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Via E-Mail

July 28, 2017

British Columbia Securities Commission
Alberta Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan
Manitoba Securities Commission
Ontario Securities Commission
Authorité des marchés financiers
Financial and Consumer Services Commission (New Brunswick)
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island
Nova Scotia Securities Commission
Securities Commission of Newfoundland and Labrador
Superintendent of Securities, Northwest Territories
Superintendent of Securities, Yukon
Superintendent of Securities, Nunavut

Attention:

The Secretary
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Me Anne-Marie Beaudoin
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Dear Sirs:

Re: CSA Consultation Paper 51-404 – *Considerations for Reducing Regulatory Burden for Non-Investment Fund Reporting Issuers*

*We are writing in response to your consultation paper of April 6, 2017 (the "**Consultation Paper**"). The following addresses the points raised therein.*

Please note that the comments provided herein are those of certain members of our firm's securities group and should not be taken to represent the position of the firm generally nor of any of our clients, who have not been consulted in connection herewith.

As a general and over-arching comment, we would suggest that in considering the modification of the prospectus requirements, that you have regard to the evolution of the regulatory regime applicable to the distribution and resale of securities as it currently exists. The current short form prospectus requirements rely heavily on the continuous disclosure regime. Investors purchasing securities in the secondary market now have the benefit of the secondary market liability provisions. As a result, the distinction between purchasers purchasing securities under a prospectus and those purchasing securities in the secondary market and the nature of their protections has appropriately coalesced and, we would submit, the regulatory regime should follow. Additional requirements for the issuance of securities by way of prospectus, should include only those requirements that are necessary above and beyond the protections afforded to purchasers in the secondary market. These would include only those necessitated by the terms of the offering. We also believe that the prospectus system should permit and require underwriter due diligence and the attendant liabilities. Given the foregoing, the nature and need for the exempt market should continue to be evaluated.

1. Of the potential options identified in Part 2:

(a) Which meaningfully reduce the regulatory burden on reporting issuers while preserving investor protection?

As discussed in further detail below, we believe that the following potential options identified in Part 2 of the Consultation Paper are most likely to achieve the stated goals of the CSA's consultation:

- *reducing the audited financial statement requirements for an initial public offering;*
- *streamlining other prospectus requirements (for both reporting issuers and non-reporting issuers);*
- *removing or modifying the criteria to file business acquisition reports; and*
- *eliminating overlap in regulatory requirements.*

(b) Which should be prioritized and why?

We believe that reducing the audited financial statement requirements for an initial public offering and removing or modifying the criteria to file business acquisition reports should be prioritized. We would expect that both of these options would have an immediate impact and would be relatively easy to implement. Other options such as eliminating overlap in regulatory requirements should be carefully implemented over time to ensure that the stated goals are achieved.

2. Which of the issues identified in Part 2 could be addressed in the short-term or medium-term?

As indicated in our response to question 1(b), reducing the audited financial statement requirements for an initial public offering and removing or modifying the criteria to file business acquisition reports could be addressed in the short-term while other initiatives such as eliminating overlap in regulatory requirements could be addressed in the medium term.

3. Are there any other options that are not identified in Part 2 which may offer opportunities to meaningfully reduce the regulatory burden on reporting issuers or others while preserving investor protection? If so, please explain the nature and extent of the issues in detail and whether these options should constitute a short-term or medium-term priority for the CSA.

We support any initiatives intended to reduce regulatory burden on reporting issuers as we believe that the regulatory burden (and regulatory uncertainty) in Canada is an impediment to a healthy public market; however, we recognize that much of the regulatory burden and uncertainty is beyond the jurisdiction of the CSA.

