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March 23, 2006

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British Columbia Securities Commission
Saskatchewan Securities Commission
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

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Dear Sirs and Madames:

Re: NI 51-102, Continuous Disclosure Obligations and related instruments

The Canadian Bankers Association ("CBA") appreciates this opportunity to provide comments on proposed amendments to NI 51-102 Continuous Disclosure Obligations, Related Forms and Companion Policy, NI 52-107 Acceptable Accounting Principles, Auditing Standards and Reporting Currency, and NI 71-102 Continuous Disclosure and Other Exemptions Relating

to Foreign Issuers and Companion Policy ("NI 51-102"), and the issues raised in the accompanying Notice of Request for Comments.

The Request for Comments raises timely questions concerning the delivery of continuous disclosure materials to securityholders. While the SEC Rule proposal for an Internet "notice and access" model, which is currently out for comment, goes further than the CSA Request for Comments, we presume that the CSA is considering the implications for continuous disclosure requirements of the SEC proposals, and generally of technological developments that make electronic delivery an increasingly viable alternative to traditional modes of delivery of paper documents to thousands of securityholders.

We welcome changes to delivery requirements that give securityholders the option of accessing continuous disclosure materials online, while eliminating the administrative and cost burdens of mandatory delivery of proxy materials and annual reports in paper format to all securityholders. The proposal to remove the requirement to send a request form to shareholders annually is a step in the right direction. We also think this will be welcomed by securityholders who have complained to members in the past about duplicative, wasteful mailings.

Delivery of Financial Statements

As noted above, our members welcome the proposal to remove the requirement for issuers to send a request form to their shareholders each year. Although our members are currently subject to Bank Act requirements that require mailing of financial statements to all registered securityholders, we have made submissions to Finance Canada in support of an amendment of the legislation to effectively conform the requirements under the Bank Act concerning delivery of financial statements to the requirements under provincial securities legislation.

Exemption under Section 9.5

The proposed changes to section 9.5 of NI 51-102 expand the current exemption from the proxy solicitation and information circular requirements. In order to rely on the exemption, a bank is obliged to (i) comply with *Bank Act* requirements regarding proxy solicitation (as long as these requirements are substantially similar to the requirements under Part 9 of NI 51-102); and (ii) file its information circular, form of proxy *and all other material sent in connection with the meeting*. We recommend that the CSA clarify what it intends to capture by including "*all other material sent in connection with the meeting",* in order to allow banks to determine what material they are required to file.

Additional Disclosure Requirements

In Part 11 of the Rule concerning Additional Disclosure Requirements, proposed new paragraph (c) of subsection 11.1(1) would require an issuer to file a copy of any disclosure material "that it files with another provincial or territorial securities regulatory authority or regulator other than in connection with a distribution."

Our members generally file the same disclosure material with all provincial and territorial securities regulatory authorities. As such we wonder what clause (c) is meant to capture. We would welcome further guidance, including examples, in the companion policy so that there is no ambiguity as to how reporting issuers are to meet this requirement.

With respect to the question as to whether Part 12.2 should continue to require issuers to file material contracts entered into outside the ordinary course of business, we believe that this requirement is unnecessary and should be removed. If an issuer enters into a material contract, the material terms of that contract will need to be disclosed as part of general disclosure obligations. This provides investors with the information they need to consider the implications of that contract. Being able to access a copy of the agreement does not provide any additional material information to investors and therefore is of questionable value to investors. The fact that

a material contract may need to be filed can be an issue during the negotiation of such a contract, particularly where the counterparty is not subject to a similar disclosure requirement. Issuers also have the burden of attempting to remove commercially sensitive information and ensuring that what is filed does not violate confidentiality provisions. We believe that the legal and business risks faced by issuers outweigh the any benefit investors may have in viewing a copy of the agreement.

Form 51-102F1 Management Discussion and Analysis
We welcome the proposal to eliminate the requirement "to provide a sensitivity analysis relating to critical accounting estimates in every case, and to replace it with instructions relating to quantitative and qualitative disclosure."

In addition, we recommend that when an issuer has disclosed and filed a MD & A for its 4th quarter, it should not be required to discuss its 4th quarter in the MD & A of its Annual Report.

Form 51-102F2 Annual Information Form
The CSA also is proposing to add a new section 12.2 that would require the issuer to "describe any (a) penalties or sanctions imposed against your company or by a regulatory authority during your financial year, and (b) settlement agreements your company entered into with a regulatory authority or a court relating to securities legislation during your financial year."

We recommend that some of the terms be clarified. The terms "penalties and sanctions" are neither defined nor qualified by any materiality threshold; "regulatory authority" is not defined; and it is not clear whether the phrase "relating to securities legislation" qualifies both settlement agreements entered into with a regulatory authority and settlement agreements entered into with a court.

Appendix C – Amendments to Form 51-102F5 Information Circular
There appears to be a typographical error in paragraph 6(b) of Appendix C, which proposes adding "document or except," after the words "document or excerpt," in paragraph 1(c). [Emphasis added.]

Paragraph 6(d) of Appendix C proposes to add new sections 7.3 and 7.4 to follow section 7.2. We presume that the current section 7.3 is to be repealed, but that is not mentioned in the Appendix.

We have appreciated the opportunity to express our views regarding the revised version of proposed National Instrument 51-102. We would be pleased to answer any questions that you may have about our comments.

Yours truly,

WL/DI/sh