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March 2, 2007

Ontario Securities Commission
Alberta Securities Commission
British Columbia Securities Commission
Autorité des marchés financiers
Saskatchewan Financial Services Commission
The Manitoba Securities Commission
Nova Scotia Securities Commission

C/o Kyler Wells
Legal Counsel, Corporate Finance
Ontario Securities Commission
20 Queen Street West
Suite 1900, Box 55
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And

C/o Anne-Marie Beaudoin, Secretary
Directrice du secrétariat
Autorité des marchés financiers
Tour de la Bourse
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Montréal, Quebec H4Z 1G3

Ladies and Gentlemen:

Proposed Amendments to National Policy 41-201 Income Trusts and Other Indirect Offerings

We commend the Canadian Securities Administrators (CSA) for proposing amendments to National Policy 41-201, particularly its expanded disclosure guidance for distributable cash.

The Canadian Institute of Chartered Accountants (CICA), through its Canadian Performance Reporting Board (CPRB), publishes guidance about corporate reporting other than financial statement reporting, including management's discussion and analysis (MD&A). In November 2006, we published *Distributable Cash in Income Trusts and Other Flow-Through Entities* as draft material for comment until March 31, 2007.

We note that the substance of the National Policy, as it relates to distributable cash, does not always correspond to our proposals. This results in our publications not being as congruent as may be expected of two bodies addressing the same situation with the same objective in mind. We believe that this objective will best be accomplished by more closely aligning our respective distributable cash proposals.

Our response to the draft National Policy is thus mainly to ask that we work together to create a situation in which our respective guidance materials support and complement each other in a manner that will benefit investors. We take the opportunity in this letter to provide some understanding of the positions we took that may not have been understood in our publication, not as a criticism of the National Policy, but more as an explanation of the reasoning behind our proposals, which were prepared with some significant effort. With this explanation, we could engage in more fruitful further dialogue.

Background to CPRB guidance

The CPRB guidance on distributable cash was developed by a task force with representation from the preparer, investor, academic and auditor communities. In developing its recommendations, the task force consulted with investors, and considered the views of preparers through a separate industry association committee (the Canadian Association of Income Funds Distributable Cash Committee). The CPRB believes its draft guidance provides a principles-based framework for preparing and disclosing distributable cash that responds to investors' demands for more consistency and comparability in its reporting. Certainly, investors have been very supportive of the direction taken in our guidance. It should be noted, however, that the comment period for the CPRB draft guidance has not yet expired. Accordingly, at this time, we are unable to provide a comprehensive report of reactions to the draft guidance.

Positions taken in the CPRB guidance

Our comments on the positions taken in our guidance fall under two main categories: the need for a framework within which to prepare and disclose distributable cash and inconsistencies between the CPRB and CSA guidance.

Framework for preparing and disclosing distributable cash

The CPRB guidance sets out a framework for preparing and disclosing distributable cash, including recommendations dealing with disclosure of productive capacity maintenance and debt management strategies and a principles-based process for the preparation and disclosure of distributable cash. We believe including these features in the National Policy would improve the quality of distributable cash reporting.

Disclosure of productive capacity maintenance and debt management strategies

In order for an investor to assess an entity's ability to sustain its distributions to unit holders, the investor needs to understand the entity's strategy for productive capacity maintenance and debt management. Further, to understand the productive capacity maintenance strategy, the investor needs to understand how the entity defines productive capacity and how that capacity has changed in the recent past. Accordingly, the draft CPRB guidance sets out a number of recommended disclosures regarding definition and history of productive capacity, and productive capacity maintenance and debt management strategies. We recognize that the National Policy calls for disclosure about potential commitments for replacing and maintaining capital assets and for disclosure about material debt and its related risks. In our view, however, this guidance will not result in a sufficiently meaningful discussion of an entity's productive capacity maintenance and debt management strategies.

Process for the preparation and disclosure of distributable cash

Distributable cash has become a common measure in flow-through entities as an indicator of the amount that should be available for distribution to unit holders. As a non-GAAP measure, however, it has not been defined. As a consequence, there has been a myriad of different computations for distributable cash as each entity decides for itself what to include and exclude from the calculation. While the National Policy sets out an example of the components of a distributable cash calculation, we believe more specificity is needed to result in significantly improved and consistent reporting.

A process for preparing and disclosing distributable cash that sets out a common GAAP starting point and that limits adjustments to specified areas provides for more consistent reporting of distributable cash and enables investors to make comparisons, both between periods and between entities. Further, a distributable cash measure that incorporates provisions for productive capacity maintenance, long-term unfunded contractual operating obligations, and restrictions on distributions arising from compliance with financial covenants provides a sound basis for an investor to make his or her own assessment about the likelihood of the sustainability of an entity's distributions. Such a measure is particularly important in the income trust environment where distribution levels drive values.