We do believe that proxy advisory groups such as Institutional Shareholder Services and Glass Lewis add to the expense and frustration for reporting issuers. Trying to comply with the ever changing set of voting and corporate governance guidelines issued by these groups is difficult, time consuming, and expensive for reporting issuers given that such guidelines are often different and at odds with those prescribed by applicable laws. Failing to comply with their guidelines can have significant implications for reporting issuers such as not having their equity compensation plans approved or receiving a majority of "withhold" votes against their director nominees. While the transparency of their voting guidelines has improved to some extent in recent years, there are still aspects of the guidelines that are difficult for reporting issuers to access and evaluate.

The guidelines imposed by these groups amount to pseudo regulatory requirements due to the impact that such groups can have on the voting at shareholder meetings. We believe that the CSA should continue to engage with such groups to ensure that the activities by these groups are transparent, free from conflict of interest and supportive of the public markets in Canada.

4. Would a size-based distinction between categories of reporting issuers be preferable to the current distinction based on exchange listing? Why or why not?

We do not believe that moving to a sized-based disclosure regime would be more beneficial to the current distinction based on exchange listing. A sized-based distinction is problematic for a number of reasons including but not limited to the following:

(a) ***Size Determination.*** *The way in which size of an issuer is ultimately determined may not be appropriate for all issuers across all industries (i.e. oil and gas issuers vs. mining issuers vs. real estate investment trusts, etc.). It would be difficult to provide a single method of determining an issuer's size which would apply fairly and consistently across all industries.*

(b) ***Anomalous Results.*** *It would be expected that some issuers who undertake significant changes during the financial year (significant acquisitions, dispositions, share consolidations or splits etc.) may end up with an anomalous result from the application of the size determination calculation. As a result, it is foreseeable that there would be a number of issuers applying for relief therefore increasing the burden on securities regulatory authorities.*

(c) ***Current Regime is Consistent with the Regulatory Differences between the Stock Exchanges.*** *The current exchange-based disclosure regime is consistent with the structure of the different exchanges which structure has been purposefully and thoughtfully crafted. The venture exchange is intended for issuers who are early in their development , smaller in size, and have fewer institutional shareholders who would otherwise demand increased disclosure.*

The senior exchange on the other hand, is intended for seasoned issuers who have both the experience and resources to address the incremental disclosure requirements that accompany their listing on the exchange (and such issuers are also likely required to have increased disclosure from their institutional shareholder base).

While we concede that there are some issuers who based on their size and financial position should be on the senior exchange, this process is typically regulated by pressures from the issuer's institutional shareholders.

(d) ***Fluctuation between Reporting Regimes**. Unless an appropriate mechanism is devised, some issuers will fluctuate between the different disclosure regimes year to year. Not only does this increase the regulatory burden on the issuer in so far as preparing its disclosure is concerned, it will be detrimental to investors who will not receive consistent disclosure on the issuer.*

6. If the current distinction for venture issuers is maintained, should we extend certain less onerous venture issuer regulatory requirements to non-venture issuers? Which ones and why?

Yes, we believe that certain burdensome regulatory requirements applicable to only non-venture issuers should be eliminated. In particular we would suggest: (i) increasing the significant acquisition thresholds for non-venture issuers, (ii) removing the requirement to include pro forma financial statements in BAR disclosure as such pro forma financial statements for significant acquisitions can be confusing and misleading to investors and are expensive and time consuming to prepare; (iii) extending the eligibility criteria for the provision of two years of financial statements in an initial public offering for issuers that intent to become non-venture issuers.

7. Is it appropriate to extend the eligibility criteria for the provision of two years of financial statements to issuers that intend to become non-venture issuers? If so:

(a) How would this amendment assist in efficient capital raising in the public market?

