To: All the Provincial Securities Commissions

Re: Proposed changes to Form 51-102F6 Statement of Executive Compensation
Request for Comment

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This initiative should be thrown out. I think the status quo is pretty awful, but this proposal makes things worse. Please start the process again with the original input from **users** of financial information, not a bunch of lawyers, or Commission staff who have been co-opted by the people they regulate, or the industry insiders who will NEVER admit the Emperor has no clothes.

1. The purpose / objective of the changes is questionable. They provide no useful information.
2. More information is almost never 'better'.
3. The required 'discussion' of compensation rationale and objectives will be useless boilerplate and self congratulations.
4. The required level of detail (by individual) is a needless voyeurism resulting in no actionable information for investors.
5. The types of compensation measured will not be inclusive of all schemes dreamt up to look like something else (distinguish form from substance).
6. The choice of valuation (agreeing with GAAP) just repeats and validates the errors forced on investors by auditors.
7. Your response (I am presuming) to dismiss me because you think "professional analysts" and "sophisticated investors" will use this information, can be proved wrong.
8. Appendix 1) Changes investors need that the Securities Commissions refuse.
9. Appendix 2) Proof that the politics of 'accounting principles' precludes truth.

1. The purpose / objective of the changes is questionable. They provide no useful information.

Is the purpose of this proposal to provide fishing information for tax auditors and securities compliance staff? Is the purpose to keep up with the Jones' (the US)? Is the purpose to provide the media with titillating headlines ("Mr. X Takes Home Gazillion Dollars!!!")? Is the purpose to provide data for executive compensation consultants and executive search firms?

I think this is a PR exercise by the Securities Commissions? There is now a pattern of regulations that simplistically 'appear' to benefit investors, but in fact provide business with the mechanism to deflect criticism and provide a legal defense for truly negligent actions. With the 'discussion' documentation, management will be able to deflect all questions by reference to it. They will say "Our compensation abides by the parameters and conditions disclosed in Form.....".

Here are four other useless regulatory actions meant to disguise the reality that neither the industry nor the Commissions will satisfy investors' wishes:

1. **Sarbanes-Oxley** was the result of investors not being able to sue the management, because management claimed they "did not know" the information was faulty. The only

change required was a signed statement by management that in fact they ARE responsible and DO know the information is correct. This was done, and cost nothing. Yet the industry decided this was a great excuse to soak investors with a make-work product for auditors. The required audit of controls is a waste of time and needless expense. Its procedures were always (and continue to be) included in the process of the normal financial audit.

2. The requirement to publish the company's "**Governance Manual**", is another pointless waste of time. Most people are familiar with the divergence between reality and the company "Safety Manual". Why would investors not assume the same divergence from reality in this feel-good document? Even if they believe it, there is no actionable information for investors. If governance watch dogs want the information, they can ask the company for it.
3. The requirement to publish a list of all possible **risks faced by the business**, has resulted in a pointless laundry list developed by lawyers. When the company faces truly real and immanent dangers they no longer have to discuss them, because they were always included in the boilerplate.
4. The requirement to include a warning about the risk of "**forward-looking statement**" is useless boilerplate and a waste of space in every news wire. If some judge allowed damages based on a stupid investor's claim, then his ruling should be overturned. We should not suffer ad Infiniti.

2. More information is almost never 'better'.

The overriding justification for this initiative is to provide 'more' information. Without thinking, the Commissions wrongly assume that 'more' is better. Investors need better and more appropriate information, not 'more'. Too much data :

- can be used to **confuse**. E.g. Disclosing the value of options at their date of issue will detract from the important measure of their value at the reporting date.
- can be used to **hide** information. E.g. Investors' only rational response to the flood of paper resulting from the disclosure of risk (1.3 above) is to ignore the section. This result from "crying wolf" was perfectly predictable.
- can have **unintended consequences**. E.g. Studies have shown that the skyrocketing executive pay is a result of disclosing the personal details (thus benchmarking).

Because the Securities Commissions refuse to make the true changes investors require (appendix 1), investors have very few actionable decisions to make. 1) They can decide on a share's valuation, resulting in a buy-sell decision. 2) They can decide whether the company is to be included in their universe of possible purchases. For example, multi-voting shares may make the company off limits.

The test for the validity of demands for disclosure by companies, should be whether the disclosure will effect either of these two decisions. This proposal fails the test. Even if investors don't like what they read, there is nothing they can do about it. Since all companies do essentially the same thing, there is no point in selling the stock (to buy .. what?). And when investors DO sell their stock, as their only possible course of action, that very action is used as an argument to take away even the pretense of an AGM vote (witness lobbying by governance 'champion' Mr. Jarislowky).

