Horwath Orenstein LLP
Chartered Accountants
2 Bloor Street East, Suite 1100
Toronto, ON, Canada M4W 1A8
T 416.596.1711
F 416.596.7894
www.horwathorenstein.com

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Mr. John Stevenson,
Secretary,
Ontario Securities Commission
20 Queen Street West
Suite 1900, Box55
Toronto, Ontario
M5H 3S8
E-mail: jstevenson@osc.gov.ca

Dear Mr. Stevenson,

RE: CSA NI 52-109 Proposals

Following the CSA's release on March 30, 2007 of the proposed National Instrument 52-109 *"Certification of Disclosures in Issuer's Annual and Interim Filings"* and related Companion Policy NI 52-109CP and Forms, we are pleased to respond to the request for comments pertaining to the seven questions contained in the document.

Our responses and comments arise from our experience working with small to mid-size reporting issuers over the past year providing consulting services to assist certifying officers and Board of Directors with their conclusions and disclosures on the effectiveness of their DC&Ps and ICFR.

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?**

Yes to the definition, subject to further clarification, and yes to the proposed related disclosures. The idea of excluding the definitions of significant deficiencies and material weaknesses and replacing them with the term "reportable deficiency" is a step in the right direction as it promotes the application of professional judgment with respect to the consideration of appropriate disclosures by the certifying officers relating to the design and operating effectiveness of internal control over financial reporting. . However, the meaning of the term "reasonable person" could be deemed to be broad in scope resulting in a lack of consistency in applying the concept of disclosure of similar deficiencies in similar circumstances. We would prefer to see further elaboration of the term to include "a reasonable person with appropriate financial knowledge"

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

We disagree with the concept of "design accommodation" for venture issuers. First, it is not clear what beneficial message a "design accommodation" will provide to investors and shareholders. The fact that a deficiency exists is not what is important to an investor, it's how and when senior management and the Board are going to correct the deficiency that needs to be disclosed. Secondly, there is the possibility that Directors will take the "easy way out" and always disclose a "design accommodation" to limit their liability – even though compensating controls exist. In such a case, the "design accommodation" adds no value to investors and shareholders and only serves to protect the interests of the Directors. Thirdly, there are a number of small reporting issuers on the TSX that face the same ICFR design issues and challenges as those listed on the TSX Venture listing. Under the proposals, these companies would be excluded from such "design accommodations", which could result in a bias for reporting issuers to list and remain on the TSX V even though they could list on the TSX.

We suggest that if the proposals are going to be implemented, that at a minimum, they apply to small reporting issuers on both exchange listings. Of course, this would require an appropriate definition of a "small business" based on both quantitative and qualitative metrics.

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 proportionally consolidated investment or variable interest entity is practical and appropriate? If not, please explain why you disagree.**

We agree with the proposal. The limitation and suggested financial disclosure provides as reasonable person with appropriate financial knowledge sufficient data to address the impact of risk on the reliability of the financial reporting and disclosure.

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 do not agree with this proposal as the 90 day period is too short for the certifying officers to thoroughly review and evaluate a business acquisition's key controls for the design effectiveness of DC&Ps and or ICFR. It could be argued that utilization of a top-down, risk-based approach for evaluating high risk areas would result in the certifying officers being able to evaluate the effectiveness of design controls prior to the acquisition. However, this is not necessarily the case for small to mid-size reporting issuers where senior management's attention during the first year of acquisition is focused on operating results, evaluation of key personnel competencies, and the monitoring and control of cash flows. Although it is important that key controls are designed effectively for DC&Ps and ICFR, senior management focuses on operating effectiveness by monitoring actual results to operating plans – based on the assumptions that the appropriate policies and procedures are designed and operating effectively. In addition, there could be substantial change during the first year of operation in the acquired business that would impact the design effectiveness and operating effectiveness of DCPs and ICFR.

We also question what value is communicated to investors and shareholders to disclose that DC&Ps and ICFR are designed effectively for an acquisition when they haven't been tested for operating effectiveness.

As a result, we recommend that the proposal for the design of operating effectiveness of DC&Ps and ICFR be deferred during the first year of operation and be disclosed in year two of the purchaser's year-end financial reporting. Disclosure for the acquisition in year two would also include an evaluation of the acquired business's DC&Ps and ICFR operating effectiveness with the appropriate disclosure pursuant to NI 52-109 in the Company' annual MD&A.

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.**

We do not agree. We believe that certifying officers should be able to certify on the design of ICFR from day one of becoming a reporting issuer. In certain reverse takeover transactions, it may not be practical and appropriate for certifying officers to complete sufficient due diligence to adequately assess risk and evaluate the design of ICFR in order to support their sign-off. For reverse takeover transactions, the certification on the design of ICFR should be deferred until year two, similar to business acquisitions discussed in point 4 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.**

We agree that the nature and extent of the guidance provided in the Companion Policy for Parts 6,7, and 8 is appropriate. In fact, the guidance is excellent and the CSA should be complimented for putting together a document that sets out their expectation as to the certifying officer's approach and documentation required to support their conclusions on the design and operating effectiveness of DC&Ps and ICFR.

However, see our comments below in point 7.

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

We have identified the following issues in the Companion Policy for your consideration:

General Comment: There is no reference to certifying officer's or the Board of Directors relying on the work of the Internal Audit function, where present, to facilitate an independent and objective review on the effectiveness of DC&Ps and ICFR. We believe that an effective Internal Audit Activity can contribute to the Audit Committee's oversight role to ensure that an independent and robust evaluation with appropriate due diligence has been performed to support appropriate consideration and with respect to their disclosures in the MD&A.