We are supportive of extending the eligibility criteria for the provision of two years of financial statements to issuers that intend to become non-venture issuers. Although providing three years of financial statements may not be an issue for issuers who have an established business with a sufficient financial history prior to pursuing an initial public offering, the requirement for three years of financial statements does impose a burden on recently formed issuers who have acquired (or who intend to acquire) a business or businesses. Item 32 of Form 41-101F1 requires that three years of financial history must not only be provided for the issuer but also for "predecessor entities" and other business that may be considered the "primary business" of the issuer; however, the business or businesses that have being acquired (or that the issuer intends to acquire) often may have not previously prepared financial statements and may not have the necessary financial records for the preparation of such financial statements. As a result, the issuer has to expend considerable time and resources in creating such historic financial statements or potentially delay or not pursue an initial public offering. This burden is exacerbated when an issuer has made multiple acquisitions that as a result of the guidance in section 5.3 of the Companion Policy to 41-101 could all be considered as primary businesses as a result of exceeding 100% on the significance tests. As a result of this guidance, if an issuer completed an acquisition of a business within 3 years of the date of the prospectus, which at the time exceeded the 100%

threshold, the issuer would need to include financial statements for such business even if such business now represents a relatively small portion of the issuer's current business. Although reducing the requirement of providing financial statements from three years to two years would not completely solve this issue, we believe it would assist in alleviating the burden.

(b) How would having less historical financial information on non-venture issuers impact investors?

This question is better addressed to investors and analysts; however, we do believe that a third year of historic financial information, especially for a predecessor entity or acquired primary business, is not overly useful or relevant information for investors.

(c) Should we consider a threshold, such as pre-IPO revenues, in determining whether two years of financial statements are required? Why or why not?

We believe it would be more advantageous to implement a uniform requirement for all issuers. Imposing a threshold provides for less certainty in the IPO process for issuers and may result in issuers taking certain actions to avoid exceeding the threshold.

(d) If a threshold is appropriate, what threshold should be applied to determine whether two years of financial statements are required, and why?

As indicated above, we do not believe a threshold is appropriate.

8. How important is the ability to perform a three year trend analysis?

This question is better addressed to investors and analysts.

9. Should auditor review of interim financial statements continue to be required in a prospectus? Why or why not?

Review of interim financial statements is helpful as it requires issuers to critically review their backup documentation, provides an additional layer of review for the issuer and provides an additional safeguard to investors.

It is our experience that auditor review imposes an increased level of diligence on issuers in the preparation of their interim statements which is of benefit to the issuer and the investor. Investors also benefit from the checks and balances that result from the auditor reviewing the financial statements against the issuer's working papers. The review also provides an additional level of comfort to the underwriters or agents involved in a prospectus offering.

We do not believe that the costs of the auditor review outweigh the benefit to issuers, investors and underwriters.

10. Should other prospectus disclosure requirements be removed or modified, and why?

See item 11 below.

11. Is the current short form prospectus system achieving the appropriate balance (i.e., between facilitating efficient capital raising for reporting issuers and investor protection)? If not, please

identify potential short form prospectus disclosure requirements which could be eliminated or modified in order to reduce regulatory burden on reporting issuers, without impacting investor protection, including providing specific reasons why such requirements are not necessary.

We are supportive of eliminating or decreasing the prospectus disclosure requirements to only those items which are relevant to the investors and which are not otherwise repeated in any of the documents incorporated by reference. We feel that certain of the required disclosure items are either not relevant to investors or are already found in the issuer's Annual Information Form or other core documents incorporated by reference.

We believe the following items could be eliminated from the short form prospectus disclosure requirements without any detriment to investors while at the same time decreasing the amount of preparation required on behalf of the issuer: (i) description of the business (found in the Annual Information Form); (ii) description of authorized share capital (found in the Annual Information Form); (iii) prior sales (found in the financial statements); (iv) trading data (found in the Annual Information Form or generally available on exchange websites); (v) general risk factors (found in the Annual Information Form); and (vi) plan of distribution (tends to be boilerplate and only extraordinary items should be included).

