

June 28, 2007

British Columbia Securities Commission
Alberta Securities Commission
Saskatchewan Securities Commission
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Nova Scotia Securities Commission
New Brunswick Securities Commission
Office of the Attorney General, Prince Edward Island
Securities Commission of Newfoundland and Labrador
Registrar of Securities, Government of Yukon
Registrar of Securities, Department of Justice, Government of the Northwest Territories
Legal Registries Division, Department of Justice, Government of Nunavut

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Notice and Request for Comments: Proposed Repeal and Substitution of Form 51-102F6 *Statement of Executive Compensation* and Proposed Amendments to NI 51-102 *Continuous Disclosure Obligations*, Form 51-102F2 and Form 51-102F5 and Proposed Consequential Amendments to MI 52-110 *Audit Committees* and NI 58-101 *Disclosure of Corporate Governance Practices*

We are pleased to provide our comments on the above proposals. Our letter is structured to:

- (i) provide some introductory comments,
- (ii) provide some general comments with respect to Part A,
- (iii) respond to the specific request for comments in Part A, and
- (iv) provide some general comments with respect to Part B.

We have also attached an appendix identifying other rule related matters for your consideration.

Introductory Comments

Overall, we strongly support the CSA's effort to enhance the disclosure of executive compensation and to make the disclosures consistent with those in the United States. As you will see, there are areas where we believe the proposals could be enhanced, and we hope that these help the CSA produce an even better set of requirements.

Corporate Governance

We are disappointed that the proposed requirements are focused exclusively on disclosure, without addressing their implications for governance and control.

This point is best summarized through a comparison of CD&A and MD&A. The intended role of the CD&A relative to the compensation disclosure is clearly similar to that of the MD&A relative to the financial statements. In addition to setting out form requirements for MD&A in Form 51-102F1, the CSA has also prescribed specifically that MD&A must be approved by the board of directors (in NI 51-102) and reviewed by the audit committee (in MI 52-110). Also, of course, MD&A is within the scope of the "fair presentation" attestation contained in the certificates filed by the CEO and CFO under MI 52-109.

By comparison, the CSA has not prescribed any specific review or approval responsibilities for CD&A, and the CD&A is not included within the scope of the "fair presentation" attestation. Whereas MI 52-110 prescribes that every reporting issuer have an audit committee, and sets out requirements for the independence and financial literacy of the committee members, there is no requirement to establish a compensation committee, and no defined concept of "compensation literacy" (although experience suggests that such a concept may be significantly overdue).

Given in particular that issuers will initially be uncertain about how best to comply with the disclosure proposals, this leaves unaddressed the key control and governance steps that are fundamental in producing compliant, high-quality disclosure. We realize that some of these governance issues are addressed in National Instrument 58-101 *Disclosure Of Corporate Governance Practices*, and National Policy 58-201 *Corporate Governance Guidelines*, but suggest these be harmonized with those in the United States and integrated, or at least cross referenced, into the compensation disclosure instrument. We strongly urge the CSA to take whatever steps may be necessary to address this US/Canadian "gap" in governance requirements/guidelines so that there is a common set of expectations/requirements for compensation committees on both sides of the border. In our opinion, the full potential of the proposed disclosures will not be realized until this is done.

Disclosure Confusion

The recent capital market reform initiatives of the CSA have resulted in a hodge-podge of disclosure in various documents with no apparent link between the various initiatives or between the resulting disclosures. We recognize that these initiatives are relatively new and that the CSA has attempted to incorporate necessary disclosure into the various existing continuous disclosure documents. Not all of the continuous disclosure documents (other than financial statements and management discussion and analysis) are required filings for all issuers, accordingly, where the document "of choice" for the corporate governance disclosure is not required for particular issuers, another disclosure document has been substituted to house the disclosure.

In addition to reading the increased volume of disclosure, users are also not able to readily find the disclosure as it is inconsistently located between issuers. As an example one odd result of some existing disclosure requirements is that the location of disclosure may differ between issuers who are required to file an AIF versus issuers who file one voluntarily. Another result is that, depending whether an issuer's disclosure is in the document of choice or a substituted document, the disclosure in question may or may not be within the scope of the MI 52-109 certification requirements. As not all documents are required to be delivered to security holders, the choice of document may result in the disclosure being filed only on SEDAR in some instances but delivered (or required to be delivered on request) to security holders in other instances.

