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VIA E-MAIL AND COURIER

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Alberta Securities Commission
Saskatchewan Financial Services Commission – Securities Division
Manitoba Securities Commission
Ontario Securities Commission
Officer of the Administrator, New Brunswick
Registrar of Securities, Prince Edward Island
Nova Scotia Securities Commission
Newfoundland and Labrador Securities Commission
Registrar of Securities, Northwest Territories
Registrar of Securities, Yukon Territory
Registrar of Securities, Nunavut

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Re: Form 51-102F6

Dear Sirs/Mesdames:

I comment below on the executive compensation disclosure requirements contained in the revised proposed substituted Form 51-102F6 (the "2008 Proposal").

My primary focus in providing comments is to suggest changes which will assist issuers and their advisers in interpreting and applying the amended Form.

My comments below refer to the applicable section(s) in the Form.

1. Section 1.1. The provision in the 2008 Proposal providing that the objective of the disclosure is to communicate what the board of directors "intended to pay" may lead to confusion and ambiguity in applying the requirements of the Form by suggesting what is required is disclosure of "intended" amounts, as opposed to actual amounts. This ambiguity is unfortunately compounded by the last sentence in this Section which provides: "A company's executive compensation disclosure under this form must (emphasis added) satisfy this objective." It is not uncommon for a company to target a certain level of compensation based on market data to a certain level of performance. For instance, a compensation committee establishes a bonus program under which it expects certain amounts may be paid to the executive for an expected performance. The actual results of the bonus program may result in a lower or higher bonus being paid for the year. Does this mean, in completing the bonus column in the Summary Compensation Table, the issuer is to include for each item the amount that it intended to be realized as opposed to what was actually realized? I suggest this second sentence be deleted as it introduces ambiguity and conflicts with the overall instruction in the first sentence, and then the remaining third sentence would more appropriately refer to compliance with the objective of disclosing all compensation provided (which I think was the original intent of this sentence). This instruction in the second sentence, suitably modified, might be more appropriate in Item 2 relating to the Compensation Discussion & Analysis.

2. Section 1.3 – Definitions: "Plan". Unlike the similar SEC provisions, the 2008 Proposal includes the exclusion for CPP, similar government plans and group life, health, hospitalization, medical reimbursement, and relocation plans that are not discriminatory in the definition of "plan". In the SEC requirements, the exclusion is more appropriately drafted as an exclusion from all of the requirements under the Form. This avoids the difficulty of interpreting and applying the exclusion where the word "plan" is not used in the actual provision setting forth the requirement. For example, the requirement to disclose perquisites and personal benefits in 3.1(10)(a) does not refer to a requirement to disclose plans, and accordingly the exclusion contained in the definition of "plan" would on its face not apply to disclosure for those items under the 2008 Proposal (which is arguably where it is most relevant).

   It is suggested that the exclusion for non-discriminatory plans from disclosure requirements be drafted as a "stand-alone" exclusion, as is the case under the SEC rules, without incorporating it into the definition of "plan".

3. Section 1.3, 1.4(2), (5) – Definitions: NEO. Without highlighting it as such, the 2008 Proposal significantly expands the scope of the individuals for whom disclosure will be required, in relation to executives whose employment has been terminated by the issuer, through the combined application of a number of provisions.

By including severance and related payments in the calculation of overall compensation for the purposes of determining executive officers, while retaining Item (d) of the definition of "named executive officer" which adds as NEOs, in addition to the CEO and CFO and the other three most highly compensated executive officers, individuals who would have been NEOs but for the fact they were not executive officers of the company at the end of the financial year, the 2008 Proposal expands the number of executive officers for whom individual disclosure will be required, both in the Summary Compensation Table, and throughout the rest of the Form, simply by virtue of the fact that the executive officers' employment was terminated during the year. By including severance (which is often a multiple of annual compensation), the calculation sets up an "apples and oranges" comparison of terminated executives, who for this one year only may receive twice or more of their normal annual compensation, with other remaining executive officers, who will be compared on the basis of their annual compensation. Accordingly, simply by virtue of being terminated, executives who had not been named executive officers in the past, and would not have been named executive officers in the future had they remained employed and had not been terminated without cause by the employer, will, on one-time basis only, be required to be included in the Summary Compensation Table. This will also require information be prepared for individual compensation disclosure for the prior two years and information for all the supplementary tables, and discussion in the Compensation Discussion & Analysis, for individuals who, but for being terminated by their employer without cause, would not have been required or have been prepared, and who will not be NEOs in subsequent years.

I suggest this result detracts from disclosure provided to investors, by obfuscating disclosure relating to the principal executive officers by providing additional and equally prominent and detailed disclosure concerning these additional "one-time", and exiting, NEOs. These changes also accordingly expand the scope of cost and time for issuers to provide additional disclosure without a commensurate benefit to investors.