In addition to the disclosure items above, we would suggest that consideration be given to removing the requirement to file an amendment to a final prospectus after closing of a base offering but prior to the exercise of the over-allotment option granted to the underwriter, which requirement arises pursuant to Section 57(1) of the Securities Act (Ontario) and comparable provisions in other jurisdictions. This requirement applies notwithstanding that at closing of the base offering all subscribers to the offering (including those in respect of the over-allotment position) would have been issued the securities subscribed for and the only party acquiring securities under the over-allotment position would be the underwriter(s) to fill any short positions created. All securities issued under the offering, including securities sold to create the over-allotment position, are deemed to be issued under the prospectus regardless of how the over-allotment option is ultimately filled (NI 41-101, S. 11.1 and Form 41-101 F1, Item 1.4(2)). Therefore, all subscribers to the offering have statutory rights of action under the prospectus. All securities are allocated to accounts at the closing of the base offering, including in respect of the over-allotment position (which, by definition, has to be determined at the closing of the offering (NI 41-101, S. 1.1, definition of "over-allocation position"). Preparing and filing an amended prospectus results in costs and expenses for the issuer, underwriters and regulators and it is unclear as to any resulting benefit as it would appear that the only party with any rights under the amended prospectus will be the underwriters. This requirement may also affect or limit activities that the issuer might otherwise engage in that might result in a material change to ensure that a material change does not occur requiring such an amendment. We would suggest that this requirement could be eliminated by either: (i) only requiring an amendment to a final prospectus if a material change occurs prior to the completion of the distribution under the prospectus other than in respect of securities issued under the over-allotment option, (ii) permit the issuance of the securities under the over-allotment option to the underwriters pursuant to the exemption in Section 2.33 of NI 45-106 (Acting as underwriter) or pursuant to the exemption in Section 2.42(1)(a) of NI 45-106 (on exercise of a right previously granted)(which alternative may require clarification or change to section 1l7 of 45-106 CP to clarify that this exemption may be utilized by an underwriter for such purpose; or (iii) provide guidance in the appropriate companion policy tha the "distribution" for this purposes ceases on closing of the base offering, notwithstanding that securities may be issued by the issuer on exercise of the over-allotment option.

12. Should we extend the availability of the short form prospectus offering system to more reporting issuers? If so, please explain for which issuers, and why this would be appropriate.

It is our understanding that the short form prospectus offering system is currently available to all listed issuers provided that the issuer has filed the appropriate financial and other disclosure (including an Annual Information Form or other similar document).

13. Are conditions right to propose a type of alternative prospectus model for reporting issuers? If an alternative prospectus model is utilized for reporting issuers:

(a) What should the key features and disclosure requirements of any proposed alternative prospectus model be?

As previously discussed, we believe that in reviewing the prospectus regime and the private placement regime, considerations should be given to how the continuous disclosure and prospectus regimes have evolved, particularly that the prospectus regime relies very heavily on continuous disclosure and that secondary market liability provisions have been adopted. Key considerations of formulating an alternative prospectus regime include determining how to communicate the details of the offering (press release, notice or scaled down version of a short form prospectus) and, ensuring that underwriters are given sufficient time to properly conduct due diligence and addressing underwriter liability.

(b) What types of investor protections should be included under such a model (for example, rights of rescission)?

We believe that existing investor protections should be maintained, including rights to damages and rescission in the event of a misrepresentation and rights of withdrawal. Any alternative system would need to ensure that the underwriters have the ability to conduct appropriate due diligence and that the underwriters would be subject to similar liabilities to which they are subject to under the short form system.

(c) Should an alternative offering model be made available to all reporting issuers? If not, what should the eligibility criteria be?

The current short form prospectus regime's qualification criteria should be sufficient to ensure that issuers availing themselves of the alternative regime have an appropriate disclosure base.

14. What rule amendments or other measures could we adopt to further streamline the process for ATM offerings by reporting issuers? Are there any current limitations or requirements imposed on ATM offerings which we could modify or eliminate without compromising investor protection or the integrity of the capital markets?

Codifying the elements of the exemptive relief commonly granted for ATM offerings would significantly streamline the process for ATM offerings. If the securities regulatory authorities are generally willing to grant the relief to allow for ATM offerings there does not appear to be any reason to not provide for the elements of the relief directly in the legislation provided that all the same conditions of such relief are also codified in the legislation.

