospectuses state that the European Notes are not qualified for sale under the securities laws of Canada and each investment bank to which European Notes are issued represents and agrees that it will not alter or sell directly or indirectly the European Notes to Canadian residents in contravention to the securities laws of Canada.

It seems unfair that a Canadian debt-only issuer, such as Caisse centrale, be denied certain accommodations under the Applicable Instruments only because it has debt listed in Europe when: (A) such accommodations are available to Canadian issuers of debt that qualify as venture issuers and are not listed in Europe; and (B) the Applicable Instruments do not apply to important Canadian issuers of debt in Europe which are not reporting issuers in Canada; given the fact that European rules regarding corporate governance are different than what applies to reporting issuers in Canada[2]. We respectfully believe that it is the role and privilege of foreign market regulators to choose and impose the conditions for trading in their own market.

[2] European Transparency Obligations Directive. Issuers with debt securities admitted to trading on the *London Stock Exchange plc's Gilt Edged and Fixed Interest Market* are subject to different continuous disclosure than those currently applicable to venture issuers in Canada. For instances, under European Union regulations which are scheduled to come in force in 2007, certification on internals controls by either officers or auditors will not be required.

Should Caisse centrale decide to delist from Europe in order to qualify as a venture issuer in Canada, it will be denied an important source of capital. Should it not be considered as a venture issuer because of its European listings, and nevertheless keep a European listing, it will have to assume important costs that Canadian non-listed debt-only issuers do not have to assume in Europe.

In light of recent developments in continuous disclosure requirements, it seems unreasonable that debt-only issuers be subject to additional requirements only because they have listed debt in another country, especially when such listing is not at all comparable to an equity listing on the TSX. If a Canadian reporting issuer can benefit from accommodations in Canada, one may question the policy reason that would disqualify it from benefiting from those accommodations because of its foreign listed debt. In all fairness, and as a matter of principle, debt-only issuers such as Caisse centrale should benefit from these accommodations.

Thanks again for allowing us to comment on NI 51-102. Should you have any questions or comments with respect to our submission, please do not hesitate to contact the undersigned.

Jean-Guy Langelier
JGL/ld

c.c. Monsieur Yves Morency