I accordingly suggest that Item 1.4(5)(a)(ii)(A) be revised to add after "column (g) of the summary compensation table" the words "and under column (h) of the summary compensation table amounts required to be disclosed under Subsection 3.1(10)(d)".

My comment does not imply that severance and related payments should be excluded from disclosure for individuals who otherwise would be named executive officers; it is simply to not include this number for the purposes of determining additional executive officers to be added to the Summary Compensation Table.

A related concern is the new addition in Subsection 1.4(5)(i), providing that the calculation of total compensation for the purposes of determining NEOs, and in particular adding terminated executives, is that which would be reported "as if" that executive officer was an NEO for the company's most recently completed year.

The change in words to "as if" appear to contemplate that, for executives who have been terminated by the company during the year, hypothetical compensation figures be determined, for bonus, equity awards, increases in pension value, etc. that would have occurred if the executive had been terminated without cause. This would seem to be a highly artificial and not particularly useful exercise. As well, applying it raises a number of questions of application. Is the issuer to assume that the events or performance giving rise to the termination without cause did not occur? For example, if an executive's performance was not satisfactory but not grounds for termination with cause, is the issuer to assume that those grounds did not exist and he would have received a bonus at target? Moreover, the hypothetical figures will not be reported in the Summary Compensation Table (as they were not actually paid or earned), leading to a lack of transparency as to the reason such individuals have been included in the Summary Compensation Table. In other words, the hypothetical numbers leading to characterization of the executive as an additional NEO would not be actually disclosed.

In addition, the words "as if" are inconsistent with the instruction in 1.4(2) which provides that compensation is not to be annualized for any part of the year a NEO is not employed by the company. This inconsistency illustrates the fact that adding the "as if" provision in the 2008 Proposal departs from the current SEC requirements in this regard.

To base disclosure on what actually occurred, maintain consistency with the requirement not to "annualize", and preserve comparability among issuers (who may make different "as if" calculations), it is

suggested this instruction be revised to refer to all compensation provided. This would then be consistent with the requirements for all executives.

4. 1.4(4). It should be clarified that the instruction to disclose any compensation paid to an NEO or director by another entity under an understanding, arrangement or agreement between, for example, the NEO and another entity, relate to his office or position with, or services for, the issuer and its subsidiaries. Otherwise, the instructions on their face appear to require an inquiry into all sources of the NEO's compensation, unrelated to the issuer for whom disclosure is required.

5. 1.4(5)(ii)(B). It is suggested that the "foreign assignment" exemption also expressly include "higher taxes" which are often equalized for executives in these situations, and which, while logically linked to higher cost of living, are not necessarily included in those words.

6. 2.1 – Commentary. In the first sentence, the bulleted items are not "elements of compensation". They appear to be examples of items that may be significant aspects of disclosure concerning or relating to compensation.

7. 3.1(2)(b). Where an NEO has foregone salary or other compensation and deferred it into shares, options or other forms of non cash compensation, the instructions should clarify that such amounts or awards are not subject to further disclosure under the tables in Sections 4.1 and 4.2 (as they were not originally disclosed as option awards or share awards under Subsection 3.1(1)) and they have been disclosed as cash compensation in the salary column.)

8. 3.1(8). The instructions to (8) should clarify that the earnings referred to in the opening words is to non-equity incentive plans by adding the word "such" in front of the word "outstanding" award (as dividends or other earnings paid on share or option awards are disclosed in column (h) pursuant to 3.1(10).)

9. 3.1(8)(d). It is not clear why an amount that was initially payable as a bonus or other form of non-equity incentive, if foregone or deferred, would be reported in the salary column. Presumably, this amount should be included in the non-equity incentive plan column for consistency and more appropriate disclosure. Perhaps this was an inadvertent error in drafting the instructions for the new proposed column for non-equity incentive payments.

10. 3.1(10)(b). It is not entirely clear as to what disclosure is required by (b) in relation to other post-retirement benefits such as health insurance or life insurance after retirement. Is it proposed that the

annual or service costs of such plans be allocated on a per executive basis? If this is the case, it should be clarified that disclosure is not required for participation in company plans of general application (which could be accomplished by either adopting my suggestion in relation to the definition of plan in my comment 2 above or by inserting the word "plan" into the instructions in (b)). In the alternative, is it proposed that amounts paid after retirement for or to the executives be disclosed? It would be anomalous to require such disclosure for former executives, while, perhaps by virtue of the exception in the definition of plan (again, see comments above on the definition of plan)), not requiring it for current NEOs. This does not appear to be a useful instuction, as, generally speaking, the executive would not be an NEO at such time. If it is, however, this latter alternative which is intended, is the company required to value the specific benefits paid to or realized by the former executive, or the cost to the issuer, on some basis?