We believe that the time has come for the CSA to rationalize the organization of its continuous disclosure requirements and articulate a strategy that results in appropriately linked disclosure being presented in appropriate document(s). It may be time for the CSA to consider whether an "annual information form" or filing structure similar to that used in the United States should be required for all issuers.

Alternatively, the CSA could look to the treatment of the annual filings required for Oil & Gas issuers under NI 51-101 where the CSA has permitted the satisfaction of the filing requirement by inclusion of the forms in the AIF as an alternative to the separate filing of the forms – the requirements in this rule accommodate issuers who file an AIF because they are required to, issuers who file an AIF on a voluntary basis and issuers who do not file AIFs at all. Additionally, as the AIF is not a document that is delivered to security holders, the issuer is required to press release the fact that they have filed the disclosure and where the disclosure is to be found.

Returning to the Executive Compensation disclosures, Item 2.1 (4) of the proposed executive compensation Form 51-102F6 requires that companies consider the disclosure provided in Form 58-101F1 or 58-101F2 and ensures that it is consistent with the disclosure provided in the CD&A. Although this instruction is fine as far as it goes, it only underlines the fragmented nature of the CSA's disclosure requirements discussed above. For example, the identity and role of an independent compensation advisor would clearly most usefully be disclosed in proximity to a discussion of the compensation structure resulting from that advisor's input. As it is, these

two items of disclosure, although they will both be in the same document, will not be required to be presented in an integrated fashion within the document, and investors will often find it difficult to pull all the pieces of information together into an integrated overview of the compensation process as a whole. The result may be that some companies produce a CD&A that is "compliant" and resistant to regulatory challenge, and yet that still fails to provide investors with meaningful information on the process that drives executive compensation. We suggest that more can be done in finalizing the disclosure proposals to address this fragmentation.

Pay for Performance

We note that the recent ICD Blue Ribbon Commission on the Governance of Executive Compensation stated in section 3.1.4 that "While issues surrounding the level of compensation capture many of the media headlines, it is actually pay for performance that appears to matter the most to investors".

In setting out the rationale for this initiative, the introduction to the notice states: "The purpose of the executive compensation materials is to improve the quality and transparency of executive compensation disclosure. Greater transparency will allow users to assess the process by which compensation decisions are made at a company. It will also provide insight into a key aspect of a company's overall stewardship and governance."

The CSA did not specifically cite "pay for performance" in crafting this explanation (and barely mention the concept in the release as a whole), and the reason for this we understand to be, that "pay for performance" is not a regulatory objective. However, realistically, the key litmus test that users will apply to these disclosures will lie in whether they can understand that compensation amounts paid to key executives do, or do not, represent fair pay based on a fair approach to measuring their contribution.

We believe that there are three key sets of questions that issuers should be addressing in "pay for performance" discussion:

- (i) are the compensation arrangements (individually and in the aggregate) of the executive officers linked to issuer performance (both short term and long term),
- (ii) what are the performance measures that are used with respect to the individual's and to the issuer's performance and how are the two linked, and
- (iii) how do the executive compensation performance measures relate to the performance measures disclosed in the MD&A and financial statements?

This being the case, we believe that the final release should more explicitly highlight transparency about pay for performance as the key reference point in determining what is adequate executive compensation disclosure; and in particular in determining what is a good CD&A. For example, the proposals relating to disclosure of target levels hold every possibility

of being applied very technically (and perhaps self-servingly). It might help, at least incrementally, if the commentary were to clarify that even if specific target levels are excluded for the reasons provided, the company must provide enough explanation so that a user can clearly grasp the factors that define "performance" and how these influence pay, and how different results in the former would have generated different results for the latter.

Accounting vs Fair Value Treatment of Compensation

The disclosure of executive compensation in the proposed form is primarily based on the accounting treatment of the compensation and the allocation of the compensation expense over the service period that the executive must serve in order for the compensation to vest. Thus, the disclosure does not reflect the fair value of the compensation decision at the time that the decision is made nor does the disclosure clearly communicate that compensation tables of future years will include compensation expense relating to compensation decisions that have already been made as of the date of the disclosure presented.

Readers who are not fully familiar with the accounting requirements may not understand that the table does not present the complete commitment with respect to compensation made to date. Additionally, the form does not clearly require disclosure of the information necessary for a reader to determine the residual commitment. Accordingly, we suggest that it would be very difficult for a reader of the Statement of Executive Compensation to understand what compensation decisions have actually been made and relate those decisions to the current situation of the issuer.

