Chapter 1

Notices

1.1 Notices

1.1.1 CSA Second Notice and Request for Comment – Proposed National Instrument 52-112 Non-GAAP and Other Financial Measure Disclosure – Proposed Companion Policy 52-112 Non-GAAP and Other Financial Measures Disclosure – Related Proposed Consequential Amendments and Changes

Canadian Securities Administrators | Autorités canadiennes en valeurs mobilières

CSA Second Notice and Request for Comment

Proposed National Instrument 52-112 Non-GAAP and Other Financial Measures Disclosure

Proposed Companion Policy 52-112 Non-GAAP and Other Financial Measures Disclosure

Related Proposed Consequential Amendments and Changes

February 13, 2020

Introduction

The Canadian Securities Administrators (the **CSA** or **we**) are publishing for a 90-day comment period the following materials:

- Revised version of proposed National Instrument 52-112 *Non-GAAP and Other Financial Measures Disclosure* (the **Proposed Instrument**);
- Revised version of proposed Companion Policy 52-112 *Non-GAAP and Other Financial Measures Disclosure* (the **Proposed Companion Policy**);
- Related proposed consequential amendments or changes to:
  - Multilateral Instrument 45-108 *Crowdfunding*[1];
  - Companion Policy 45-108CP *Crowdfunding*;
  - Companion Policy 51-102CP *Continuous Disclosure Obligations*;
  - Companion Policy 51-105CP *Issuers Quoted in the U.S. Over-the-Counter Markets*[2];
  - Companion Policy 52-107CP *Acceptable Accounting Principles and Auditing Standards*.

(collectively, the **Proposed Materials**).

The Proposed Instrument sets out disclosure requirements for non-GAAP financial measures, non-GAAP ratios, and other financial measures (i.e., capital management measures, supplementary financial measures, and total of segments measures, as defined in the Proposed Instrument).

The original versions of the Proposed Materials (the **Original Materials**) were first published on September 6, 2018. During the 90-day comment period we conducted 38 outreach sessions across seven cities in Canada allowing us to actively engage with stakeholders. The comment period ended on December 5, 2018. We received 42 comment letters from various stakeholders, including issuers, investors, accounting firms, standard setters, industry associations and law firms. The list of commenters is

[1] The securities regulatory authorities in British Columbia, Prince Edward Island, Newfoundland and Labrador, Northwest Territories, Yukon Territory and Nunavut are not proposing these consequential amendments or the changes to the related Companion Policy because MI 45-108 does not apply in these jurisdictions.

[2] The Ontario Securities Commission is not proposing this consequential change as Multilateral Instrument 51-105 *Issuers Quoted in the U.S. Over-the-Counter Markets* and its Companion Policy do not apply in Ontario.

attached as Annex A. We wish to thank all commenters for contributing to the consultation. A summary of the comments we received and our responses to those comments are attached as Annex B. In response to the feedback we received, we have reduced the scope of the application of the Proposed Instrument and simplified the disclosure requirements, with the aim of ensuring investors receive appropriate disclosure without an overall increase in regulatory burden.

We understand that non-GAAP financial measures, non-GAAP ratios, and other financial measures can provide valuable information to investors when supplemented with useful disclosures. Considering the substantive changes made in response to comments received on the Original Materials, we are publishing the Proposed Instrument and the Proposed Companion Policy for a second comment period. We are also publishing for information the related proposed consequential amendments or changes in their original form.

The text of the Proposed Materials is contained in Annexes D through J of this Notice. Local amendments, if any, are in Annex K of this Notice. This Notice will also be available on the websites of CSA jurisdictions, including:

www.lautorite.qc.ca
www.albertasecurities.com
www.bcsc.bc.ca
nssc.novascotia.ca
www.fcnb.ca
www.osc.gov.on.ca
www.fcaa.gov.sk.ca
www.mbsecurities.ca

Summary of Changes to the Original Materials

Many comment letters expressed support for the objectives of the Original Materials. Commenters agreed with the analysis that non-GAAP financial measures and other financial measures disclosures lack standardized meaning under financial reporting frameworks, lack context when disclosed outside of the issuer's financial statements, and lack transparency as to their calculation or vary significantly by issuer and industry. However, concerns were expressed on the application and scope of the Proposed Instrument, definitions proposed, and perception of increased regulatory burden that the Proposed Instrument would have in comparison to current CSA Staff Notice 52-306 (Revised) *Non-GAAP Financial Measures* (**SN 52-306**), and SEC rules.

Following our extensive review and analysis of the comment letters, through the substantive changes to the Original Materials, we have aimed to:

- reduce the scope of application to certain issuers,
- exempt certain disclosures, financial measures, and types of documents,
- narrow and clarify various definitions,
- simplify the disclosure for non-GAAP financial measures that are forward-looking information and non-GAAP ratios,
- limit disclosures for capital management measures and total of segments measures,
- permit cross-referencing in certain circumstances,
- better align disclosure requirements with those adopted by other securities regulators,
- enhance readability, and
- reduce uncertainty regarding disclosure obligations by clarifying disclosure requirements and including significant guidance.

More information on the changes made in the Proposed Instrument is included in Annex C.

A second publication for comment will allow for stakeholder input on these changes.

Substance and Purpose

The Proposed Instrument addresses the disclosure surrounding non-GAAP financial measures, non-GAAP ratios, and other financial measures.

In some cases, non-GAAP financial measures, non-GAAP ratios, and other financial measures are helpful to investors to assess an issuer's financial performance. The Proposed Instrument does not contain specific limitations or industry-specific requirements; rather, it provides clarity and consistency with respect to an issuer's disclosure obligations and improve the quality of information provided to investors.

We acknowledge that some stakeholders continue to prefer that we

- limit, in specific circumstances, the disclosure of certain financial measures, and
- develop industry-specific requirements for certain financial measures.

However, due to the numerous types of ever-evolving financial measures disclosed across a range of industries, we continue to believe that disclosure requirements are best suited to respond to investor needs for quality information without being overly prescriptive. These requirements would allow investors to better analyze different financial measures within an industry or among different industries.