11. 4.2(1). The rationale for the addition of the new proposed column of "Non-Equity Incentive Plan Compensation – Payout During the Year" is not clear. Generally speaking, the supplementary tables provided in Item 4 provide additional or updated information to that previously disclosed in the Summary Compensation Table, but they do not duplicate it. For example, the Summary Compensation Table is to show the dollar value of option awards at the time of grant for the relevant year, and under Section 4.2 the supplementary table shows the value achieved from the option awards in subsequent years, when vested. (This appropriately means that there is no duplicate disclosure of the realized value with that contained in the Summary Compensation Table.) However, in the case of "non-equity incentive plan compensation", this appears to be a duplicate of the disclosure already provided in the Summary Compensation Table under column (f). If a company pays an annual bonus which is properly disclosed in column (f1) of the Summary Compensation Table for the fiscal year, the proposed column appears to require that amount simply be duplicated in this column (d). There does not appear to be much utility for such duplicate disclosure, it is arguably misleading to the reader and this "add-on" is inconsistent with the general scheme of the Form.

The heading in column (h) should be conformed to the actual requirement, which is value realized upon "exercise", as opposed to "vesting", to avoid confusion to issuers in applying the provision and in disclosure to investors.

12. 4.3. The instructions in the opening words of Section 4.3 in effect require duplicate disclosure of awards already appropriately disclosed, by referring to awards of all types which were "exercised or vested

during the year." Although there is a "carve out" for matters already disclosed under Section 3.2, there is no carve out for all outstanding awards, and all exercised awards, which are required to be disclosed in the tables in Sections 4.1 and 4.2, respectively. It is suggested that the instructions for Section 4.3 be restricted to all plan-based awards which were issued or awarded during the most recent year. Awards that were issued or awarded in prior years would accordingly be subject to disclosure in the proxy circulars for those years, and to the extent that awards are still outstanding or were exercised or vested, they will be disclosed pursuant to Sections 4.1 or 4.2, as appropriate.

It is also suggested that, consistent with current requirements, the description of plan-based awards made during the most recent year be in tabular form, with specified requirements, so that there is clarity as to what is required and consistency and comparability of disclosure across companies.

13. 6.1. The instruction that "the estimated incremental payments and benefits" are to be disclosed is not clear.

It would be appropriate that the instructions provide that, in the case of retirement, disclosure be provided for "incremental payments and benefits" to those that are already disclosed pursuant to Item 5, on the theory that the compensatory and other elements of retirement benefits were disclosed on an annual basis prior to retirement for named executive officers, so it is appropriate in this Item only refer to incremental payments and benefits in a retirement situation.

However, in situations such as a termination without cause, resignation or a change in control, it is not clear what is meant by "incremental". Incremental in a change of control situation from another termination situation? Incremental to what the company normally pays its executives on termination, or other employees on termination? Incremental to common law notice requirements? (For the reasons set forth below, I do not suggest this). Incremental to the compensation received or awarded prior to the termination or change of control? Incremental to what has been disclosed elsewhere pursuant to the Form? My suggestion is to reword and restrict the "incremental" exclusion to only exclude plans or arrangements disclosed pursuant to Item 5.

14. 6.1(5). I welcome the clarification provided in response to my previous comment letter with respect to the implications of Canadian common law relating to termination without cause. However, I suggest the commentary as drafted does not precisely address the issue. The common law does not have "requirements". The common law implies a contractual term of reasonable notice for termination into all

employment contracts, in situations where termination and notice is not expressly addressed otherwise. Accordingly, it is part of a "contract", albeit unwritten. Secondly, the commentary states that the issuer can exclude common law "requirements" from the "incremental estimate". A written employment contract may provide for two years notice or compensation in lieu thereof. To comply with the commentary as currently drafted, the issuer would be required to estimate what the employee would receive at common law, absent a written contract, and then subtract that amount from what the written contract provides, and disclose it. This estimate cannot be very precise, inadvertently requires disclosure of common law entitlements (which, for the reasons noted in my previous comment letter, is not particularly useful and is disadvantageous to the issuer and its shareholders), and in any event will not provide meaningful disclosure to investors and arguably will be misleading as it is not what the executive will receive. My suggestion would be that the commentary be revised to read that the company is not required to disclose notice for termination without cause or compensation in lieu thereof which are implied as a term of an employment contract under common law and that disclosure is required for severance or termination payments which are addressed in written employment contracts.

Yours very truly,

John M. Tuzyk

JMT/mtp