We believe that it would be extremely difficult for an investor to understand the presentation provided unless that investor was fully informed of the accounting requirements underlying the disclosure requirements. We also believe that it would be extremely difficult to relate the pay to the performance that the pay relates to as the compensation table presentation will constitute a blend of pay decisions made with respect to several years.

We suggest that it would be more appropriate for the issuer to be disclosing the fair value of the compensation awards based on the financial year that the compensation decision relates to. For example, if an executive is awarded stock options based on having achieved his/her target performance for the 2007 financial year, it should be clear to the reader what the fair value of that award is and that the award was based on performance for the 2007 financial year. The present disclosure will have a portion of that award included in the presentation in each of the 2007 or 2008 and subsequent financial years until the vesting period is complete or accelerated.

The notice states that "Under the existing requirements, investors are provided with fragmented compensation information, which makes it difficult for them to assess the total compensation paid to executive officers." We suggest that the proposed revisions do not solve this problem and may compound it. We recognize that a primary factor behind the CSA's proposal is to have the same or similar requirements to what is required by the SEC. However, we believe that the

objectives stated in the notice, to “create a document that will present executive compensation information in a meaningful way” should take precedence over the desire to mirror the SEC requirements.

PART A

General:

1. We believe that it would be useful if a general explanation was provided at the beginning of the form setting out the objective of the form and how each of the sections of the form provides information necessary to achieve that objective. We believe that drafting such a section will help the CSA provide needed structure to the form. Clarification and communication of why the sections are required will assist preparers in preparing the form and will assist users in interpreting the disclosure. Such clarification and communication will also serve to increase the useful life of the form even if compensation models change over time. We refer you to the "General Provisions" at the beginning of Form 51-102F1, in particular "What is MD&A", as one example.
2. We note that the structure of this form differs from the structure of the other forms that accompany NI 51-102 in that it contains "Commentary". We believe that it would be useful if the intended legal status of the "Commentary" were set out within the form. We understand that there has been case law clarifying the legal status of the forms and the instructions included in the forms but we are not aware of any case law dealing with "Commentary". In the Introduction to NI 81-107, the following information is presented: "This National Instrument (the Instrument) contains both rules and accompanying commentary on those rules. The Canadian Securities Administrators (the CSA or we), have made these rules under authority granted by the securities legislation of their jurisdiction. The commentary may explain the implications of a rule, offer examples or indicate different ways to comply with a rule. It may expand on a particular subject without being exhaustive. The commentary is not legally binding, but it does reflect the views of the CSA. Commentary always appears in italic type and, outside of this introduction, is titled "Commentary". We suggest that similar information be set out in this Form.

Item 1 – General Provisions:

Specific request for comment

1. *Will the proposed executive compensation form clearly capture all forms of compensation? Have we achieved our objective in drafting a document that will capture disclosure of compensation practices as they change over time?*

The drafting of the form appears to be broad enough to capture most, if not all, forms of compensation that currently exist or that may be developed in the future. We refer you to our general comment #1 above which we believe will also assist in keeping the form current.

2. *Do you agree with our proposal not to substantially change the criteria for determining the top five named executive officers? Should it be based on total compensation or some other measure, such as those with the greatest policy influence or decision-making power at the organization?*

We would expect that policy influence and decision-making power would typically be reflected in an individual's compensation and, accordingly, compensation would be an appropriate surrogate for the other measures suggested but would have the added advantage of being more clearly measurable. We agree with the proposal to not substantially change the criteria for determining the top five named executive officers but with some modifications.

- a. We suggest that certain compensation elements in addition to the change in pension value be excluded from the calculation. The present method of determining the NEOs has the potential of having individuals move in and out of the category resulting from external factors that have no relationship to compensation decisions made during, or with respect to, the most recently completed financial year. For example, if an individual is subject to an award that calls for settlement in cash or other assets, that award is considered to be a liability for accounting purposes and the liability will be fair valued at the end of the accounting period and a corresponding adjustment made to compensation expense. In any given year it is possible that these adjustments could result in an individual's total compensation for the year being low or even negative. These adjustments will continue to occur until such time as the liability is settled. We suggest that any of the compensation expense elements that relate to external factors affecting compensation decisions that were made in earlier periods be excluded for purposes of identifying the three most highly compensated individuals for the most recently completed financial year.
 - b. We suggest that, where inclusion of termination amounts cause an individual to be included as one of the three most highly compensated executives, disclosure with respect to that individual be additional to the disclosure with respect to the three otherwise most highly compensated individuals.
 - c. We further suggest that disclosure be required for any executive officer whose compensation (calculated in accordance with the form subject to the modifications set out above) exceeds that of either the CEO or the CFO, in addition to the disclosure required for the three most highly compensated officers.
3. *Should information be provided for up to five people individually, or should the information be provided separately for the CEO and CFO, then on an aggregate basis for the remaining three named executive officers?*

We see no rationale for aggregating compensation for the three individuals. We have seen instances where compensation of the Chief Operating Officer significantly exceeds that of the CFO. For the information to be useful, it should be on an individual basis.