Although the definition of a non-GAAP financial measure has been clarified, the Proposed Materials have substantially incorporated the disclosure guidance in SN 52-306 for non-GAAP financial measures.

To ensure investors appreciate the context of capital management measures and total of segments measures, the Proposed Instrument introduces disclosure requirements if such financial measures are disclosed outside of the financial statements.

Background

Non-GAAP Financial Measures

Various activities have contributed to the development of the Proposed Materials, which are intended to replace the guidance provided in SN 52-306.

Many issuers, in all industries, disclose a range of financial measures that may lack standardized meanings under the financial reporting framework used in the preparation of the issuer's financial statements and lack transparency as to their calculation or vary significantly by issuer and industry.

Common terms used to label non-GAAP financial measures may include "adjusted earnings", "adjusted EBITDA", "free cash flow", "pro forma earnings", "cash earnings", "distributable cash", "cost per ounce", "adjusted funds from operations" and "earnings before non-recurring items".

In Canada, the guidance in SN 52-306 is intended to help ensure that non-GAAP financial measures (including ratios that include non-GAAP financial measures) do not mislead investors. Although we have updated SN 52-306 several times to respond to changing circumstances and published various staff notices and reports that comment on the topic, we continue to find that disclosure practices surrounding non-GAAP financial measures vary. Our findings are consistent with those of other stakeholders (particularly investors) who share our desire for quality disclosure.

The use of non-GAAP financial measures is a topic raised frequently by the financial reporting community, locally and abroad. In Canada, several organizations have undertaken research and issued guidance on how to disclose non-GAAP financial measures. Stakeholders generally have expressed the view that regulating the use of non-GAAP financial measures as primarily a task of the CSA.

We are aware the International Accounting Standards Board (IASB) has recently issued an exposure draft, as part of its Primary Financial Statements project, on General Presentation and Disclosures. This exposure draft could, among other things, change the structure and content of the income statement and result in some traditional non-GAAP financial measures being included in a note to the financial statements with accompanying disclosure. As the IASB proposals are at an early stage, it is difficult to determine what changes, if any, will be made to International Financial Reporting Standards (IFRS) requirements. We will monitor the progress of the exposure draft and the overall project in order to consider whether any changes to securities legislation will be appropriate.

Internationally, securities regulators are strengthening their efforts to regulate non-GAAP financial measure disclosure, including the International Organization of Securities Commissions (IOSCO) and the European Securities Markets Authority (ESMA). In addition, the U.S. Securities and Exchange Commission (SEC), which has formalized requirements for disclosure of non-GAAP financial measures in its rules, continues to provide further guidance on how to comply with applicable requirements.

Other Financial Measures

Over the years, we have also found that other financial measures that do not meet the definition of a non-GAAP financial measure in the Proposed Instrument present similar issues if not accompanied by appropriate disclosure. Such financial measures include certain measures disclosed in the notes to the financial statements that lack context when disclosed outside of the financial statements.

For example, IFRS permits disclosure of a broad range of capital management or segment measures but do not specify how such measures must be calculated in most circumstances. As a result, such measures can differ materially from amounts presented in the primary financial statements and may not be prepared in accordance with the recognition and measurement accounting policies used to prepare the issuer's primary financial statements.

To ensure investors were not confused or mislead, such measures were frequently identified as "non-GAAP" and issuers provided disclosures consistent with our expectations in SN 52-306. To ensure investors continue to appreciate the context of such measures, the Proposed Instrument includes disclosure requirements for such measures when disclosed outside of the financial statements. Consistent with the Original Materials, these disclosures are tailored for each measure and would require substantially less disclosure than expected under SN 52-306.

Anticipated Costs and Benefits of the Proposed Instrument

Overview

Cost benefit considerations have been informed by comments received in response to the Original Materials, as well as feedback received during related stakeholder outreach sessions. In addition, the Proposed Instrument has been developed in the context of various initiatives to reduce regulatory burden which, among other things, aim to ensure that regulatory costs are proportionate to the regulatory objectives sought.

We believe the Proposed Instrument results in a cost-effective and proportionate regulatory framework that supports innovation and competition while maintaining appropriate investor protections.

Although the Proposed Instrument codifies disclosures for non-GAAP financial measures and introduces targeted disclosure requirements for other financial measures, on balance, we believe, the Proposed Instrument and the Proposed Companion Policy result in an overall net reduction in regulatory burden, particularly in the long-term, because compared to current regulatory expectations as outlined in SN 52-306, the Proposed Instrument and the Proposed Companion Policy aim to:

- limit the application to certain issuers,
- exempt certain disclosures, financial measures, and documents,
- remove categorization of certain measures as non-GAAP financial measures,
- reduce and simplify disclosures for certain non-GAAP financial measures,
- eliminate duplication, in certain areas, through targeted provisions of incorporating information by reference,
- reduce uncertainty regarding disclosure obligations, and
- diminish the time and effort investors spend on understanding certain financial information.

We considered costs and benefits in limiting the application of the Proposed Instrument to certain issuers and in the process of identifying and disclosing non-GAAP and other financial measures.

Affected Stakeholders

Issuers

The Proposed Instrument only applies if an issuer that is within the scope of the Proposed Instrument discloses non-GAAP or other financial measures. If such an issuer does not disclose such measures, there is no effect.

Currently, disclosure expectations in SN 52-306 apply to all issuers that disclose non-GAAP financial measures. In contrast, the Proposed Instrument limits the application to certain issuers, such as reporting issuers. Investment funds, SEC foreign issuers, and designated foreign issuers are exempted – a significant reduction in scope.

Investors

We expect investors (institutional and retail) to be the primary beneficiaries of the Proposed Instrument because the Proposed Instrument:

- addresses many of the identified investor concerns,

- enhances the consistency, comparability and transparency of disclosure,
- reduces information-asymmetry, and
- diminishes the time and effort historically required to understand certain financial information (i.e., investor regulatory burden will be reduced).

Investors are not expected to incur additional costs.

