



October 11, 2011

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

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**Re: Proposed National Instrument 51-103**

Dear Sirs,

This letter is in response to the Proposed National Instrument 51-103 request for comments. I feel that I represent the Issuer community as I sit on 12 public company boards, advise on regulatory requirements and administration to 10 public companies and I am also an investor in public company opportunities. My expertise and knowledge is predominantly in the natural resources sector, but I have also been involved with some non-resource operating companies in both categories as well.

I noticed a proposed change to the requirement to file an updated 43-101 report with a preliminary short form prospectus. This change was not subject to a comment/question section. It is NOT a consequential amendment, this is a significant change that the industry worked hard to have removed from the previous 43-101 requirement. The concept of filing updated reports annually like the 51-101 is to allow resource issuers the opportunity to raise money on a timely basis and not have it delayed by 4 – 8 weeks while a new 43-101 report is prepared. PLEASE DO NOT make this change. If you don't get many comments on this point that is because it was just briefly referred to and not highlighted. In fact during the TSXV LAC committee meeting to discuss these policy changes no one was aware of this proposed change until I mentioned it. They all had the same negative reaction as I did to the proposal.

## **Issue 1 – Mid-year financial reporting**

### Question 1

I am not in favour of the requirement to eliminate the mandatory filing of the 3 and 9 month financial statements of junior public companies. The reasons for my position are:

- a) The removal of these financial filings would reduce the timing of the release of key information to the market that the 4 quarterly statements currently provide. The key information is the amount of cash left in the treasury, the commitments to spend on properties and the burn rate over the last reporting period. In the junior market cash or the lack of it is a prime piece of information for the investing public.
- b) Several junior issuers have chosen not to have their financials reviewed by their auditor for cost reasons. It is my experience that several companies struggle to produce accurate and timely financials at audit time. Removing the mandatory requirement to produce a set of statements on a regular basis is only going to exacerbate the situation. The requirement to file quarterly imposes discipline on management and provides the board the opportunity to discover accounting inadequacies much earlier. For those companies with proper procedures in place the requirement to produce quarterlies is not onerous on a time or cost basis.
- c) It is true that other jurisdictions have opted for 6 month reporting but that requirement applies to all companies not just the junior ones. As the TSX companies will still require 4 reporting periods, the inference is that the junior market is not as strictly regulated and could cause investors to shy away from investing in the junior market. The junior market has worked hard over the last 20 years to improve our reputation and we should ensure we don't slide backwards.
- d) I am also against the two year notice period to file voluntarily if you do eliminate the 3 and 9 month periods. As junior issuers could go through one or two significant acquisitions/changes of direction or management it is unreasonable to impose this requirement for a two year period.
- e) I don't think issuers would voluntarily file due to increased legal/regulatory liability. These differences of filing frequency are just likely to confuse the market place.

### Question 2

The other elements of the proposal, especially having most/all policies and regulations in one instrument would be very beneficial for the junior issuers, who by definition have limited corporate personnel to ensure compliance with several disjointed policies. Having one document, the Annual Report, will help focus management to provide quality disclosure and not be lax with all the current duplication.

### Question 3

I am in favour of the proposal to reduce parts of the filing such as the quantity of the financial statements notes and would be in favour of eliminating the MD&A. Most junior's MD&A is not

enlightening and the key information is in the numbers of the financials and the news releases issued during the quarter. The removal of the MD&A would remove the weakest part of the document and the source of the most comments from commission compliance reviews. The key notes in the financials that should be retained are Going Concern, Share Capital (including options and warrants), Property Plant and Equipment, Exploration and Evaluation Assets, Commitments and Related Parties. The balance of notes mostly ends up being boiler plate. Issuers that feel a particular note is relevant to their specific case should be free to add these notes as well.

#### Questions 4 and 5

I would not likely stop investing but would have less confidence in doing so and be frustrated when surprises happen due to reduced and delayed disclosure. I seldom invest in the companies that currently only report semi-annually.

#### Question 6

I don't think an alternative form, except as discussed in response to question 3, is worthwhile.

#### Questions 7 and 8

I think BARs are a waste of time and have caused unnecessary problems for junior issuers doing acquisitions. The historic information is seldom relevant to the success and future fortunes of the new issuer as the new funding and asset prospects are much more relevant to the investor. Any improvements suggested such as changing the date of value determination and thresholds of significant tests would be better than the current requirements, but I am in favour of complete removal of the requirement to file BARs for all venture issuers. It seems a little backwards to consider removing proformas which have some value to the new company and the new investors and not BARs. Proformas provide a starting position for the new company including the effect of the usual funding associated with the acquisition.

#### Question 9

I agree with the thought of only requiring one year of historical audits with unaudited comparatives for all venture issuers. This is based on my firm belief that historical financials offer limited value to venture issuers.

### **Issue 2 – Governance and Compensation disclosure**

#### Question 10

I have no issues with control persons being on the audit committee assuming they are also not management.

Question 11

If we have the Annual Report concept where the information is all contained in one document the investor will know to find complete disclosure there and will not need separate disclosure in the Information Circular.

Question 12

The theoretical values derived from the arbitrary valuation techniques provide little or no value and in fact confuse the reader. Too many investors think that the director/management actually realized this amount. It is much more valuable to provide realized values or just the value that could be realized if they had been exercised at the period end.

Thank you for considering my comments.

Sincerely,

“Gordon Keep”

Gordon Keep  
Executive Vice President  
Fiore Financial Corporation  
Exclusive Advisor to Endeavour Mining Corporation

Cc: TSXV Zafar Khan