May 28, 2007

Mr. John Stevenson
Secretary
Ontario Securities Commission
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Dear Mr. Stevenson and Mme Beaudoin:

Further to the release of the new National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* and related Companion Policy and Forms, we are pleased to respond to the CSA's request for comments and, in particular, to the specific seven (7) questions for which the CSA are seeking comments.

We have carefully reviewed the new release and, overall, we support the approach being taken and the content in the new national instrument and companion policy. We have noted some areas where the wording and guidance could be enhanced. In particular, we note that Internal Audit is noticeably absent from the policy itself and its companion policy. This is contrary to the broader global trend where Internal Audit is being recognized, by an ever wider array of governments, including in the Canadian federal government, corporations, and not-for-profit organizations, as having an essential role in good corporate governance. Internal Audit is now considered one of the four pillars of organizational governance.

IIA Canada is under the leadership of a Canadian Council with members from across the country and various industries, and counts close to 5,900 professionals within its ranks. Members must adhere to a strict Code of Ethics and apply global standards for the professional practice of Internal Auditing to ensure that they appropriately serve their organizations and the investing public represented by directors on their boards. IIA Canada is part of the Institute of Internal Auditors which sets the global standards that govern more than 130,000 internal auditors who span the globe. We strongly believe that Internal Audit can and does play an essential role in good corporate governance and in restoring investor confidence in the Canadian capital markets.

We are providing our response to your specific questions and have identified several areas where we believe the proposed national instrument and companion policy could be enhanced to better provide the necessary guidance to reporting issuers.

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RESPONSES TO SPECIFIC QUESTIONS

1. **Do you agree with the definition of reportable deficiency and the proposed related disclosures? If not, why not and how would you modify it?**

We recognize and strongly support the need to move toward principle based rules and regulations hence allowing reporting issuers and their certifying officers to exercise judgment in their determination of disclosures. We recognize that by including "reliability of financial reporting" in the definition of reportable deficiency the CSA has broadened the areas of control to include more than ICFR. We support this broader scope of controls to be considered in the determination of a reportable deficiency.

We believe however, that further guidance (in the form of examples or discussions) is required for the certifying officers with respect to how to apply judgment in determining a reportable deficiency.

2. **Do you agree that the ICFR design accommodation should be available to venture issuers? If not, please explain why you disagree.**

We agree with the intent of the ICFR design accommodation as this provision initially appears to be a sensible approach to addressing the difficulties faced by venture issuers in designing adequate internal controls over financial reporting due to their organizational size.

3. **Do you agree that our proposal to provide a scope limitation in the design of DC&P and ICFR for an issuer's interest in a proportionately consolidated investment or variable interest entity is practical and appropriate? If not, please explain why you disagree.**

We agree. It is a practical approach based on the difficulty an issuer would have in assessing these entities due to the lack of access and/or control they may have based on the legal relationship. It is also appropriate based on the principle that a disclosed scope limitation would raise a key concern for the reader to consider in making any investment decisions.

4. **Do you agree that our proposal to allow certifying officers to limit the scope of their design of DC&P or ICFR within 90 days of the acquisition of a business is practical and appropriate? If not, please explain why you disagree.**

We believe that 90 days is too short a period of time to perform an adequately disciplined and thorough review of an acquiree's design of internal control, especially when the acquiree is a large and complex organization. Consequently, we recommend that this period be increased to a maximum of 6 months to give enough time to the issuer to perform their assessment with the required thoroughness. We note that there is no reference to the operating effectiveness of DC&P or ICFR. In this latter case, we recommend a period of up to 12 months.

5. **Do you agree that our proposal not to require certifying officers to certify the design of ICFR within 90 days after an issuer has become a reporting issuer or following the completion of certain reverse takeover transactions is practical and appropriate? If not, please explain why you disagree.**

Please refer to our answer to the previous question.

6. **Do you agree that the nature and extent of guidance provided in the Proposed Policy, particularly in Parts 6, 7, and 8 is appropriate? If not, please explain why and how it should be modified.**

We agree. It is a significant improvement over the previous version of the policy. However, please refer to our comments below.

7. **Are there specific topics that we have not addressed in the Proposed Policy on which you believe guidance is required?**

We have identified several areas in sections 5, 6, 7 and 8 of the Companion Policy where we believe there is potential for enhancements.

COMMENTS ON THE COMPANION POLICY 52-109CP (CP)

Section 5.1 ***No requirement to use a control framework***

We believe that a control framework should be used to assess, design or evaluate effectiveness of ICFR. An issuer must have a framework for its assessment and evaluation for them to be appropriately conducted. The Internal Auditing profession has been focused on the assessment of design and evaluation of the effectiveness of controls for over 60 years. The experience of our membership indicates that without a framework, the risk of inappropriate and inconsistent judgments significantly increases. Such experience also indicates that the recognized control frameworks may not necessarily be easy to use, adequate in content or articulated in a manner suitable to each organization's business and its people. However, in many cases, Internal Audit has helped their organization to adapt one or more recognized control frameworks into a customized one suitable for use within their organization.