Item 2 – Compensation Discussion and Analysis:

Specific request for comment

4. *Will the proposed CD&A requirements elicit a meaningful discussion of a company's compensation policies and decisions?*

We refer you to our introduction. We believe that significantly more can be done within the rule to ensure that the CD&A requirements do result in meaningful discussion of a company's compensation policies and decisions.

5. *Should we require companies to provide specific information on performance targets?*

As we set out in our introduction, we suggest that the commentary should clarify that, even if specific target levels are excluded for the reasons provided, the company must provide enough explanation so that a user can clearly grasp the factors that define "performance" and how these influence pay, and how different results in the former would have generated different results for the latter.

6. *Will moving the performance graph to the CD&A and requiring an analysis of the link between performance of the company's stock and executive compensation provide meaningful disclosure?*

We support the requirement that a company analyze the relationship between performance of the company's stock and executive compensation. We believe that this is particularly important where issuers have indicated that performance targets are based on changes in share price or other factors that indicate that there should be a clear link between the compensation amounts and the stock market performance. In our introduction we have also pointed out that we believe that the disclosure should not be based on the expensing of compensation for accounting purposes. If the disclosure is based on the fair value of the compensation decisions when the decisions are made, the relationship between the compensation disclosure and the performance graph will not be clouded by accounting allocations and accounting treatment.

We suggest that the specifics for the analysis be left fairly open as issuers of varying size and complexity will be faced with the requirement to provide this analysis. It should be clear that, where there is no relationship, issuers should be able to state that they do not believe there is a relationship. This may well be the case with smaller issuers who set compensation levels primarily based on the competitive environment in order to attract

and retain staff. Alternatively, consideration should be given to requiring this analysis only for issuer's over a certain size.

Item 3 – Summary Compensation Table:

Specific request for comment

7. *Should the summary compensation table continue to require companies to disclose compensation for each of the company's last three fiscal years, or is a shorter period sufficient?*

Many of the Canadian continuous disclosure requirements have been revised to require disclosure for two years rather than for three years. We would support reducing the disclosure requirement to two years. We note that information for earlier years is readily available on SEDAR.

8. *Do you agree with the way bonuses and non-equity incentive plans will be disclosed in the summary compensation table?*

It would appear that the "bonus" column is now limited to gratuitous payments and windfall payments as it seems that virtually every type of payment currently considered to be a bonus is now categorized as "non-equity incentive plan" payments. If this is not the intended result, then we suggest that more clarification is needed. Also, if this is the intended result then we question the necessity of segregating the amounts. Consider amalgamating as "non-equity incentive plan and bonus" and requiring footnote disclosure as to the portion of the amount that relates solely to bonus (i.e. no expectation of receipt and no performance requirements to receive it.)

We question whether the distinction between bonuses and non-equity incentive plans is a distinction that is relevant to investors and question whether the segregation adds unnecessary and non-useful clutter to an already complex document. We recognize that the main motivation behind requiring this distinction is because it follows the US requirements.

9. *Do you agree with the proposed disclosure of equity and non-equity awards? Are the distinctions between the types of awards and how they will be presented clearly explained?*

The proposed disclosure of, and distinction between, equity and non-equity awards appears to be clear. We recognize that the distinctions being made match the US requirements.

10. *Is it appropriate to present stock and option awards based on the compensation cost of the awards over the service period? If no, how should these awards be valued?*

As outlined in our introduction, we do not support the presentation of the compensation cost of awards over the service period. We suggest that what is appropriate and what should be disclosed is the fair value of the award at grant date as that represents the value of the compensation decision when that decision was made. Information resulting from revisions to compensation expense relating to prior years awards could be required separately if considered necessary.

If the current accounting based requirement is maintained we suggest that additional information will be required so that investors can understand what portions of compensation decisions have not yet been reflected in the Summary Compensation Table.

