June 28, 2007

British Columbia Securities Commission
Alberta Securities Commission
Saskatchewan Securities Commission
Manitoba Securities Commission
Ontario Securities Commission
Autorite des marches 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

John Stevenson, Secretary
Ontario Securities Commission
20 Queen Street West
Suite 1900, Box 55
Toronto, Ontario
M5H 3S8
jstevenson@osc.gov.on.ca

Anne-Marie Beaudoin, Directrice du secretariat
Autorite des marches financiers
Tour de la Bourse
800 square Victoria
C.P. 246, 22e etage
Montreal, Quebec, H4Z 1G3
consultation-en-cours@lautorite.gc.ca

Dear Sir/Madam:

RE: Request for Comments- Proposed Repeal and Replacement of MI 52-109, Forms 52-109F1, 52-109FT1, 52-1-9F2 and 52-109FT2, and Companion Policy 52-109 CP Certification of Disclosure in Issuers' Annual and Interim Filings

Financial Executives International Canada ("FEI Canada") is an all-industry professional association for senior financial executives, with eleven chapters across Canada and approximately 2,000 members. Membership is generally restricted to senior financial officers of medium to large corporations. The Committee on Corporate Reporting (the CCR) is a technical committee of FEI Canada, which reviews and responds to research studies, statements, pronouncements, pending legislation, proposals and other documents issued by domestic and international agencies and organizations.

The following comments are based on deliberation and research undertaken by the members of the CCR as a response to the Request for Comments- Proposed Repeal and Replacement of MI 52-109, Forms 52-109F1, 52-109FT1, 52-1-9F2 and 52-109FT2, and Companion Policy 52-109 CP Certification of Disclosure in Issuers' Annual and Interim Filings, issued by the Canadian Securities Administrators (CSA) on March 30, 2007.

It is the view of the CCR that this document is well prepared, is aligned for the most part with U.S. requirements in terms of management's responsibilities, is easy to understand and generally lays out clearly what management is expected to do. The following comments are ordered in response to specific questions laid out in the Request for Comments documents. Additional comments appear at the end of this document.

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?**

   Definition
   The CCR does not agree with the definition of "reportable deficiency" because it lacks precision and, as a result, will be subject to wide interpretation and varied application in practice. The definition appears to scope in a broader range of deficiencies than a material weakness as defined by the PCAOB. This is partly because the definition refers to the "reliability" of financial statements rather than prevention or detection of a material error in the financial statements. We therefore believe the definition needs to incorporate a concept of materiality, preferably the same concept as used in the preparation and audit of financial statements. In our opinion, the CSA should have retained the notions of "material weakness" and "significant deficiency" as the application of these concepts has become well-defined in practice, as compliance under SOX has evolved. The SEC recently published its definitions of material weakness and proposed a definition for "significant deficiency". We strongly encourage the CSA to adopt those same definitions to ensure consistency in application and to eliminate confusion.

   The definition also refers to the reliability of *financial reporting and the preparation of the issuer's financial statements* (emphasis added). This suggests that the documentation and evaluation of internal controls must extend beyond those related to financial statement preparation and will include internal controls over all continuous disclosure documents (MD&A, AIF, proxy circular, news releases, etc.). This is a very broad scope, well beyond that required by the U.S., and would result in substantial incremental work beyond documenting and evaluating the internal controls underpinning the preparation of financial statements. PCAOB specifically limits the definition of a material weakness to errors in the issuer's financial statements. If the CSA truly means to scope in all continuous disclosure documents, then the implementation of such a requirement must be in two phases – the first being ICFR for financial statements and the second relating to the balance of the documents. Alternatively, if it is only disclosure controls and procedures that apply to continuous disclosure documents other than financial statements that limitation should be clearly stated.

In addition, the use of different definitions in Canadian and U.S. securities regulations may result in different practices in application. The CCR suspects that the Canadian definition is intended to result in the same disclosures as in the U.S. However, as we have seen when a few words are changed in a harmonized accounting standard, different words are interpreted differently. The CCR is concerned that this may impose a second deficiency assessment process on cross-border filings in the event that the quantification of a "reportable deficiency" is different from that of a "material weakness."

Disclosures
The CCR agrees with the proposed disclosures.

Interim certifications
The companion policy should state that the interim certification only relates to material changes in internal control in the interim period. If the companion policy is read in isolation without reading the certificate itself, the policy suggests that ICFR must be evaluated each reporting period. The certificate speaks only to material changes in internal control.

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

Venture issuers will experience a wide range of practical problems with 52-109, mainly because they normally have very limited staff. Thus, basic controls such as a reasonable division of duties are often non-existent and are frequently replaced by management override controls. Accordingly, we support the concept of the ICFR design accommodation for venture issuers.

3. Do you agree that our proposal to provide a scope limitation in the design of the 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 appreciate the ability of the certifying officers to limit the scope of the design of DC&P and ICFR to exclude controls, policies and procedures carried out by a proportionately consolidated investment, a variable interest entity or certain acquisitions.