15. Which elements of the exemptive relief granted for ATM offerings should be codified in securities legislation to further facilitate such offerings?

All of the elements of the exemptive relief commonly granted for ATM offerings should be codified to facilitate ATM offerings.

16. Are there rule amendments and/or processes we could adopt to further streamline the process for cross-border prospectus offerings, without compromising investor protection, by: (i) Canadian issuers and (ii) foreign issuers?

Canadian issuers who undertake cross-border financings through MJDS are subject to the SEC rules regarding the timing of pricing and launching the offering. These rules are not consistent with the Canadian rules and as a result, issuers and their advisors are required to expend a significant amount of time and effort in ensuring the offering is launched in compliance with both Canadian and SEC rules.

In particular in the context of a bought deal offering the Canadian rules allow an issuer to commence soliciting expressions of interest prior to filing the short form prospectus subject to complying with Part 7 of National Instrument 44-101 – Short Form Prospectus Distributions, however, to the extent that the offering is an MJDS offering an issuer cannot avail themselves of the ability to solicit expressions of interest prior to filing the short form prospectus as the issuer is required to file the prospectus in the U.S. prior to soliciting expressions of interest. Although we realize that this is beyond the jurisdiction of the CSA, we believe it would be beneficial to Canadian issuers to the extent that the CSA could work with the U.S. Securities and Exchange Commission to further streamline the MJDS rules so that a Canadian issuer could utilize the Canadian rules for soliciting expressions of interest when pursuing an offering under the MJDS rules.

17. As noted in Appendix B, in 2013 a number of amendments were made to liberalize the pre-marketing/marketing regime in Canada. Are there rule amendments and/or processes we could adopt to further liberalize the prospectus pre-marketing and marketing regime in Canada, without compromising investor protection, for: (i) existing reporting issuers and (ii) issuers planning an IPO, and if so in what way?

In respect of issuers that are short form eligible and undertake bought deal offerings, it has been our experience that dealers have been hamstrung by the requirement to work within the four corners of the term sheet when communicating with potential investors. The result of this rule is that dealers typically send out an email with no content other than the term sheet and are unable to include the press release announcing the offering or answer any questions regarding the offering or the issuer unless such information is otherwise available in the term sheet. This approach is not practical given the nature of the dealers' business and as a result we expect that this rule is consistently breached, whether knowingly or unknowingly. Further, the inability of dealers to respond to questions from their clients is not helpful to potential investors.

In respect of issuers completing an initial public offering or a marketed deal, we note that there is a requirement that everything in the term sheet be in the prospectus. Issues arise when dealers wish to use a term sheet with a price range while the prospectus filed with the securities regulatory authority contains bullets for pricing. Furthermore, in cases where the issuer or the dealers notice that the prospectus contains an immaterial error, the issuer and/or dealers are not allowed to include the corrected information in the marketing materials or term sheet unless they first file an amended and restated prospectus to rectify the immaterial error, which given the immaterial nature of the change seems particularly onerous and unnecessary.

It has been our experience that the rules surrounding the content of what constitutes a "standard term sheet" are overly strict and do not provide any additional protections to the investor. Issuers and dealers can spend an inordinate amount of time to attempt to fit within the four corners of a "standard term sheet" and those issuers who pay dividends or issue securities other than common shares (subscription receipts or preferred shares for example) are unable to do so. Furthermore, the requirement to file a "template term sheet" that is not made public on SEDAR until such time as the preliminary prospectus is filed seems redundant as the prospectus contains all the information otherwise contained in the template term sheet. We would suggest that the rules as to what may be included in a standard term sheet be relaxed and that only true marketing materials (such as investor presentations) should be required to be filed on SEDAR.

18. Does the BAR disclosure, in particular the financial statements of the business acquired and the pro forma financial statements, provide relevant and timely information for an investor to make an investment decision? In what situations does the BAR not provide relevant and timely information?

