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VIA EMAIL June 29, 2007

Canadian Securities Administrators

Ontario Securities Commission
20 Queen Street West
P.O. Box 55, Suite 1903
Toronto, ON M5H 3S8

Attention: Mr. John Stevenson, Secretary
jstevenson@osc.gov.on.ca

Autorité des marchés financiers
Stock Exchange Tower
800 Victoria Square
P.O. Box 246, 22nd Floor
Montreal, Quebec
H4Z 1G3

Attention: Anne-Marie Beaudoin, Secretary
consultation-en-cours@lautorite.com

Dear Sirs/Mesdames:

Re: Comment Letter regarding Proposed Amendments to Form 51-102F6, NI 51-102 and related consequential amendments

We submit the following comments in response the Notice and Request for Comments published on March 29, 2007 relating to proposed amendments to Form 51-102F6 – Statement of Executive Compensation ("**Form F6**" or the "**Form**") and proposed consequential amendments. This letter represents the general comments of certain members of our securities practice group (and not those of the firm generally or any client of the firm) and are submitted without prejudice to any position taken or that may be taken by our firm on its own behalf or on behalf of any client.

We thank you for this opportunity to comment on these proposals and applaud the CSA's efforts to promote clear, complete and relevant disclosure regarding executive compensation. Our comments below relate primarily to aspects

of the proposed Form F6 that we believe could be further clarified in order to help issuers comply with their disclosure obligations, and to provide more meaningful and understandable disclosure for investors.

AMENDMENTS TO FORM F6

1. Determination of NEOs, definition of NEO and Section 1.4 - 2. – We suggest that it should be clarified whether full-year estimated executive compensation earned (in the individual's capacity as an executive officer) or actual part-year executive compensation should be used to determine whether a former executive is a NEO (i.e to determine whether they have met the $150,000 threshold). This should also be clarified against the instruction in Section 1.4 - 2 which states that the compensation includes "compensation the NEO earned in any other position with the company during the fiscal year" and the comment not to "estimate or annualize compensation for any part of a year when the NEO was not employed by the company". For example, if an individual was an executive officer for only part of the year, it is not clear whether the amount actually earned for part of the year or the amount he or she would have earned for the full year (had they remained in office as an executive officer) is to be used to determine whether the $150,000 threshold is met. Our suggestion is that the threshold amount should only be calculated based on actual salary earned since the amount they "would have earned" may be difficult to determine, especially given the additional components that are to be included in the calculation of "total compensation". If only the actual amount earned is to be used to make this determination, it is not clear why the issuer is required to disclose compensation earned in any other position during the fiscal year, as it would not relate to the person's duties as executive officer and would not otherwise be disclosable. In addition, disclosure of compensation earned in a different capacity will skew the disclosure making it difficult to determine what was earned in the capacity as an executive officer.

2. Sources of Compensation – We suggest the following amendments to clarify the following instructions:

   "Also, disclose any compensation paid under an understanding, arrangement or agreement among any of:

   (a) the company, its subsidiaries, or a NEO or director of the company or its subsidiaries, and

   (b) another entity

   for the purposes of the other entity compensating the NEO or director <u>for employment or consulting services or office provided by the NEO or director to the company.</u>

3. Sources of Compensation – We suggest the following amendments to clarify the following instructions:

   Disclose any compensation paid to an associate of a NEO or director, under and understanding or agreement among any of the company, its subsidiaries or another entity and a NEO or director of the company or its subsidiaries for the purpose of the company, its subsidiary or the other entity compensating the NEO or director for employment services or office provided by the NEO or director to the company.

4. Compensation Discussion and Analysis - As CD&A disclosure will be new, we encourage the OSC and other CSA members to provide a sample of CD&A (and other proposed executive compensation disclosure) both as a means of uncovering difficulties and as a guide to good disclosure practices. We further suggest that all narrative disclosure should be required and included in one section of the Form only. As currently drafted, the Form will require narrative disclosure in the CD&A and throughout most of the other sections of the Form. In many cases this narrative disclosure is repetitive or overlapping. We believe that dispersing the narrative disclosure throughout the form creates confusion and is inefficient. The most effective form of disclosure would be to require all narrative disclosure in one section of the Form. For example, the CD&A requires a discussion of "each element of compensation" and then there is a narrative discussion requirement under section 3.3 (equity awards), 5.1 (plan based awards), 6.1 (retirement benefits), 8.3 (director compensation) and under termination and change of control benefits. Based on our review, having to discuss each element of compensation under CD&A and then discuss it again under the separate narrative requirements is repetitive and unnecessary and will not result in any added benefit to investors. The Form would be much easer to prepare and read if all tables where disclosed separately with all narrative discussion restricted to one section of the Form. In the event that narrative disclosure is not restricted to one section of the Form, we suggest that the disclosure requirements should be carefully reviewed to remove any overlapping requirements which create confusion and are subject to variable interpretation.

5. Performance Graph – The instruction should clarify that a performance graph is not required if the issuer has not been a reporting issuer for more than one full calendar year (as disclosure of this nature for a new issuer does not provide any meaningful information to investors).

6. Option Awards - Please explain how the narrative disclosure required under section 2.3 differs from disclosure that is required under CD&A.