Local Matters – Ontario

Authority for the Proposed Instrument

In Ontario, the rule-making authority for the Proposed Instrument is in paragraphs 13, 16, 22, 22.1, 25 and 39 of subsection 143(1) of the *Securities Act* (Ontario).

Alternatives Considered

We considered adopting the Original Materials in their original form as well as the alternatives suggested by the commenters as detailed in Annex B.

Reliance on Unpublished Studies

In developing the Proposed Instrument, we are not relying on any significant unpublished study, report or other written material.

Request for Comments

We welcome your comments on the Proposed Materials.

Please submit your comments in writing on or before May 13, 2020. If you are not sending your comments by email, please send us an electronic file containing submissions provided (in Microsoft Word format).

Address your submission to all of the CSA as follows:

British Columbia Securities Commission
Alberta Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan
Manitoba Securities Commission
Ontario Securities Commission
Autorité 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
Registrar of Securities, Northwest Territories
Registrar of Securities, Yukon Territory
Superintendent of Securities, Nunavut

Deliver your comments only to the addresses below. Your comments will be distributed to the other participating CSA.

The Secretary
Ontario Securities Commission
20 Queen Street West
19th Floor, Box 55
Toronto ON M5H 3S8
Fax: 416-593-2318
comment@osc.gov.on.ca

Me Philippe Lebel
Corporate Secretary and Executive Director, Legal Affairs
Autorité des marchés financiers
Place de la Cité, tour Cominar
2640, boulevard Laurier, bureau 400
Québec (Québec) G1V 5C1
Fax: (514) 864-8381

E-mail: consultation-en-cours@lautorite.qc.ca

Please refer your questions to any of the following:

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Maggie Zhang, Senior Securities Analyst, British Columbia Securities Commission
604-899-6823 | mzhang@bcsc.bc.ca

Alberta Securities Commission
Janice Anderson, Associate Chief Accountant, Alberta Securities Commission
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Anne Marie Landry, Senior Securities Analyst, Alberta Securities Commission
403-297-7907 | annemarie.landry@asc.ca

Ontario Securities Commission
Mark Pinch, Associate Chief Accountant, Ontario Securities Commission
416-593-8057 | mpinch@osc.gov.on.ca

Alex Fisher, Senior Accountant, Ontario Securities Commission
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514 395-0337 Ext: 4466 | michel.bourque@lautorite.qc.ca

We cannot keep submissions confidential because securities legislation in certain provinces requires publication of the written comments received during the comment period. All comments received will be posted on the websites of each of the Alberta Securities Commission at www.albertasecurities.com, the Autorité des marchés financiers at www.lautorite.qc.ca and the Ontario Securities Commission at www.osc.gov.on.ca. Therefore, you should not include personal information directly in comments to be published. It is important that you state on whose behalf you are making the submission.

ANNEX A
List of Commenters

We received comment letters on the Original Materials from the following:

- Auditing and Assurance Standards Board
- Bennett Jones LLP
- Blakes, Cassels & Graydon LLP
- British Columbia Investment Management Corporation
- Burnet, Duckworth & Palmer LLP
- Canadian Accounting Standards Board
- Canadian Bankers Association
- Canadian Coalition for Good Governance
- Canadian Natural Resources Ltd.
- Canadian Public Accountability Board
- Cassels Brock & Blackwell LLP
- Cenovus Energy Inc.
- CPA Canada
- Davies Ward Phillips & Vineberg LLP
- Deloitte
- Ernst & Young LLP
- Financial Executives International Canada
- Freehold Royalties Ltd.
- Goodmans LLP
- Great-West Lifeco Inc.
- InPlay Oil Corp.
- Institute of Corporate Directors
- Intact Financial Corporation
- Inter Pipeline Ltd.
- Keyera Corp.
- KPMG
- Lynessa Dias
- Manulife Financial Corporation
- Norton Rose Fulbright Canada LLP
- Ontario Power Generation

- OSC Investor Advisory Panel
- Pembina Pipeline Corporation
- PricewaterhouseCoopers LLP
- Québec Bourse Inc.
- Seven Generations Energy
- Stikeman Elliott LLP
- Suncor Energy Inc.
- The Canadian Advocacy Council for Canadian CFA Institute Societies
- The Investment Funds Institute of Canada
- The Real Property Association of Canada
- Torys LLP
- Veritas Investment Research Corporation

ANNEX B

Summary of Comments and CSA Responses

This annex summarizes the comment letters and our responses to these comments.

This annex contains the following sections:

1. Introduction
2. Responses to comments received on the Proposed Instrument and the Proposed Companion Policy

1. Introduction

Drafting Suggestions

We received a number of drafting suggestions and comments. While we incorporated many of these suggestions, this annex does not include a summary of all the drafting changes we made.

Categories of comments and single responses

In this annex, we consolidated and summarized the comments and our responses by the general themes of the comments. We have included section references to the Proposed Instrument for convenience.

2. Responses to Comments Received on the Proposed Instrument and the Proposed Companion Policy

General Comments on the Original Materials		
Subject	**Comment**	**Response**
General comments	There was widespread support for the general objective of the proposals, with commenters noting that this will enhance investor confidence and improve financial reporting in Canada.	We thank the commenters for their submissions.
General comments	Commenters agreed with the CSA decision to not limit the issuers' ability to disclose different types of measures and to not prescribe industry-specific non-GAAP financial measures.	No change. Fundamental to the CSA's approach to regulating non-GAAP financial measures, non-GAAP ratios, and other financial measures is a disclosure-based regime with an overall goal to improve the quality of information provided to investors. Due to the numerous types of ever-evolving financial measures disclosed across a range of industries, we believe that disclosure requirements are better suited to respond to investor needs for quality information. In our view, the requirements in the Proposed Materials allow investors to better analyze different financial measures within an industry or among different industries without the CSA limiting or prescribing certain measures.
General comments	A number of commenters raised concerns with a lack of consistency with international regulators, specifically the U.S. Securities and Exchange Commission (**SEC**), and perception that there may be a competitive disadvantage.	The Proposed Materials have been revised for better alignment with the SEC.
General comments	Commenters expressed the need for a long transition period leading up to the effective date, and that the instrument should be effective for the beginning of an annual financial reporting period to ensure consistent and comparable reporting over periods.	We agree with the comment and will consider this in determining the effective date before a final instrument is published.