11. *Should the change in the actuarial value of defined benefit pension plans be attributed to executives as part of the summary compensation table?*

We recognize that the primary reason for this requirement is to match SEC requirements. As many of the issuers that have defined benefit plans will likely also be SEC registrants they will be required to obtain and present this information in any case. Accordingly we do not take a position on this point.

12. *Should we include the service cost to the company in the summary compensation table instead of the change in actuarial value or in addition to it?*

As set out in #11 above, we do not take a position on this point.

13. *Have we retained the appropriate threshold for perquisite disclosure given the changes to compensation amounts included in the bonus column of the summary compensation table?*

We refer you to our comments in response to #14 below. If the valuation of the perquisites in all cases is limited to "incremental cost" then the threshold may be too low.

14. *Should we provide additional guidance on how to identify perquisites?*

We believe that additional guidance is required with respect to the identification of perquisites and that changes are required to the guidance that is presently provided such as the requirement that a benefit be available "to all employees" (see point #20 of the appendix). We also suggest that the valuation of the perquisites be reconsidered as we question whether "incremental cost" to the company is appropriate to value all perquisites. For example, if an NEO has the use of a corporate condo for personal use, the incremental cost may be minimal but the "value" might be considerable

15. *Will a total compensation number calculated as proposed provide investors with meaningful information about compensation?*

As we outlined in our introduction, we do not agree with basing the disclosure on the accounting treatment. We believe that a total compensation number has the potential of providing meaningful information to investors as long as it is appropriately calculated, which we believe should be based on the fair value of the compensation decision. Supporting information and disclosure requirements should be adequate to enable investors to interpret the information.

16. *Will the disclosure of the grant date fair value of stock and option awards, along with the disclosure provided in the summary compensation table, provide a complete picture of executive compensation?*

As set out above, we believe that the disclosure regarding compensation should be based on the fair value of the compensation at the date of grant rather than based on compensation cost over the service period. The present requirements for what is included in the summary compensation table in conjunction with the disclosure of the grant date fair value of stock and option awards do not enable a reader to obtain a complete picture of executive compensation. The disclosure regarding the grant date fair value of stock and option awards does not provide any link to the summary compensation table as it does not require any information with respect to how much of the award has been included in the table for the current year or how much will be included in specified future years. The summary compensation table provides no information as to how much of any of the numbers relate to current year compensation decisions or how much relate to specified prior years compensation decisions.

Item 4 – Equity-Based Awards:

No specific request for comment

Item 5 – Plan-Based Awards:

Specific request for comment

17. *Is the information a company will provide in the tables required by Item 4 the most relevant information for investors? Do you agree with our decision to take a different approach to the SEC? Could material information be missed by this approach?*

In the event that the accounting based disclosure in the Summary Compensation Table is maintained, we suggest that the tables required under Item 4 should be expanded to provide information as to the portion of the value of the awards that has been included in the compensation table as well as the value of the awards that will be recognized in future years. Additionally the value of prior year's awards that were recognized in the

current year's compensation table and the value to be recognized in future years need to be disclosed.

Item 6 – Retirement Plan Benefits

Specific request for comment

18. *Should we require supplemental tabular disclosure of defined contribution pension plans or other deferred compensation plans? Is a breakdown of the contributions and earning under these plans necessary to understand the complete compensation picture?*

We support the requirement for disclosure of defined contribution or other deferred compensation plans similar to what is required by the SEC. Defined contribution plans are becoming more common and, accordingly, for comparability and transparency, disclosure about such plans is warranted.

Item 7 – Termination and Change of Control Benefits

Specific request for comment

19. *Should we require estimates of termination payments for all NEOs or just the CEO?*

We support the requirement that estimates be provided for all NEOs.

20. *Will it be too difficult to provide estimates of potential payments under different termination scenarios? Should we only require an estimate for the largest potential payment to the particular NEO?*

We support the requirement to provide estimates under different termination scenarios.

Item 8 – Director Compensation

21. *Will expanded disclosure of director compensation provide useful information?*

We believe that the expanded disclosure of director compensation will provide useful information.

Item 9 – Companies Reporting in the United States

No specific request for comment

Other Major Issues Considered

Specific request for comment

22. *Do you agree that executive compensation disclosure should remain in the management information circular? Would moving it to another disclosure document provide a clearer link between pay and performance?*

We suggest that the question of the positioning of the executive compensation disclosure be considered in the broader context that we have set out in our introductory paragraphs.