We believe that this section should require all issuers to either adopt a recognized control framework or to develop their own documented customized control framework which is aligned to one or more recognized control frameworks as proof of its comprehensiveness. Further, we believe a customized framework that is based on recognized control frameworks should qualify as a "control framework" for purposes of reporting in the MD&A as required by paragraph 5.1 in the annual certificates. We suggest that the issuer be required to briefly describe the reasons for and the basis of their customized control framework in the MD&A. In addition, we recommend that any issuer who does not use a control framework be required to explain why due to the increased risk that this poses.

Section 5.2 *Types of control frameworks*

In the last paragraph of this section, we suggest the addition of a reference to guidance on information technology developed by the Institute of Internal Auditors. This guidance can be found in the Guide to the Assessment of IT General Controls Scope Based on Risk (GAIT) - a set of IT Principles and Methodology that can be used to scope IT general controls that need to be included in annual assessments of internal controls over financial reporting. GAIT was developed to help organizations identify key IT general controls where a failure might indirectly result in a material error in a financial statement. More specifically, GAIT enables management and auditors to identify key IT general controls as part of and as a continuation of the company's top-down, risk-based scoping efforts for Section 404 compliance. This guidance can be used for complying to 52-109.

Section 6.5 *Risk considerations for designing DC&P and ICFR*

Subsection (2)

While responsibility for completing a top-down, risk-based approach to designing DC&P and ICFR rests with management, assistance in the form of facilitation or advice can be sought from Internal Audit, if such a function exists. Internal Auditors have experience with this approach as it is used in developing Internal Audit plans and in assessing the risk management processes and controls in an organization.

Subsection (3)

The bar has apparently been raised significantly for assessing fraud risks as this paragraph now requires certifying officers to consider what areas of the business provide opportunity for an employee, or combination of employees, to commit fraud. We fully support this.

We would like to note that Internal Audit routinely conducts risk-based audits and where fraud risk is identified as a significant risk, assessment of the controls to mitigate them is part of the audit. In addition, many Internal Audit departments conduct audits of the control environment, which has significant impact on level of fraud risk in an organization. Consequently, Internal Audit can and currently does play a key advisory role for board members and senior management on the design of controls to mitigate fraud risks and can provide an independent, reliable assessment of their effectiveness. We suggest that a reference be made regarding the certifying officers' opportunity to use Internal Audit for support in the area of fraud risk.

Having said this, normal auditing procedures are usually not specifically designed for and infrequently lead to the actual detection of fraud, rather they are focused on identifying opportunities for fraud (i.e., weak controls). Certifying officers will need to consider whether there is a need for specific fraud detection procedures. Internal Audit can also provide assistance with this decision and activity if it is required.

Section 6.6 Subsection (3) ***Sources of information about the control environment***

Internal Audit reports are a significant, reliable and independent source of information about the control environment. This section does not make any reference to such reports. We would like to note that external auditors, as a common practice, ask for and review copies of Internal Audit reports during their preliminary work for the audit of financial statements. Consequently, we recommend adding the following to this section: "(f) reports issued by the Internal Audit function regarding the issuer's controls, risk management, and governance processes.

Section 6.10 Subsection (d) ***ICFR design challenges***

The second paragraph refers to services that the external auditor can provide to an issuer to mitigate risks related to a reportable deficiency in ICFR. One of the services noted is Internal Audit services. This contradicts CICA guidelines relating to auditor independence. (Please also refer to multilateral instrument on auditor's independence.)

Section 7.4 – ***Evaluation of DC&P and ICFR***

Section 7.4 speaks to the need for the evaluation of DC&P and ICFR to be conducted by appropriately qualified and objective individuals. However, there is no reference to Internal Audit as a group having the required qualifications and the objectivity for assisting management with evaluating DC&P and ICFR. This section misses the opportunity to identify that an issuer can leverage the work of Internal Audit in evaluating DC&P and ICFR.

Today, numerous issuers are using the Internal Audit reports as a key input to obtaining reasonable assurance that DC&P and ICFR are operating effectively. We recommend that a comment be added that identifies Internal Audit as meeting the requirements of section 7.4[1] if the function is operating in compliance with the IIA global standards for the professional practice of Internal Auditing.

[1] Certifying officers should ensure that the evaluation is performed with the appropriate level of objectivity. Generally, the individuals who evaluate the effectiveness of specific controls or procedures should not be the same individuals who perform the specific controls or procedures.

Section 8.3 - *Strong indicators of a reportable deficiency*

An ineffective Internal Audit function, where it exists, is generally a significant indicator of a weak control environment (Internal Audit is separate and independent from the regulatory compliance functions). Also, for an issuer who does not have the financial resources to afford an Internal Audit function, the absence of senior management monitoring controls may also be an indicator of a weak control environment. While the listed indicators of a reportable deficiency are likely to be common instances of real issues (including the two mentioned above), there could be other common situations which would typically be a flag to a reportable condition not noted here (e.g., poor information for management monitoring, very remote management monitoring of on-going operations, excessive involvement of the CFO in mundane/judgmental accounting issues). Consequently, we would recommend to favor the use of judgment and to make it clear that a list of indicators of a reportable deficiency cannot be inclusive of all situations which could indicate reportable deficiencies..

We would very much appreciate an opportunity to discuss further the specifics of our views and recommendations on these and other matters.

Yours truly,

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