General comments	A few commenters suggested that the CSA could stagger adoption dates to reduce implementation burden with different documents. For example, the CSA could replace CSA Staff Notice 52-306 (Revised) *Non-GAAP Financial Measures* (**SN 52-306**) with a rule for non-GAAP financial measures only, and delay disclosure requirements for other financial measures.	No change in the fundamental approach to regulate both non-GAAP financial measures, non-GAAP ratios, and other financial measures. Based on the CSA's experience, other financial measures may be equally problematic if not accompanied by appropriate disclosure. This approach is consistent with other international regulators, including the SEC. Refer to above comment regarding the need for a long transition period.
General comments	A few commenters expressed the emphasis on the CSA reducing regulatory burden strategic initiative and that the CSA should consider whether there is an alternative approach to achieve the CSA's objective.	As part of developing the Proposed Materials, we considered a number of alternatives to address stakeholder concerns regarding the quality of disclosures surrounding non-GAAP financial measures, non-GAAP ratios, and other financial measures, including careful consideration of updating SN 52-306 instead or developing other forms of staff guidance to supplement. Based on this work, we concluded that development of the Proposed Materials would be more effective in addressing the significant stakeholder concerns regarding quality disclosures. We also considered and agree with certain commenter responses who expressed that the Proposed Materials provide more guidance and less uncertainty regarding an issuer's disclosure obligations. To address concerns regarding regulatory burden, we have significantly revised the Proposed Materials, reducing the application of the Proposed Materials and disclosure requirements.
General comments	A few commenters expressed the need for the CSA to clarify that disclosures of non-GAAP financial measures and other financial measures are within the scope of National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (**NI 52-109**), and that the CSA should encourage issuers to establish a written disclosure policy in consideration of National Policy 51-201 *Disclosure Standards* (**NP 51-201**). One commenter recommended adding specific disclosure requirements regarding internal controls over non-GAAP financial measures.	Companion Policy 52-109CP *to National Instrument 52-109 Certification of Disclosure in Issuers' Annual and Interim Filings* (**52-109CP**) states that the forms included in NI 52-109 require each certifying officer to certify that an issuer's financial statements and other financial information (which includes non-GAAP financial measures, capital management measures, total of segments measures and supplementary financial measures) included in the annual or interim filings fairly present, in all material respects, the financial condition, financial performance and cash flows of the issuer, as of the date and for the periods presented. In addition, both section 6.8 of 52-109CP and part 6 of NP 51-201 provide guidance to assist an issuer with the adoption of good disclosure practices.
General comments	A number of commenters expressed the need for application guidance.	We agree with the comment and have provided more application guidance in the Proposed Companion Policy.
General comments	Some commenters expressed that specific regulation on non-financial measures or operational measures should be considered.	Non-financial measures and financial measures that do not meet one of the defined terms are excluded from the scope of the

		Proposed Materials, although disclosures are subject to provisions in applicable securities legislation which, among other things, prohibits misleading statements. We caution against the general statement that operating measures are not within the scope of the Proposed Instrument, as certain measures may meet one of the defined terms within the Proposed Instrument.
General comments	Some commenters expressed the view that the CSA should monitor the use of information outside the financial statements and whether it is in the public interest for the credibility of this information to be enhanced by independent assurance.	We thank the commenters for their submissions. The use of non-GAAP financial measures continues to evolve, and we are actively monitoring developments in this area.
General comments	One commenter expressed that disclosure requirements should be the same for all financial measures.	No change. Disclosure requirements have been scaled to address specifically identified concerns.
General comments	Some commenters suggested delaying the Proposed Materials to allow the CSA to consider how the proposals interact with other initiatives, including the International Accounting Standards Board's (IASB) various projects under its headline theme "Better Communication in Financial Reporting".	We note that IASB project is still in the early stages of development. We are aware of the project and are monitoring developments. If necessary in the future, we may update the Proposed Materials (or other securities legislative requirements) to respond to these and other marketplace changes (if any).
General comments	A few commenters suggested that requiring additional disclosures of GAAP measures when disclosed outside the financial statements (total of segments measures and capital management measures) may create confusion or a perception that the CSA considers these measures non-GAAP. One commenter encouraged the CSA to be more explicit by indicating that the Proposed Materials are not intended to suggest that segment and capital management measures are non-GAAP.	The Proposed Materials explicitly exclude the financial measures that are presented or disclosed in the financial statements, such as total of segments measures or capital management measures, from the definition of a non-GAAP financial measure. Disclosure requirements under the Proposed Materials are intended to ensure that when these measures are disclosed outside the financial statements, that investors and other users appreciate the context.
General comments	Many commenters expressed desire to cross-reference between documents for compliance with the Proposed Materials.	Change made. We thank commenters for the suggestions on how to implement a cross-referencing framework. We agree that a form of cross-referencing would be a beneficial feature of the Proposed Materials. Refer to section 5 of Proposed Materials.
Part 1 – Definitions		
s. 1	We received a significant number of comments regarding the proposed definitions, and how those definitions in the Original Materials may capture more financial measures than desired.	Changes made. Defined terms have been revised. We have also expanded examples provided within the Proposed Companion Policy.
Part 1 – Application		
General comments	Commenters generally noted that the Original Materials are overly broad, and it was unclear on the policy rationale for why new disclosure-related requirements should be applied to issuers who are not otherwise subject to obligations of continuous disclosure. One commenter recommended that the Proposed Materials should apply to reporting	Change made. Part 1 has been revised.