Sections 6, 7, and 8 reference the terms "remediation" and "mitigation" throughout. Unfortunately, there is no definition as to the meaning of these terms. We have found that certifying officers, Directors, business process owners and staff employees use these terms interchangeably without consideration to what they really mean. We suggest that a definition for each be provided with examples to demonstrate their unique attributes.

Section 5.1 No requirement to use a control framework. We believe that the proposals should require the use of an internal control framework to design and evaluate the effectiveness of internal controls. Reporting issuers should not have the option to evaluate their ICFR without using a recognized internal control framework. To allow the certifying officers to evaluate their ICFR without utilizing an appropriate, recognized internal control framework adds little value to investors and shareholders. Although the internal control framework utilized by the certifying officers may be valid, in reality, most investors and shareholders probably question management's motive for not utilizing an industry standard such as COSO.

Section 7.5 Use of external auditor or other independent third party. We believe that the discussion and understanding by the certifying officers, the Board and the Audit Committee on the use of the

external auditors for the certification process is too important to be disclosed as part of Section 7. Use of the external auditor **SHOULD BE DISCLOSED AS A SEPERATE SECTION**.

The CSA NI 52-109 proposals to ensure reliable financial reporting and disclosures are intended to restore investor confidence in the integrity of the financial statements and provide transparency for disclosure of material transactions. If these proposals are perceived to be weaker that the US SOX 404 proposals, pursuant to PCAOB A/S 5, the cost of raising capital in Canada will be higher due to a perceived higher risk. In addition, Canadian reporting issuers wishing to gain access to US exchange listings could very well be required to certify under SOX 404. We have always believed that the Canadian proposals, made in Canada to accommodate our unique secondary markets, should be perceived to be as diligent as SOX 404 without burdening small to mid-size reporting issuers with the cost of an external audit opinion on the effectiveness of ICFR. There is a balance to be achieved between reliable financial reporting and disclosure and the costs associated with them. We believe that the CSA has struck the right balance appropriate for Canadian capital markets. However, to make that process work, there must be an understanding that the certifying officers' evaluation process, consisting of a systematic, disciplined approach with appropriate documentation to support their conclusions on the effectiveness and disclosure of DC&Ps and ICFR, – should be performed in an objective and independent manner. In order to achieve this objective, ***independence and objectivity must be emphasized throughout the process.*** .

External auditors are associated with the certifying officer's sign-off and disclosure by their required review of the Company's annual MD&A. As part of their year-end audit review process, the external auditors should be aware of financial reporting high-risk areas, which should allow them to validate the assertions made by the certifying officers in an independent and objective manner. However, we have observed that external auditors are "pushing" their limit of independence by performing consulting services for their clients, which normally should be performed by senior management. Examples would include assessing, designing, implementing, documenting and concluding on the effectiveness of internal controls for both entity wide and business process controls.

CICA HB Sec 9110, effective May 2007, provides for the external auditor to perform "specific tasks" pre-approved by senior management and the external auditors and the Audit Committee – provided that the Audit Committee is satisfied that the work performed by the external auditors does not impact their independence with respect to their year-end review. These tasks, performed by the external auditors, can be used by the certifying officers and the Audit Committee to corroborate their conclusions on the effectiveness and appropriate disclosure of DC&Ps and ICFR. The impact of Sec 9110 should be emphasized in the certification process.

CSA MI 52-110 Sec 2.3.4 and Sec 2.4(a) requires that the Audit Committee approve non-audit work performed by the external auditor for amounts greater than 5% of the annual audit fee. The impact of CSA MI 52-110 should be emphasized in the certification process.

We strongly recommend that the section for the use of the external audit be disclosed as a separate section and emphasize the following key points:

- The external auditors are associated with the certification process as a result of their independent, year-end audit review of the Company's annual MD&A, which includes the certifying officers' assertions on DC&Ps and ICFR.
- CICA HB Sec 9110 for external auditor performance of specific pre-approved tasks
- CSA MI 52-110 for Audit Committee approval for non-audit work performed for amounts greater than 5% of the annual audit fee

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- The work of the external auditors' can be used to corroborate the certifying officers' conclusions on the effectiveness and disclosures on DC&Ps and ICFR, but not replace their responsibility for the process.
- The certifying officer's evaluation on the effectiveness and disclosures on DC&Ps and ICFR is a means to enhance investor confidence on the reliability of financial reporting and transparency of material transactions. A robust, independent and objective review process conveys to investors that the certifying officers, Board of Directors and the Audit Committee are committed to the process, which in turn enhances the Company's Corporate Governance process.

Sec 8.2 Assessing significance of deficiencies in ICFR. We believe that this section could be expanded to provide a discussion of compensating controls for control deficiencies including examples. The discussion could follow the COSO framework were by controls are not evaluated in isolation, but in totality. The COSO framework links its internal control components together so that weaknesses in one component could be more than compensated for by the other control components. An assessment and evaluation of the total control components is required in order to conclude on the effectiveness of ICFR for an organization.

We would be pleased to further discus our comments and recommendations on these matters at your convenience.

Regards,

Robert Crawford CA

Director Risk Management Services
Horwath Orenstein LLP
Chartered Accountants
416-596-6767-252
rcrawford@hto.com
www.bill198compliance.net
www.horwathorenstein.com