23. *Are there elements of compensation disclosure that are not relevant to venture issuers and that they should not be required to provide? For example, should we allow venture issuers to disclose compensation for a smaller group of executives as the SEC has done?*

We see no reason for venture issuers to provide disclosure for a smaller group of executives.

24. *Are there other specific elements of the requirements that are not relevant for venture issuers?*

We have no specific comment on this point particularly in light of the fact that issuers need not provide information that is not applicable to them.

Although we agree that further exemptions for venture issuers within the instrument are likely not necessary, we emphasize that the impetus behind the expanded executive compensation disclosure is primarily focused on the largest issuers. The widespread concerns about pay for performance do not apply in the same way to most venture issuers, most of which have not reached a stage where they can implement a mature incentive plan. The CSA continuous disclosure review program will be vital in supporting the instrument and in ensuring from the outset that it is appropriately interpreted and applied. We urge the CSA to devote its review resources, particularly in the early years of this rule, to the review of the disclosure of the larger issuers and to actively and prominently communicate the results of these reviews. We believe that reviews conducted in the first year will be vital in establishing the CSA's expectations and the priority should be the sector of the market where the enhanced executive disclosure has the potential to truly make a difference.

25. *Would the prescription of a performance measurement tool provide useful information on the link between pay and performance?*

We have difficulty contemplating how the CSA would develop a performance measurement tool that would apply to all issuers and that would appropriately link pay and performance. We suggest that, once the CSA has developed such a tool, that it be

published for review and comment. It would not be appropriate to comment whether prescribing such a tool would provide useful information until the tool itself can be viewed.

Transition and Other Amendments

Specific request for comment

26. *Do you think the suggested timeline will give companies enough time to implement these proposed disclosure requirements?*

We understand that the intention is that the rule will be in place for December 31, 2007 year ends. We support this timeline. There are difficulties in assessing whether the timeline will present problems to issuers as the extent and nature of the changes to the proposed rule that will be made as a result of the comment process are not presently known.

There are areas of the rule that may require transition periods. For example, issuers using external management companies may need to renegotiate contracts if the proposals regarding such issuers are maintained in the final document. Accordingly, such issuers will require a transition period if the final rule requires disclosure that they are unable to obtain based on existing contracts.

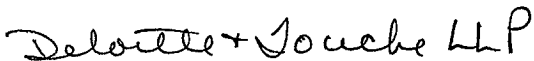
PART B

General:

1. With the change to the definition of "venture issuer" a number of "debt only" issuers who are presently categorized as venture issuers will become non-venture issuers. These issuers may not be preparing Management Information Circulars for their shareholders. Currently non-venture issuers who do not prepare Management Information Circulars are required to include the Statement of Executive Compensation in their AIF which is to be filed within 90 days of year end and which will be covered by the NI 52-109 certificates. It is proposed that venture issuers who do not prepare Management Information Circulars will be required to file the Statement of Executive Compensation separately and will have 140 days from year end to file such form. Venture issuers who do prepare a Management Information Circular are not required to certify the Statement of Executive Compensation and have more than 90 days to prepare the information. We suggest that the same treatment be accorded to both venture and non-venture issuers who do not prepare a Management Information Circular - i.e. that all issuers not preparing the Management Information Circular be on the same footing and have the option of filing the Statement of Executive Compensation as a separate document within 140 days of year end. If a determination is made to move the disclosure of Executive Compensation to a different document for all issuers and/or if it is determined that the Statement of Executive Compensation be covered by the NI 52-109 certificates, then it would be appropriate to also move the disclosure for issuers who do not prepare Management Information Circulars.

Should you wish to discuss this response to your request for comments please contact James L. Goodfellow at 416-601-6418.

Yours truly,



Chartered Accountants
Licensed Public Accountants

APPENDIX

Other Matters:

1. We have difficulty understanding the rationale for the section on “External management companies”. It is our view that, where an external management company is engaged, what is relevant is the amount of the fee paid to that external management company and what that management fee covers. How that external management company structures its compensation arrangements is not relevant to the issuer to whom it is providing the management service nor does that issuer necessarily have access to the compensation information or input into any of the compensation decisions. This section appears to have been drafted with Income Fund issuers in mind where the management company has been established for the purpose of providing management services to the Income Fund and/or its operating companies. If that is the case, we suggest that the requirements be drafted to specifically deal with that particular situation. If this section is retained, we suggest that a transition period is required in order to enable issuers to renegotiate contracts with their external management companies as necessary to obtain this information or to make changes to their management structure that may be necessitated by the requirement to provide this disclosure. Additionally, if this section is retained, it should be clarified that, if (c) is applicable, then the disclosure required by (b) is not required.
2. In Item 1.3 “Definitions”, the following provision that appears in the currently existing Executive Compensation Form has been removed: “If a term is used in this Form and is defined in both the Securities Statute of the local jurisdiction and in National Instrument 51-102, refer to section 1.4 of Companion Policy 51-102CP.” If this provision still applies, it should be retained in this form in order to be consistent with the balance of the NI 51-102 forms. If there is a reason that this provision does not apply with respect to this particular form, the reason should be communicated.
3. The definition of “closing market price” is based on the Issuer’s “principal Canadian market”. We note that NI 51-102 provides a definition of “marketplace”. Consider whether “marketplace” can be substituted for “market” in the definition of “closing market price”. Also, should the definition contemplate situations where there is no “Canadian market” for the stock?
4. The definition of “Named Executive Officer” or “NEO” does not contemplate situations where the most recently completed financial year is a transition year resulting from a change of year end situation. Under NI 51-102, a transition year can range in length up to 15 months (with no minimum number of months). It is suggested that there may be a need for an adjustment of the \$150,000 amount to deal with transition year situations.

5. The definition of "stock" includes references to "restricted stock" and "restricted stock units". NI 51-102 has a definition of "restricted securities". The meaning of the term "restricted" in relation to "restricted stock" is quite different from the meaning of the term "restricted" in the definition of "restricted securities". We suggest that a definition of "restricted stock" and "restricted stock units" should be provided or different terminology should be used.
6. Point #3 in Item 1.4 "Exclusion due to foreign assignment" deals only with whether or not an individual will be categorized as an NEO or not. We suggest that this exclusion would be better positioned within the definition of "Named Executive Officer" following the reference to the exclusion of the "Change in Pension Value".
7. NI 51-102 uses the term "financial year" in all places except where reference is made to the SEC requirements where the term "fiscal year" is used. We note that this proposed form uses the term "fiscal year" in most places. We suggest that, for consistency, the term "financial year" be used throughout this form. If there is a reason to use the term "fiscal year" we suggest that a definition be provided.
8. The proposed form uses "current fiscal year", "last fiscal year", "prior fiscal year", "previous fiscal year" and "most recently completed fiscal year" in various spots but it is not always clear what year is being referred to. We suggest that phrases such as "most recently completed financial year" and "financial year immediately preceding the most recently completed financial year" be used to be consistent with the balance of NI 51-102 and so that it is clear what year is being referred to. If "financial year immediately preceding the most recently completed financial year" is considered to be too wordy, then the term "previous year" (or similar) could be used as long as it is defined appropriately.
9. There are places in the form where terms such as "provided to", "paid", "payable", "earned" and similar are used. For example, in item 4, requirements are only for amounts "paid". We would expect that, typically, disclosure would be sought with respect to the amounts "paid or payable with respect to the financial year in question" rather than just amounts "paid" during the year or the amount "payable" at year end. Similarly in point #5 of Item 1 "Sources of compensation" the requirement is for "all compensation payable" which implies that only the year end accrual is to be reported. We suggest that the form be reviewed in its entirety to ensure that the appropriate terms are used in all cases and that such terms are used consistently throughout the form.
10. In Point #6 of Item 1, disclosure is required of all compensation paid to an "associate". If this is meant to be "to an associate of a NEO or director of the company" then we suggest that that be clarified.
11. With respect to issuers that comply with foreign GAAP, as it is possible that the resulting disclosure will be significantly different from that of an issuer reporting under Canadian

GAAP, particularly if the foreign GAAP does not require expensing of stock based compensation, we suggest that there should be a requirement that the issuer clearly disclose in the Statement of Executive Compensation, what GAAP they are using.