	issuers, and non-reporting issuers that disseminate non-GAAP financial measures in the context of securities distribution.	
s. 2	Several commenters submitted that investment funds subject to National Instrument 81-106 *Investment Fund Continuous Disclosure* (**NI 81-106**) should be excluded on the basis that there are no specific concerns raised on non-GAAP financial measures used by investment funds, and investors understand and are accustomed to disclosures currently provided under NI 81-106.	Change made. See s. 4(a)
s. 2(1)	Commenters generally expressed that the SEC foreign issuer exemption is appropriate. A number of commenters also recommended that the same exemption should apply to Canadian SEC issuers. A few commenters also questioned the appropriateness of exempting SEC foreign issuers on the basis that different information presented for Canadian issuers and SEC foreign issuers will reduce comparability of information provided.	No change made. The exemption for SEC foreign issuers is consistent, and based on similar rationale, to other exemptions provided to these issuers under current Canadian securities legislation.
s. 2(1)	Some commenters expressed confusion as to what constitutes an SEC foreign issuer, and whether it applies to Canadian "foreign private issuers" as that term is defined under SEC rules and regulations.	Refer to s. 4(b) in the Proposed Companion Policy. Clarification regarding application made.
s. 2(1)	A few commenters recommended that the exemption for SEC foreign issuers be expanded to also included designated foreign issuers.	Change made.
Application to executive compensation	A number of commenters requested for clarification on how the Proposed Materials relate to executive compensation disclosure. While some commenters provided a strong recommendation that executive compensation disclosure be added to the explicit list of documents included in the Proposed Materials and we should increase disclosure requirements for these specific measures, we heard contrary views that executive compensation should be excluded.	We thank commenters for their views. Non-GAAP financial measures are used for a variety of purposes and we did not see the policy rationale specific to executive compensation that should be different than other uses of non-GAAP financial measures.
Application to documents	Commenters provided mixed views on the application to documents made available to the public in the local jurisdiction. While we received support for this, we also received comments that the Proposed Materials should be more limited to documents that are intended to be used by the investment and/or analyst community.	Change made. We are limiting the scope of the Proposed Materials for non-reporting issuers to specific documents. However, we have retained the scope for reporting issuers and instead excluded certain disclosures required under specific securities legislation as well as disclosures in certain filings.
Application to documents	Commenters requested clarity in defining what constitutes a "document".	Change made.
Application to documents	Commenters requested clarity in the term "made available to the public". They questioned whether the concept noted in NP 51-201 regarding dissemination broadly to the investing public (s. 1.1(1)) may be a more appropriate standard.	We note that "made available to the public" is a common concept used in securities legislation. For example, a document filed electronically in accordance with National Instrument 13-101 *System for Electronic Document Analysis and Retrieval* (*SEDAR*) may be accessible to the public. National Instrument 43-101 *Standards of Disclosure for*

		Mineral Projects (**NI 43-101**) uses "made available to the public" in the definition of "disclosure". Another example is in National Instrument 51-102 *Continuous Disclosure Obligations* (**NI 51-102**) where the term "public" is used in relation to proxy solicitation. In addition, the term "public" is used throughout NP 51-201.
Application to non-reporting issuers	Three commenters suggested that offering memorandums whose form is not prescribed by regulation should be excluded from the Proposed Materials on the policy basis that these offering memorandums are prepared on a voluntary basis, and the prospectus exemption upon which issuers rely is not based on the information the investors received, but on the investors' sophistication. Issuers are already careful to ensure offering memorandums do not contain a misrepresentation.	Change not made. The Proposed Materials will apply to disclosures made by an issuer in a document that is filed with a securities regulatory authority in reliance on the offering memorandum exemption. There is a policy decision that non-GAAP financial measures, non-GAAP ratios, and other financial measures contained in documents being used to raise capital are included within the scope of the Proposed Materials.
Application to an issuer's own financial results	One commenter suggested that the Proposed Materials should be limited in scope to disclosure of the issuer's own financial results. The commenter raised the concern that an issuer may have difficulties in complying with the Proposed Materials, for example, when disclosing financial measures of an acquisition target's financial results.	Change not made. The Proposed Materials are applicable to all disclosure of non-GAAP financial measures, non-GAAP ratios and other financial measures within documents as set out in the Application section. The concern is noted. However, disclosure of non-GAAP financial measures, non-GAAP ratios, and other financial measures is voluntary, and we did not see sufficient policy rationale to exclude these types of financial measures provided by an issuer in their documents.
Application to oil and gas activities	One commenter expressed concern for how disclosures of measures within National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities* will be in scope of the Proposed Materials.	Change made.
s. 2(2)	A few commenters requested clarity on the term "specific financial measures", and provided recommendations to expand the types of specific financial measures that are excluded from the scope of the Proposed Materials.	The term "specific financial measures" has been removed and replaced with a broader category of financial measures that are excluded from the scope of the Proposed Materials.
s. 2(2)	The majority of commenters expressed that oral statements should be excluded from the scope, including transcripts of oral statements. We also received one conflicting comment that oral statements should be covered when these are relied upon for investment or voting decisions.	We thank the commenters for their submissions. We agree with our initial policy decision to exclude oral statements from scope, and have explicitly excluded transcripts of oral statements from scope. We remind issuers of the securities legislation requirements not to disclose misleading information.
s. 2	One commenter suggested that third-party valuation reports prepared by a third party firm excluded from the Proposed Materials.	Change made.
Part 2 – Disclosure Requirements for Non-GAAP Financial Measures		
General comments	A few commenters suggested additional disclosure requirements for non-GAAP financial measures, including specific labelling requirements (e.g. requiring the use of specific descriptors or terminology), and more explicit cautionary	We thank commenters for their submissions. We agree with our initial policy decision to not prescribe specific labelling requirements, and consider that the cautionary language in s. 6(e)(ii) provides sufficient information to