3. The required 'discussion' of compensation rationale and objectives will be useless boilerplate and self congratulations.

The preliminary results from the US as I finalize this submission, validate my immediate predictions. This discussion is a joke. Inevitably it will be replete with governance buzz words and self-congratulations. It will always prove beyond doubt that management has earned every penny and cannot be replaced by anyone cheaper. Why would anyone presume otherwise?

Since the discussion pertains to the past year's compensation, the authors will have the benefit of hind-sight. We can be assured that contracts will be written to allow fine-tuning at year end, in order to massage this disclosure.

4. The required level of detail (by individual) is a needless voyeurism resulting in no actionable information for investors.

Who cares what individual executives earn? They work as a team. Deciding how they split up their total compensation is irrelevant to investors. We already know that this disclosure results in tabloid headlines of "EXECUTIVES OVERPAID !!". We already know that this disclosure promotes a "me too" response, as each executive tries to get as much as the top guy. So why has this requirement been continued? Doesn't anyone learn from their mistakes?

What matters to investors is the executive **totals**. And in the case of options awarded to lower staff, the company total. And their reconciliation to totals used in the financials (income and balance).

5. The types of compensation measured will not be inclusive of all schemes dreamt up to look like something else (distinguish form from substance).

In spite of the new form stating that companies "must disclose all compensation provided to executive officers and directors, regardless of how it is structured" , it will remain debatable what should be included without a list of inclusions. Business has been ingenious at disguising compensation under another form, preferable showing below the Net Income line. It can be argued that the form is true to itself prima fascia. Then there is always the argument that opportunity cost expenses do not actually exist. Although I don't pretend to be aware of all the forms of compensation, I would suggest the following list.

Free interest on loans used to buy shares or homes or anything. Valued at the same rate used by Revenue Canada on deemed interest.

Forgiveness of debt. Valued by the principle (not including interest included below).

Distributions / dividends received by the executive on shares of the company, or another company charged with satisfying compensation obligations, when the shares have not been paid for in full. This would not include the distributions that go back to the company in order to reduce debt (would be included in 2 above).

Cash payments plus payments deferred at the recipient's request.

Cash payments to an outside company responsible for satisfying compensation obligations.

Shares issued, or purchased in the market, for the executive without payment. Similarly if the shares are given to an outside company responsible for satisfying compensation obligations. Valued at the market value at the issue date (not smoothed).

Options exercised (at intrinsic value) plus the change in value of the in-the-money options (valued at intrinsic value (market$ less exercise$) at the financial's dates.

Benefits including payments to Health Trusts.

6. The choice of valuation (agrees with GAAP) just repeats and validates the errors forced on investors by auditors.

The valuation criteria I think are correct are shown in the list above (5.). Commission staff said the decision to use GAAP came from the desire to make the report easy to prepare, with no consideration of the validity of the GAAP metrics. In fact I was told that the financials are correct, even the measurement of options. This erroneous understanding of the issue being regulated is shocking. Staff could not even argue the points I made to prove them wrong. To see a proof that the politics of 'accounting principles' precludes truth, see Appendix 2).

Since the Commissions are the only organizations who should theoretically respond to the public voters, it is incumbent on you to work in investors' best interests. It is well documented that regulators become co-opted by the very people they regulate, within a short time. This probably explains your decision in this case. It is not acceptable. Nor is it acceptable to claim that you have a responsibility to "weigh the interests of all the participants". The best interests of society require the most efficient allocation of capital. Investors need correct valuations in order to make that allocation. When you decide to regulate the disclosure of compensation, you are required to measure it correctly. This is not a subjective issue. Nor is the correct valuation determined by a majority vote. The 'opinions' you hear from industry are only excuses. When you cannot support your valuations with rational arguments, you must abandon them. You cannot simply dismiss arguments with "the others say different".

Errors in the current measurement of options: (bear in mind that the CA's refuse to publish the GAAP. Without it I am only guessing what their rules actually say - totally pissing me off.)

All options issued before the change in rules are ignored. They are not part of any measured liability on the Balance Sheet. But they do in fact exist. They are in fact a liability. Their exclusion is a willful lie.