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

We do not believe that 90 days is a sufficient period of time for a company to perform the necessary procedures in order to properly assess the design of DC&P or ICFR for the new acquisition, even after allowing for the fact that the certifying officers have until the certifications are filed with regulators. Most companies find their resources significantly taxed during an acquisition. Management's primary objective during this process is to investigate, assess and verify information provided by the vendor. During this period, management attempts to identify issues and concerns that will affect the ultimate price paid and to determine whether the acquisition meets the company's financial and strategic goals. Although management is provided access to information by the vendor, on a practical level management must exercise a degree of skepticism and ensure the appropriate information has been made available and properly assessed. In addition to verifying the worth of the business, management's time may be devoted to ensuring the financing is available to close the transaction.

The challenges of performing due diligence procedures prior to the acquisition as well as integrating procedures after the acquisition make it unrealistic to further expect a company to perform the necessary procedures to satisfy an evaluation of the design of DC&P and ICFR. Most issuers change the reporting systems and authorization policies of the acquired business to allow for integration into the consolidated operations and processes. The process of integrating the financial and reporting systems may involve a review of the system (whether the system includes manual or computer assisted processes), initiating a system implementation project, and finally the implementation of the new processes and/or systems, which, depending on the size of the organization can, and in most cases, does exceed the grace period defined in your proposal. In addition to system changes the acquiring company may provide synergistic changes that could involve changes to staff of the acquired company, creating additional challenges. Finally, certifying the design of a system that is likely to change would be inefficient, uneconomical, and uninformative to the reader. Beginning in 2008 issuers will also be required to perform testing of the system which again will add further challenges to the issuer.

Accordingly, we respectfully request that you consider increasing the proposed grace period to one year. This will allow the issuer sufficient time to integrate the new acquisition into its consolidated processes and procedures. It is generally accepted that it can take up to one year for most of the contingencies or issues surrounding an acquisition to be discovered. For accounting purposes, the acquirer is given one year to finalize the purchase price of an acquisition for this very reason. In addition most purchase and sale agreements allow for changes to the purchase price and provide for the survival of certain representations and warranties to extend to one year after the acquisition date, again recognizing that due diligence may not uncover/reveal all of the issues that may exist at the time of the acquisition.

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.

The CCR believes that the 90-day grace period provided to an issuer that becomes a reporting issuer or following the completion of certain reverse take-over transactions is not sufficient. Similar to acquisitions, most companies find their resources significantly taxed during these transactions, in particular when you consider their complex nature. We would propose a one year grace period for the same reasons cited above.

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.

Guidance for management:

The CCR believes that the companion policy provides sufficient guidance for management to evaluate the effectiveness of ICFR. We were also pleased to note that the guidance is consistent with that issued in the U.S. We would note, however, that in paragraph 6.9 (3), there should be a reference to significant process changes that could make a previously insignificant account significant in the current year.

Preventative vs. detective controls:

Paragraph 6.9 (6) notes that certifying officers would "design an appropriate combination of preventive and detective controls…to address all relevant assertions." The CCR believes that the reference to "an appropriate combination" should be removed. This will require issuers to design and test preventive controls when a detective control may provide sufficient assurance that there is no deficiency in ICFR. This is a change in the approach previously taken in the U.S. and it substantially reduces the costs of implementation. Often it is the controls executed by Finance at the end of the process, rather than the preventive controls at the front end of a process, that ensure the integrity of the financial statements. Moreover, the CCR believes that removing the balance between preventive and detective controls is particularly important in the case of smaller issuers where detective controls may be the primary or only controls.

Reperformance:

The CCR is troubled by all of Section 7.9 because it refers only to reperformance of controls. There are two approaches to the evaluation of ICFR – testing (reperformance) and management evaluation. Testing requires an additional step in evaluation, usually carried out by a team of testers or internal audit. Management evaluation involves the documentation by the control owner that the control was executed as it should have been or escalation of the control was not properly executed. The CCR believes this section should be redrafted so as not to appear to exclude the management evaluation process as an appropriate method to evaluate the effectiveness of ICFR.

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

We believe the new policy is quite extensive and, as such, have not identified additional areas to be included.

Other Points:

Disclosure of Framework

The CCR is concerned that the requirement to disclose the framework used may cause small companies to do more work than necessary as certain areas of a framework may not apply to all companies. Accordingly, we suggest that an issuer be required to certify only that an internal control framework has been used.

Re: Companion Policy 52-109CP – Reporting of Fraud

Paragraph 9.3 discusses the reporting of fraud and the types of fraud. The CCR is unclear as to the intent of this paragraph. If it intended to ensure that both financial reporting fraud and misappropriation of assets are reported to the audit committee and the board of directors, perhaps the paragraphs should be reversed and then the purpose clearly stated.

The CCR hopes that these comments will be useful to the Commissions in their deliberations of this important subject. We would be pleased to answer any questions that you may have concerning our response.

Yours truly,

Alister Cowan
Chair
Committee on Corporate Reporting
Financial Executives International Canada