	statements.	investors that non-GAAP financial measures do not have standardized meaning.
s. 3(b)	Commenters provided mixed views on the prominence requirements. While a few noted that the Proposed Materials should be consistent with the SEC rules and regulations on non-GAAP financial measures, other commenters expressed that the Proposed Materials are too prescriptive.	Change not made. We thank commenters for their submissions. Prominence is a concern of regulators.
s. 3(c)	A few commenters requested clarity on disclosure of comparative period financial measures. A few commenters requested that the Proposed Materials should contain language exempting this requirement when it is impracticable to present a comparative period.	Change made, including additional clarifying language in the Proposed Companion Policy.
s.3(d)(iii), 3(d)(iv)	Some commenters expressed concerns over the term “reasonable person”, and questioned how this standard will affect expectations on issuers' compliance with disclosure obligations.	We thank commenters for their submissions. The term “reasonable person” has been removed in relation to providing useful information and has been changed to investor, although it has been retained in relation to providing a quantitative reconciliation in s. 6(e)(v). Clarifying language has been included in the Proposed Companion Policy.
s. 3(d)(iv)	Two commenters suggested there was overlap in the requirements to provide a quantitative reconciliation that is disaggregated in such a way that it provides a reasonable person an understanding of the reconciling items, and explained in such a way that it provides a reasonable person an understanding of each reconciling item.	Change made. We clarified that s. 6(e)(v)(A) is in regards to the quantitative reconciliation, and (B) is in regards to the narrative accompanying the reconciling items.
s. 3(d)(iv)	One commenter suggested that the most directly comparable financial measure for the purposes of providing a quantitative reconciliation could be to a financial measure within the notes to the financial statements, instead of only to a measure presented in the primary financial statements.	Change not made. We thank the commenter for the suggestion, but confirm the policy decision that the most comparable financial measure is to a financial measure within the primary financial statements. The notes to the financial statements are intended to provide further information regarding financial measures in the primary financial statements, and we do not consider this requirement difficult to comply with.
s. 3	One commenter recommended to include further disclosure requirements if a non-GAAP measure reported by an issuer ceases to be reported, and that the issuer provide disclosure allowing users to understand why the basis for reporting a non-GAAP financial measure has changed.	Change not made. We thank the commenter for the suggestion. The disclosure requirements within section 6 should provide sufficient information when there are new or changed non-GAAP financial measures.
Part 2 – Disclosure Requirements for Non-GAAP Financial Measures that are Ratios		
General comments	A number of commenters highlighted the inconsistency with the SEC.	Change made. We have revised the framework for ratios which will typically be either a non-GAAP ratio or supplementary financial measure, and we have reduced the disclosure requirements for both.
Part 2 – Disclosures Requirements for Non-GAAP Financial Measures that are Financial Outlooks		

General comments	A number of commenters suggested that the proposed disclosure requirements for non-GAAP financial measures that are forward-looking information are complex and questioned the usefulness of certain disclosure requirements.	Changes made. We thank commenters for their suggestions. We have made changes to the disclosure requirements under section 7, including a reduction in disclosure requirements.
Part 2 – Disclosure Requirements for Segment Measures		
General comments	One commenter noted that "total of segment measures" are considered non-GAAP financial measures under SEC rules and regulations for non-GAAP financial measures (Regulation G and Item 10(e) of Regulation S-K) but are defined as "total of segments measure" under the Proposed Materials. Given the different classification under the two jurisdictions, the commenter was concerned about compliance of dual-listed reporting issuers.	We have added guidance in the Companion Policy that SEC issuers may refer to such measures as non-GAAP financial measures and provide, at minimum, the associated disclosures required in section 9.
General comments	Some commenters suggested that if information on total of segments measures are provided within the financial statements, this disclosure need not be repeated in documents outside the financial statements.	We thank commenters for their suggestion. The proposed disclosures ensure readers appreciate the context of total of segments measures when these measures are disclosed outside the financial statements.
General comments	Some commenters requested clarity on the what constitutes a "segment" in comparison to a "reportable segment".	Change made.
General comments	One commenter suggested that the requirement to disclose a comparative measure should be removed.	We thank the commenter for their suggestion. The disclosure requirement provides that if the total of segments measure has been previously disclosed in the comparative period, then in the current period, both must be disclosed for comparability.
Part 2 – Disclosure Requirements for Capital Management Measures		
General comments	Some commenters suggested that if information on capital management measures is provided within the financial statements, this disclosure need not be repeated in documents outside the financial statements.	Change made. We thank commenters for their suggestion. Issuers may include disclosure requirements under the Proposed Materials within the notes to the financial statements for compliance.
s. 7(2)(b)(iv)	Two commenters suggested that more guidance be provided on the level of detail expected for the quantitative reconciliation requirement.	Change made. Additional clarifying language has been included within the Proposed Companion Policy.
s. 7(2)(b)(iv)	One commenter suggested eliminating the quantitative reconciliation requirement for capital management measures that are ratios, as generally it is difficult to identify the most directly comparable financial measure presented in the primary financial statements.	Change made.
Part 2 – Disclosure Requirements for Supplementary Financial Measures		
General comments	Commenters provided mixed views on disclosure requirements. Some commenters were of the view that there should be additional disclosure requirements, while other commenters disagreed with including disclosure requirements for supplementary financial measures.	We thank commenters for their suggestions. We maintain the policy decision to require certain disclosures when supplementary financial measures are disclosed. However, the disclosure requirements have been scaled to address specific risks. Transparency around the composition of these measures is

		the primary concern we identified, which is addressed in the Proposed Materials.
General comments	One commenter raised questions on the requirement within the Original Materials to explain the reason for the change in label, composition and calculation and whether this is useful information.	Change made. The disclosure requirement has been removed.
General comments	One commenter recommended disclosure requirements for additional subtotals and totals within the financial statements.	Change not made. It is outside the scope of the project to set requirements for financial statement disclosures.

ANNEX C

Summary of Changes Made in the Proposed Instrument

This annex summarizes the substantive changes made in the Proposed Instrument.

Definitions

- The defined term "non-GAAP financial measure" has been changed in response to comments received. The new definition is more consistent with CSA Staff Notice 52-306 (Revised) *Non-GAAP Financial Measures* and with rules and guidance of other securities regulators, including the U.S. Securities and Exchange Commission (SEC). This revised definition reduces the scope of financial measures captured compared to the Original Materials. Ratios are specifically excluded from the defined term. The scope of what is captured as a "non-GAAP ratio" has also been substantially reduced. Only ratios where a non-GAAP financial measure is used in the numerator or the denominator, or both, are captured. This is dealt with in a separate section within the Proposed Instrument.