Vesting of options is wrongfully used as an excuse to delay their expensing. Vesting does not affect their change in value. Vesting has little effect on the probability that they will be exercised. When people are fired or change jobs, or there is a change of control, the vesting rules are routinely thrown out. When replacements are hired, the company must make them 'whole' for the options they leave behind. The resulting signing bonus or options will offset any savings from options left on the table by the old executive. Investors will have no problem with a company recording a gain from forfeiture of options.

Revaluation of the options is wrongfully ignored at subsequent Balance Sheet dates. Again, at exercise they are not revalued. Obviously they do in fact change in value as the stock price changes. The refusal by auditors to require revaluations at each report date is a willful lie.

The total value of an option to management is its intrinsic value at the exercise date. This by necessity is the cost to the company. The total of all expenses recognized over the life of the option should equal this final intrinsic value. Currently it does not, because of the errors above.

The use of the Black-Scholes value at the time of issue is irrelevant. When issued at or above market, they have no value. There has been no economic event - only a decision made. The argument that they have value results from the presumption that they can be sold or used as collateral for a derivative position to offset their risk. Since the whole point of options is to force stock risk upon management, there should be regulations preventing their sale or use as collateral. The valuation should still be the intrinsic value.

7. Your response (I am presuming) to dismiss me because you think "professional analysts" and "sophisticated investors" will use this information, can be proved wrong.

I can state that professionals will NOT use the information in this proposal because they do not use the information already available on executive pay. The proof is easily presented by the case of Research In Motion (Q-RIMM). All readers of this submission no doubt are familiar with the company. You heard the discussion regarding $250 million backdated options. You heard the opinions of reporters and analysts. You will know I am correct to say that :

Not one reporter or analyst translated that $250M cost into the EPS equivalent in order to revalue the stock.

No one made the point that the $250M is only 27% of the total cost of options in that same period.

No one made the point that the issue of backdating is relevant ONLY for tax purposes. The only reason it affected their Income Statements is because the Income Statements did not measure options properly to start with.

No one has ever discussed the results (presented below) that incorporate the true cost of options in the three years ending Feb 2006.

Total net income stated= $647 million.
2004 $ 51.829
2005 213.387
2006 382.078

Value of options exercised = $490
(avg mkt price - exercise price) * number exercised
2004 (16 - 7.06) * 6.258 = 55.947
2005 (65 - 10.19) * 4.655 = 255.101
2006 (70 - 6.81) * 2.837 = 179.270

Value of in-the-money options outstanding at Feb '06 = $463
(72 - 20.33) * 8.961

Value of in-the-money options at Feb '03 = $38
(6.35 - 2.315) * 9.530

Total value of options (exercised and change in o/s) = $915
(490 + 463 - 38)

CONCLUSION NEVER REPORTED BY PROFESSIONAL ANALYSTS

The reported income of the period should have been reported as a LOSS of <$268>. The options that are still outstanding will similarly deplete the projected future earnings. The $250 million restatement is peanuts compared to the unreported true costs of all the options.

8. Appendix 1) Changes investors need, that the securities commissions and SROs refuse.

Change law to overturn precedent that exempted auditors from liability for damages

A national securities regulator so BC residents have some recourse, as well as other benefits

Free publication of accounting GAAP rules so we can know how financials are arrived at

An ombudsman independent of the banks that responds to the public, not solely to the banks
Stop forced arbitration by IDA
Change laws to allow enforcement of share holder propositions passed at AGM
Change laws to allow owners at least one elected Board Member
Cancel restrictions on 'the non-wealthy' access to markets
Combine all market regulator organizations into one who reports to the public, not the organizations they rule.
Separation of Accounting rule-making from auditors and companies to Users of Financials
Change laws to allow proxy contests
Etc, etc.

9. Appendix 2) Proof that the politics of 'accounting principles' precludes truth.

Evidently the politics of 'accounting principles' need to be explicitly detailed for the Commissions. The Chartered Accountants decide what measurement valuations are used. They have no necessity to listen to the wishes of investors. Their money comes from the management of business, and they do what they are told. Management have a vested interest in manipulating results for their own benefit.

For proof consider that this issue of executive compensation has been regulated disclosure for many years now. It cannot possibly be argued that it is not 'material' to investors. The regulation proves the materiality. Not only is it material because of its interest. It is material because frequently its dollar value equals six months of Net Income or more. **Materiality** is the most basic of principles used to develop accounting principles. Yet GAAP does not require ANY line item disclosure of executive compensation on the Income Statement. Compare that to the six line items allocated to disclosing Income Tax on the Balance Sheet.