Although this question is better addressed to investors and analysts, we question whether pro forma financial statements in the BAR disclosure provide relevant information. Given the significant assumptions and estimates required to be made in order to prepare pro forma financial statements, in many cases such pro forma financial statements may not be relevant for the reader.

In addition, as discussed below we believe increasing the thresholds for significant acquisitions and eliminating the "profit or loss test" would help eliminate the requirement to prepare BAR disclosure in situations where the materiality of an acquisition is questionable therefore reducing requirements for issuers to provide disclosure that is not relevant to investors.

19. Are there certain BAR requirements that are more onerous or problematic than others?

The BAR requirements and the corresponding requirement under Form 41-101F1 and Form 44-101F1 to include BAR type disclosure in a long-form or short form prospectus can place issuers who are required to finance the purchase price of an acquisition by raising money through a prospectus financing at a significant disadvantage relative to issuers who do not need to complete a prospectus financing to fund the purchase price (or for issuers for which the acquisition will not be significant).

If an acquisition is significant for an issuer and the issuer is required to complete a prospectus financing to fund the purchase price of an acquisition generally the issuer will be required to launch the financing concurrently with announcing that it has entered into a definitive acquisition agreement. If the issuer is completing any form of public offering other than a bought deal, the issuer will be required to file a short form prospectus concurrently with announcing the financing. If the issuer is completing a bought deal financing the issuer will be required to file a short form prospectus within four business days of announcement of the financing. In accordance with Form 44-101F1 the prospectus will be required to include BAR level disclosure including audited financial statements and, in the case of an acquisition of oil and gas assets, estimates of reserves and related future net revenue attributable to the assets being acquired. As a result, the audited financial statements and estimates of reserves and related future net revenue, if applicable, will be required to be ready to go at the same time as the purchaser and the vendor enter into the definitive agreement for the acquisition. As a result, this requires both the purchaser and the vendor to expend both time and money in preparing the audited financial statements and estimates of reserves and related future net revenue, if applicable, even before they have entered into a definitive agreement. As a result, a vendor may *choose to pursue a transaction with a purchaser who is not required to include BAR disclosure over a purchaser who is required to prepare BAR disclosure even if both purchasers are offering the same consideration or in some cases even if the purchaser who is not required to prepare BAR disclosure is offering less than the purchaser who is required to prepare BAR disclosure.*

Further, it is unclear why the disclosure requirements of a prospectus are different than the general disclosure requirements for those purchasing in the secondary market where, such purchasers will not have access to the information contained in the BAR for up to 75 days from the date of completion of the acquisition.

20. If the BAR provides relevant and timely information to investors:

(a) Are each of the current significance tests required to ensure that significant acquisitions are captured by the BAR requirements?

"The Profit or Loss Test" under Section 8.2(c) and 8.4(c) may, as a result of certain circumstances, result in certain acquisitions being deemed to be significant when the relative size of the business being acquired is potentially not material for the issuer. As an example an oil and gas issuer could have significant daily production and revenue but could have incurred a small loss for the year. If that issuer was purchasing a business that had significantly lower daily production and revenue but was profitable it could result in the acquisition being considered significant even though it wouldn't necessarily have a material impact on the issuer.

Our experience has been that the Profit or Loss Test has given rise to numerous questions as to the applicable methodology even from auditors of the issuer.

We would support eliminating the Profit or Loss Test as a criteria for the BAR requirements. We also do not believe the Profit or Loss Test should be replaced with another test as the investment test and asset test should capture the majority of acquisitions that are significant for issuers.

(b) To what level could the significance thresholds be increased for non-venture issuers while still providing an investor with sufficient information with which to make an investment decision?

Although we would defer to the views of institutional investors on this issue, we do believe that the significance thresholds could be increased for non-venture issuers while still providing an investor with sufficient information with which to make an investment decision.