- The defined term "segment measure" has been changed to "total of segments measure", and the definition has been clarified in response to comments received. This revised term captures only a subtotal or total of two or more reportable segments. This clarifies that not all segment measures are captured within the defined term, for example, measures of a discrete reportable segment.

- The defined term "supplementary financial measure" has been changed to reflect the changes in the defined term "non-GAAP financial measure".

- Transcripts of an oral statement are specifically excluded. Only oral statements were excluded in the Original Materials.

Application

- In addition to excluding SEC foreign issuers, we have reduced the scope of application of the Proposed Instrument by:

  - only capturing disclosures by reporting issuers and issuers that are not reporting issuers in a document that is subject to prospectus requirements, filed in connection with reliance on the offering memorandum exemption, and other similar documents submitted to a recognized exchange,

  - excluding issuers that are investment funds as defined in National Instrument 81-106 *Investment Fund Continuous Disclosure* and designated foreign issuers as defined in National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers,* and

  - excluding disclosures that are required under National Instrument 43-101 *Standards of Disclosure for Mineral Projects* and National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities* (**NI 51-101**), except for voluntary disclosures using oil and gas metrics under section 5.14 of NI 51-101.

- We have expanded the list of specific documents and financial measures that the Proposed Instrument does not apply to including valuations reports and pro forma financial statements.

- We have also excluded financial measures disclosed in compliance with a requirement under law or by an SRO to which the issuer is a member. This includes any system of regulation of a government or governmental authority or SRO that is applicable to the issuer, not just limited to the laws of a jurisdiction of Canada as originally included in the Original Materials.

Incorporating Information by Reference

- We have introduced a form of cross-referencing in certain discrete documents back to an issuer's MD&A through incorporating information by reference.

Disclosure Requirements

- Subparagraph 6(b), disclosure requirements for non-GAAP financial measures that are historical information, has been added to clarify that disclosure of a non-GAAP financial measure must be accompanied by the disclosure of the most comparable financial measure presented in the primary financial statements.

- Subparagraph 6(e)(iii), disclosure requirements for non-GAAP financial measures that are historical information, has been added to clarify that disclosure of a non-GAAP financial measure must provide an explanation of the composition of the measure.

- Section 7, disclosure requirements for non-GAAP financial measures that are forward-looking information, has been substantially revised to reduce the disclosure requirements and enhance readability. The requirement for a quantitative reconciliation has been removed and replaced with a requirement to describe each reconciling item between the non-GAAP financial measure that is forward-looking information and the historical non-GAAP financial measure. SEC Issuers, as defined in National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*, may instead comply with Regulation G under the 1934 Act to comply with this disclosure requirement.

- Disclosures of non-GAAP financial measures used in ratios has been separated, with reduced disclosure requirements from the Original Materials.

- Subparagraph 10(a)(ii) allows issuers to make certain disclosures related to capital management measures within their financial statements to comply with the Proposed Instrument instead of directly within documents outside the financial statements.

- Section 11, disclosure for supplementary financial measures, has been revised to remove requirements to present the comparative period and explain the reason for a change, if any, from the comparative period.

ANNEX D

PROPOSED NATIONAL INSTRUMENT 52-112 *NON-GAAP AND OTHER FINANCIAL MEASURES DISCLOSURE*

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PROPOSED NATIONAL INSTRUMENT 52-112 *NON-GAAP AND OTHER FINANCIAL MEASURES DISCLOSURE*

PART 1

DEFINITIONS, APPLICATION AND INCORPORATING INFORMATION BY REFERENCE

Definitions

1. In this Instrument

"capital management measure" means a financial measure presented by an issuer that

(a) is intended to enable a person to evaluate an entity's objectives, policies and processes for managing the entity's capital, and

(b) is presented in the notes to the financial statements of the entity but is not presented in the primary financial statements of the entity;

"forward-looking information" has the meaning ascribed to it in National Instrument 51-102 *Continuous Disclosure Obligations*;

"MD&A" has the meaning ascribed to it in National Instrument 51-102 *Continuous Disclosure Obligations*;

"non-GAAP financial measure" means a financial measure presented by an issuer that

(a) depicts the historical or expected future financial performance, financial position or cash flow of an entity,

(b) with respect to its composition, excludes an amount that is included in, or includes an amount that is excluded from, the composition of the most comparable financial measure presented in the primary financial statements of the entity,

(c) is not presented in the financial statements of the entity, and

(d) is not a ratio;

"non-GAAP ratio" means a financial measure presented by an issuer in the form of a ratio, fraction, percentage or similar representation and that has a non-GAAP financial measure as one of its components;

"primary financial statements" means, with respect to an entity, any of the following:

(a) the statement of financial position;

(b) the statement of profit or loss and other comprehensive income;

(c) the statement of changes in equity;

(d) the statement of cash flows;

"reportable segment" means a reportable segment as described in the accounting principles used to prepare an entity's financial statements;

"specified financial measure" means any of the following:

(a) a non-GAAP financial measure;

(b) a non-GAAP ratio;

(c) a total of segments measure;

(d) a capital management measure;

(e) a supplementary financial measure;

"supplementary financial measure" means a financial measure presented by an issuer that

(a) is, or is intended to be, disclosed on a periodic basis to depict the historical or expected future financial performance, financial position or cash flow of an entity,

(b) is not presented in the financial statements of the entity,

(c) is not a non-GAAP financial measure, and

(d) is not a non-GAAP ratio;

"total of segments measure" means a financial measure presented by an issuer that

(a) is a subtotal or total of financial measures of two or more reportable segments of an entity, and

(b) is presented in the notes to the financial statements of the entity but is not presented in the primary financial statements of the entity.

Application – reporting issuers

2. This Instrument applies to a reporting issuer in respect of its disclosure of a specified financial measure in a document if the document is intended to be, or reasonably likely to be, made available to the public.

Application – issuers that are not reporting issuers

3. This Instrument applies to an issuer that is not a reporting issuer in respect of its disclosure of a specified financial measure in a document if the document is

(a) subject to National Instrument 41-101 *General Prospectus Requirements*,

(b) filed with a regulator or a securities regulatory authority in connection with a distribution made in reliance on the offering memorandum exemption under National Instrument 45-106 *Prospectus Exemptions*, or

(c) submitted to a recognized exchange in connection with a qualifying transaction, reverse takeover, change of business, listing application, significant acquisition or similar transaction.