For the above-noted reasons, the CPRB developed principles-based recommended practices for reporting distributable cash. The CPRB guidance follows a philosophy of maintaining a measure as close to cash as possible. Accordingly, it requires and permits only a small number of adjustments to the GAAP measure "cash flows from operating activities" in arriving at distributable cash from operations. While only a limited number of adjustments are contemplated, the guidance does not specify how they should be computed. Instead, the guidance recommends that the basis for their computation should be discussed and explained.

The CPRB recognizes that following its guidance will likely result in a volatile measure of distributable cash from operations. The CPRB believes this is appropriate as the measure will reflect the recent discretionary cash generating ability of the entity within its stated strategies. Actual distributions will likely vary from the amount distributable, being influenced by many factors, for example a need to maintain a constant distribution level, a need to distribute all taxable income, changes in working capital requirements, and unusual and non-recurring income and expenses. For that reason, the CPRB guidance also calls for a reconciliation between distributable cash from operations and distributions, including the source of financing when distributions exceed the amount distributable.

The CPRB appreciates that the objective of MD&A is to supplement and complement the information in the financial statements by providing management's perspective on an entity's performance. This objective results for the most part in high-level guidance for preparing and disclosing MD&A to enable management as much discretion as possible to be able to tell its story. This concept also seems to have been dominant in the disclosure-based CSA guidance for non-GAAP financial measures, which by definition have no generally accepted criteria for their computation. Investors have repeatedly told us, however, that guidance for the preparation and disclosure of some measures, and in particular distributable cash, need more specificity. While the CPRB guidance does not constitute a GAAP measure, we believe that the CPRB distributable cash guidance provides a robust framework for reporting distributable cash that should, on finalization, be the accepted criteria. Accordingly, we believe that the CPRB guidance moves distributable cash beyond the traditional idea of non-GAAP financial measures contemplated by the CSA regulations.

Inconsistencies between the CPRB and CSA guidance

The attached appendix sets out areas where, in our view, our respective proposals are inconsistent, together with the rationale for the CPRB approach to the issue.

Thank you for the opportunity to comment on the proposed revisions to National Policy 41-201. We hope that we will be able to work together as our respective guidance materials are further developed and look forward to developing a consensus about the preparation and disclosure of distributable cash. We believe this is especially important as we commence work on the second stage of CICA's non-GAAP financial measures project that will assess the need for more consistency in reporting EBITDA and Free Cash Flow, and, if appropriate, develop guidance for preparing and disclosing those measures.

Should you wish to discuss any of our observations in greater detail, please contact Chris Hicks, CA at (416) 204-3233 or at chris.hicks@cica.ca

Yours truly,

Kevin Dancey, FCA
President and CEO

c.c. John Carchrae, CA
Chief Accountant, Ontario Securities Commission

Chris Hicks, CA
Principal, Knowledge Development, CICA

Inconsistencies between CPRB and CSA Distributable Cash Guidance

CPRB Guidance	CSA National Policy	Comment
Non-recurring items and other adjustments, including discretionary items		

The CPRB does not believe that adjustments for such items should be permitted in arriving at distributable cash from operations.	The CSA National Policy contemplates adjustments such as these in arriving at distributable cash.	The CPRB believes adjustments to cash flows from operating activities should be minimized to maintain a measure as close to cash as possible. Non-recurring items are frequently reported and adjusting for them would introduce too much subjectivity into the calculation. Items such as these should not be ignored, however. In the CPRB's view, they should be discussed in the reconciliation of distributable cash from operations with distributed cash so that investors may make their own assessment of their impact on distributable cash. In addition, the impact of non-recurring items loses its significance when long-term pay-out ratios are considered, as recommended in the CPRB guidance.
Productive capacity adjustments		
The CPRB believes productive capacity adjustments should be restricted to items that are capital in nature.	The CSA National Policy contemplates non-capital adjustments in arriving at distributable cash.	Items other than amounts capitalized under an entity's accounting polices would be operational expenses and, if adjusted, would introduce an element of smoothing into the distributable cash calculation. This would also result in a very subjective calculation of distributable cash. As noted above, items such as these that impact distributions should be discussed in the reconciliation of distributable cash to distributed cash.
Working capital		
The CPRB guidance advocates an approach where distributable cash should reflect the cash consumed by or provided from working capital during the period with no other adjustments for working capital.	The CSA guidance contemplates adjustments for changes in working capital requirements in arriving at distributable cash.	Adjusting distributable cash for working capital seasonality issues or other changes introduces a very subjective component into the calculation of distributable cash that is often dependent on management decisions. When seasonality issues exist, their impact can be eliminated by disclosing the last twelve months of distributable cash, in a similar way to the existing CSA requirement to report selected information from the last seven quarters. In addition, this impact is eliminated by disclosures of cumulative distributions and cumulative distributable cash, recommended by the CPRB guidance. As well, changes in working capital demands that affect distributions would be reported in the reconciliation of distributable cash to distributed cash.