12. There are places in the form where “dividends” are referred to. We suggest that reference also be made to “distributions” or there be some blanket reference made that “dividends” includes “distribution”.
13. Should Point #1 of Item 2.1 read “Discuss the material principles underlying policies that were in place and decisions that were made with respect to compensation...”
14. Point #2 of Item 2.1 is difficult to understand as it includes references to “last fiscal year end”, “most recently completed fiscal year” and “last fiscal year”. All of these references would appear to relate to the most recently completed fiscal year but, if they do, then the two sentences appear to be repetitions of the same concept as they imply that what occurred subsequent to the year end is important in understanding the compensation decisions that occurred before the year end.
15. Section 2.2 “Performance Graph” would appear to not have applicability to “debt only” issuers. If debt only issuers are not required to include the performance graph, an exemption should be provided.
16. The commentary that appears after item 2.3 appears to relate only to item 2.1. We suggest that, if this commentary relates only to item 2.1, that it be inserted after item 2.1. The first bullet refers to “amounts disclosed for the current year”. We assume that what is meant is “amounts disclosed for the most recently completed financial year”. At the end of the bullet, reference is made to “future periods”. We assume what is meant is “current or future periods.”
17. With respect to the Summary Compensation Table, we suggest that provision needs to be made for situations where the most recently completed financial year is a transition year where that transition year is less than a designated number of months in lengths. For various regulatory purposes, transition years must be at least 9 months in length to be recognized for counting as a “year”. Consider whether to add a provision that “where a financial year is less than nine months in length, disclosure for a fourth completed financial year must be provided.”
18. Points 2 and 3 of Item 3.1 relate to stock and option awards. There are instances where stock and option awards will not be recognized in the same year as the performance to which they relate. Should footnoting be required explaining what year’s performance the award is in recognition of?
19. In point 5 of Item 3.1, what is meant by “earnings on outstanding awards”. This would seem to refer to dividends or distributions on outstanding awards but that seems to be

part of the disclosure under column (i). If something else is intended then clarification is required. If it relates to situations where criteria have now been met with respect to prior year's awards, then additional clarification is required.

20. Item 7 of Section 3.1 deals with the identification of perquisites and the valuation thereof. We note that one factor is whether or not the perquisites are "available to all employees". We question whether this should be limited to all "salaried employees" or possibly to all "management employees". We question whether it should be necessary that a perquisite, property or other personal benefit be available to all categories of employees wherever situate to be excluded from this calculation.
21. With respect to Item 7(v) should the words "where the estate of the NEO is the beneficiary" be added?
23. With respect to point (ii) under Commentary, we suggest that even items that are integrally and directly related to the performance of an executive officer's duties may still be perquisites. For example, the base level of an item might be integrally and directly related whereas the top level of the item might contain an element of perquisite. In this point the statement is made that "this concept is narrowly defined". However, it is not clear whether the concept referred to is the concept of "being a perquisite" or the concept of "not being a perquisite".
24. In the second paragraph under point (ii) of Commentary, the reference is made to "unless it is available on a non-discriminatory basis to all employees". Once again we question whether this is appropriate or whether it should refer to "all salaried employees" or "all management employees" or some appropriate sub group.
25. In the list of possible perquisites, reference is made to: "Corporate aircraft or personal travel financed by the company". Should these two concepts be split out? Is there a potential that use of the "corporate aircraft for corporate business" could still be considered to be a perquisite or does the concept just relate to personal travel whether by corporate jet or commercial airliner.
26. In point 2 below the graph in Section 3.2, there is a requirement to "disclose the incremental fair value...". It should be clarified whether this is to be disclosed in the table or in a footnote and, if it is to be disclosed in the table is it to be in a separate line or blended. If it is to be blended, then clear disclosure of the "grant date fair value" of the awards made with respect to the most recent year's performance is lost. Also, should there be footnote disclosure as to which year's performance is being recognized and rewarded?
27. In Section 3.1 (1)(ii) to the Summary Compensation Table, reference is made to the "receipt of any form of non-cash compensation instead of salary or bonus." Should this read "substitution of any form of non-cash compensation for salary or bonus." Is it

necessary that the non-cash compensation has been “received” which seems to preclude accrual accounting?

28. We suggest that it be clarified in the table in Item 4 that the disclosure is “as at the last day of the most recently completed financial year”. We note that point #4 is specific in this regard but the other points are not specific. What is meant in point #1 as to having “been transferred other than for value”? This implies gratuitous transfers to whom?
29. Item 5 with respect to “Plan Based Awards” seems to be redundant as one would expect that all disclosure required here has already been required under Item 3.3. If there is something specifically required here that has been missed under Item 3.3, we suggest that Item 3.3 be expanded appropriately and this section be removed.
30. The table in Item 6 requires disclosure of “Number of Years Credited Service”. Consider whether it should also require disclosure of “Number of Years Actual Service.”
31. Consider whether it is necessary to clarify that the disclosure required with respect to this section relates to items that are incremental as a result of a termination or change of control event and that items that would be due to the person in any case are not required to be disclosed here. For example, the value of unvested options would need to be included if vesting was accelerated as a result of the termination or change of control event but the value of options that had already vested would not be included.