7. Summary Compensation Table

   (a) Please clarify how stock, options or other forms of non-cash compensation under section 1(ii) are to be valued for the

purposes of being included as salary or bonus where an NEO has elected to forgo salary or bonus compensation.

(b) Column (i) – Please explain and give examples of the type of change that is meant to be included in "a change that materially affects control". We also suggest this sentence should be clarified to refer to "a change that materially affects controls of the issuer."

(c) We do not believe that disclosure of specific performance targets on an individualized basis is appropriate or useful. In consideration of privacy concerns of the individuals involved we would suggest disclosure on an aggregate and general basis. If individualized disclosure is required it should be justified by substantial disclosure benefits to investors. It is far from clear that the costs of individualized (as compared to average) executive compensation disclosure will be outweighed by the benefits. We understand that investors should have a clear idea of the performance targets that are in place however we do not believe that individualized disclosure is required to achieve this transparency. Disclosure of aggregate targets and the general terms of those requirements would provide investors with substantial disclosure without encroaching on the privacy rights of the NEOs.

8. Equity-based awards

(i) Options Awards –The instructions and column headings for the option awards table should clarify that disclosure is required for awards or grants made in the most recently completed year only. The table should also take into consideration awards that are vested compared to those that have not vested (which would also make the disclosure consistent with the disclosure required for stock awards).

(ii) Stock Awards – Since one of the purposes of executive compensation disclosure is to provide investors with information on compensation that has been earned in the most recently completed financial year, we do not believe that column (g) should require disclosure of un-vested stock awards. As stated in the instructions, compliance with this disclosure requires the issuer to calculate the amount to be disclosed based on assumptions relating to a

hypothetical situation. We do not believe that it is useful to provide investors with information relating to hypothetical events that may or may not transpire; especially considering that when the awards do vest it is likely that the actual number or threshold used will be different from what has been assumed in past years based on such assumptions. For the same reasons we do not believe it is accurate or helpful to have to disclose "a representative amount based on the previous fiscal year's performance." The information circular is in most provinces a "core document" for the purposes of secondary market civil liability. For this reason we do not believe that information that is not factually verifiable should be mandated disclosure.

9. We suggest that the tables set out in sections 3.2, 4.1 and 4.2 should be consolidated into one table. Consolidation will result in disclosure of all equity-based awards in a concise manner and will help to eliminate inconsistencies among the required disclosure. It would be must more helpful to the investor to be able to read all equity-based compensation disclosure in one table.

10. Trustee Fees – This section should take into consideration the different types of structures for non-corporate entities and the differing capacities in which trustees may act. Corporate trustees or trust companies that act as trustees but effectively delegate most duties to management or other entities should not be caught by this disclosure. It should be clarified that disclosure is only required if compensation of the individuals acting as trustees has not previously been disclosed under Item 8, where the trustees act in the capacity as directors in respect of the company/issuer.

11. Termination and Change of Control Benefits

    (a) We do not believe it is reasonable to require issuers to disclose "estimated payments and benefits". As the instruction states, estimated payments and benefits are to be quantified even if it is uncertain what amount might be paid in given circumstances based on the assumptions provided (as to date of even the price per share). As the objective is to provide clear and accurate disclosure on executive compensation, we do not believe that disclosure that must be fabricated will be relevant or useful. Providing this disclosure will require issuers to undertake time consuming and complicated estimations and assumptions. In many cases a variety of outcomes will have to be estimated as the nature of these

payments is highly conditional and variable. In most circumstances when these events transpire the actual numbers used to make the payment and benefit calculation will not reflect those that were previously estimated or assumed. Once again, we believe that hypothetical disclosure based on assumption and events that may never takes place is misleading and will require an unjustified expenditure of the issuer's time and resources. It also subjects the issuer to unwarranted risk of liability for the reasons discussed above. We suggest the better approach would be to require disclosure on a general and aggregate basis of, for example, the range of payments that may be required to be made for a prescribed set of change of control scenarios.

(b) Disclosure of material conditions or obligations that apply to receipt of payments or benefits may require disclosure of competitively sensitive and confidential arrangements or conditions. We suggest that to protect competitive interests the disclosure required by this section should be qualified by a carve-out for any disclosure that is competitively sensitive or confidential for the issuer (similar to the carve-out in section 2.1, Instruction paragraph 3).

AMENDMENTS TO NI 51-102

1. In our opinion there is no need for debt-only issuers (and especially rated debt-only issuers) to file an executive compensation report, or be subject to corporate governance disclosure. Debt-holders are not the owners of the business. Required disclosure of this will simply discourage debt-only issuers from accessing Canadian capital markets, removing yield products from Canadian investors. We do not see there being any material benefits from requiring debt-only issuers to comply with such requirements. For the same reason, rated debt-only issuers should not have to file AIFs and should not be subjected to other currently non-venture issuer obligations. They should continue to be treated as at present.

2. The results of proxies voted on non-ballot initiatives have no legal force, and thus disclosure seems inappropriate. It would also be misleading, as it would not cover shares voted in person, for example.

3. Given the additional disclosure that will be required under Form 6 in respect of equity-based plans, Item 9 of Form 51-102F5 should be repealed or amended to so as to reconciled with the new disclosure under Form 6 and to ensure information is not being repeated or is being disclosed in a consistent manner between both forms.

Thank you for the opportunity to comment on these proposals.

Yours truly,

Simon Romano
Ramandeep K. Grewal