We would defer to the view of institutional investors on the threshold at which an acquisition should be considered significant under applicable securities laws, although we believe that the 20% threshold is not. The disclosure obligation as to material information is always applicable and this should be looked at as something that mandates additional disclosure over and above such disclosure obligations.

(c) What alternative tests would be most relevant for a particular industry and why?

It would be difficult to adopt alternative tests for all various industries however, if alternative tests were adopted, we believe that the significances tests for oil and gas issuers should *address the impact of the acquisition on the reserves and/or production of the issuer as opposed the tests which are seemingly based on book value only.*

(d) Do you think that the disclosure requirements for a significant acquisition under Item 14.2 of 51-102F5 (information circular) should be modified to align with those required in a BAR, instead of prospectus-level disclosure? Why or why not?

Yes, we believe the disclosure under Item 14.2 of 51-102F5 should be modified to align with those required in a BAR, instead of prospectus-level disclosure. If an issuer is acquiring a business that is significant and the shareholders of the issuer are required to vote on the transaction, it is not relevant to include prospectus level disclosure about the business being acquired because shareholders are not making a decision to invest in that business (for example, prospectus level disclosure about directors and officers, historical business practices, compensation matters that will not be ongoing following the acquisition). The relevant information for shareholders is the impact that the acquired business will have on the issuer. As such the relevant information is the information included in a BAR. Most of the other information that would be required if the issuer were to include prospectus level disclosure about the business would be completely irrelevant to a shareholder making a decision on whether to vote to approve the transaction or not as such information would not be applicable to the issuer going forward.

21. Are there disclosure requirements for annual and interim filing documents that are overly burdensome for reporting issuers to prepare? Would the removal of these requirements deprive investors of any relevant information required to make an investment decision? Why or why not?

As submitted elsewhere in our response, we are supportive of the elimination of duplicative disclosure in various continuous disclosure forms. However it is our experience that the disclosure requirements in respect of annual and interim filing documents are not overly burdensome as most issuers are well versed in the requirements and use their previously filed documents as a base for updating their disclosure.

22. Are there disclosure requirements for which we could provide more guidance or clarity? For example, we could clarify that discussion of only significant trends and risks is required, or that the filing of immaterial amendments to material contracts is not required under NI 51-102.

Although we have not considered this issue in detail, we support any efforts to clarify continuous disclosure requirements.

23. What are the benefits of quarterly reporting for reporting issuers? What are the potential problems, concerns or burdens associated with quarterly reporting?

We believe quarterly reporting is beneficial to both investors and issuers. Quarterly reporting provides investors with consistent financial, operational and other information on a periodic basis permitting them to evaluate their investment with the benefit of recent comparative information. Quarterly reporting is beneficial to the issuer in that the issuer is continually reviewing their financial and operational results allowing them to identify any discrepancies and address important accounting assessments such as impairment.

We would suggest that notwithstanding the above comment, the CSA should consider the views of institutional investors and analysts in respect of their view on the benefits of quarterly reporting.

24. Should semi-annual reporting be an option provided to reporting issuers and if so under what circumstances? Should this option be limited to smaller reporting issuers?

We do not believe semi-annual reporting would be sufficient to provide investors with appropriate disclosure on the issuer's financial and operational position. Permitting semi-annual reporting would likely encourage issuers to provide or certain investors to seek out additional financial and/or operational information regarding the issuer resulting in the potential for selective disclosure.

25. Would semi-annual reporting provide sufficiently frequent disclosure to investors and analysts who may prefer to receive more timely information?

We defer to the views of institutional investors and analysts on this issue.

26. Similar to venture issuers, should non-venture issuers have the option to replace interim MD&A with quarterly highlights?

We defer to the views of institutional investors and analysts on this issue.

27. Would modifying any of the above areas in the MD&A form requirements result in a loss of significant information to an investor? Why or why not?

We defer to the views of institutional investors and analysts on this issue. As discussed, we support any efforts to eliminate any duplicative disclosure including critical accounting estimates, financial instruments, changes in accounting policies and contractual obligations.

28. Are there other areas where the MD&A form requirements overlap with existing IFRS requirements?

We believe that the CSA should consult with the Canadian Accounting Standards Board to address any overlap in any continuous disclosure requirements with existing IFRS requirements.

29. Should we consolidate the MD&A, AIF (if applicable) and financial statements into one document? Why or why not?

We would be supportive of the consolidation of the MD&A and financial statements into one document. We believe that it would be beneficial to the investor to have one fulsome document containing the items found in the MD&A and financial statements while at the same time eliminating repetitive or overlapping disclosure. Combining these documents would avoid investors piecing together information and prevent the potential for inconsistent disclosure between the two documents. However, consideration should be given to whether the consolidation of these two documents would increase the amount of work and expense associated with the audit and review of annual and interim financial statements. At a minimum, an effort should be made to eliminate duplicative or repetitive requirements for preparation of financial statements and MD&A.

30. Are there other areas of overlap in continuous disclosure rules? Please indicate how we could remove overlap while ensuring that disclosure is complete, relevant, clear, and understandable for investors.

We believe that the following areas of overlap exist between the Annual Information Form requirements and the Information Circular requirements:

(a) Director & Officer Cease Trade Orders, Bankruptcies, Penalties and Sanctions (Item 10.2 of 51-102F2) and Election of Directors (Item 7.2 of 51-102F5). This disclosure may be dealt with by a cross reference or a requirement to update in any future filings if there has been a change; and

(b) Interest of Management and Others in Material Transactions (Item 13 in 51-102F2) and Interests of Informed Persons in Material Transactions (Item 11 in 51-102F5).

31. Are there any aspects of the guidance provided in NP 11-201 which are unclear or misaligned with market practice?

No comment.

32. The following consultation questions pertain to the "notice-and-access" model under securities legislation and consideration of potential changes to this model:

(a) Since the adoption of the "notice-and-access" amendments, what aspects of delivering paper copies represent a significant burden for issuers, if any? Are there a significant number of investors that continue to prefer paper delivery of proxy materials, financial statements and MD&A?

No comment.

(b) Do you think it is appropriate for a reporting issuer to satisfy the delivery requirements under securities legislation by making proxy materials, financial statements and MD&A publicly available electronically without prior notice or consent and only deliver paper copies of these documents if an investor specifically requests paper delivery? If so, for which of the documents required to be delivered to beneficial owners should this option be made available?

Given the evolution of the nature of access to information, we do not believe electronic delivery of certain continuous disclosure documents should require consent from the securityholder. In the case of financial statements and MD&A, we believe a press release announcing the release of such information is sufficient. However, in the case of meeting materials, we believe that it is necessary to provide securityholders with a paper proxy containing the control number or other means to allow securityholders to vote. Requiring a securityholder to access information such as their proxy control number themselves would be expected to lead to decreased voter participation.

(c) Would changes to the "notice-and-access" model as described in question (b) above pose a significant risk of undermining the protection of investors under securities legislation, even though an investor may request to receive paper copies?

We do not believe so given that secondary market liability attaches to the documents and that the documents are readily available online or upon request.

(d) Are there other rule amendments that could be made in NI 54-101 or NI 51-102 to improve the current "notice-and-access" options available for reporting issuers?

We understand that the requirement to include a toll free phone number in the notice and access notice is expensive for issuers and is not helpful to investors. It has been our experience that such method of requesting documents is rarely used and as such, providing the issuer's phone number with a contact should be sufficient for this purpose

33. Are there other ways electronic delivery of documents could be further enhanced through securities legislation?

Consideration should be given as to whether there is value in requiring issuers using notice-and-access for the first time to be subject to the extended time period prescribed by Section2.7.2 of National Instrument 54-101.

Yours truly,

BURNET, DUCKWORTH & PALMER LLP

(signed) "*Bronwyn M. Inkster*"

Bronwyn M. Inkster

BMI/cpl