Application – exceptions

4. Despite section 2 or 3, this Instrument does not apply to the following:

(a) an investment fund as defined in National Instrument 81-106 *Investment Fund Continuous Disclosure*;

(b) a designated foreign issuer, or an SEC foreign issuer, as defined in National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers*;

(c) an issuer in respect of disclosure required under any of the following:

(i) National Instrument 43-101 *Standards of Disclosure for Mineral Projects*;

(ii) section 5.4 of Form 51-102F2 *Annual Information Form*;

(iii) National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities*, other than section 5.14 of that Instrument;

(d) an issuer in respect of disclosure in any of the following:

(i) a filing required under subparagraph 9.1(1)(a)(vi) or 9.2(a)(v) of National Instrument 41-101 *General Prospectus Requirements* or section 2.5 of Form 51-102F4 *Business Acquisition Report*;

(ii) pro forma financial statements required to be filed under securities legislation;

(iii) a filing required under section 12.1 or 12.2 of National Instrument 51-102 *Continuous Disclosure Obligations*;

(iv) a transcript of an oral statement;

(e) an issuer in respect of disclosure of a financial measure if

(i) disclosure of the financial measure is required under law or by an SRO of which the issuer is a member,

(ii) the law or the SRO's requirement specifies the composition of the financial measure and the financial measure was determined in compliance with that law or requirement, and

(iii) in proximity to the financial measure, the issuer discloses the law or the SRO's requirement under which the financial measure is disclosed.

Incorporating information by reference

5.(1) Subject to subsection (3), an issuer may incorporate by reference the information required under any of the following provisions, if the reference is to the MD&A of the issuer:

(a) subparagraphs 6(e)(iv), (v) and (vi);

(b) paragraph 7(2)(d);

(c) subparagraphs 8(d)(iii) and (iv);

(d) paragraph 9(c);

(e) subparagraph 10(a)(ii).

(2) If, as permitted under subsection (1), an issuer incorporates any information by reference into a document, the issuer must include all of the following in the document:

(a) a statement indicating that the required information is incorporated by reference;

(b) a statement that specifies the location of the required information in the MD&A;

(c) a statement that the MD&A is available on SEDAR at www.sedar.com.

(3) Subsection (1) does not apply if the document that contains the specified financial measure is

(a) the MD&A filed by the issuer, or

(b) a news release issued or filed by the issuer.

PART 2

DISCLOSURE REQUIREMENTS

Non-GAAP financial measures that are historical information

6. An issuer must not disclose a non-GAAP financial measure that is historical information in a document unless all of the following apply:

(a) the non-GAAP financial measure is labelled using a term that,

(i) given the measure's composition, describes the measure, and

(ii) distinguishes the measure from totals, subtotals and line items presented in the primary financial statements of the entity to which the measure relates;

(b) the document presents the most comparable financial measure that is presented in the primary financial statements of the entity to which the measure relates;

(c) the non-GAAP financial measure is presented with no more prominence in the document than that of the most comparable financial measure referred to in paragraph (b);

(d) the document presents the non-GAAP financial measure, determined using the same composition, for a comparative period, unless it is impracticable to present the measure for the comparative period;

(e) in proximity to the first instance of the non-GAAP financial measure in the document, the document

(i) identifies the measure as a non-GAAP financial measure,

(ii) explains that the non-GAAP financial measure is not a standardized financial measure under the financial reporting framework used to prepare the financial statements of the entity to which the measure relates and might not be comparable to similar financial measures presented by other issuers,

(iii) explains the composition of the non-GAAP financial measure,

(iv) provides, directly or by incorporating it by reference as permitted by section 5, an explanation of how the non-GAAP financial measure provides useful information to an investor and explains the additional purposes, if any, for which management uses the non-GAAP financial measure,

(v) provides, directly or by incorporating it by reference as permitted by section 5, a quantitative reconciliation, to the most comparable financial measure referred to in paragraph (b), that

(A) is disaggregated quantitatively in a way that would enable a reasonable person applying a reasonable effort to get an understanding of the reconciling items,

(B) explains each reconciling item, and

(C) does not describe a reconciling item as "non-recurring", "infrequent", "unusual", or using a similar term, if a loss or gain of a similar nature is reasonably likely to occur within the entity's two financial years that immediately follow the disclosure, or has occurred during the entity's two financial years that immediately precede the disclosure, and

(vi) provides, directly or by incorporating it by reference as permitted by section 5, an explanation of the reason for a change from the comparative period, if any, in the label or composition of the non-GAAP financial measure.

Non-GAAP financial measures that are forward-looking information

7.(1) In this section,

"historical non-GAAP financial measure" means a non-GAAP financial measure that is historical information and has the same composition as a non-GAAP financial measure that is forward-looking information;

"SEC issuer" has the meaning ascribed to it in National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*.

(2) An issuer must not disclose a non-GAAP financial measure that is forward-looking information in a document unless all of the following apply:

(a) the non-GAAP financial measure that is forward-looking information is labelled using the same label used for the historical non-GAAP financial measure;

(b) the document presents the historical non-GAAP financial measure;

(c) the non-GAAP financial measure that is forward-looking information is presented with no more prominence in the document than that of the historical non-GAAP financial measure;

(d) in proximity to the first instance of the non-GAAP financial measure that is forward-looking information in the document, the document provides, directly or incorporating it by reference as permitted by section 5, a description of any significant difference between the non-GAAP financial measure that is forward-looking information and the historical non-GAAP financial measure.

(3) Subsection (2) does not apply if the disclosure is made

(a) by an SEC issuer, and

(b) in compliance with Regulation G under the 1934 Act.

Non-GAAP ratios

8. An issuer must not disclose a non-GAAP ratio in a document unless all of the following apply:

(a) the non-GAAP ratio is labelled using a term that, given the non-GAAP ratio's composition, describes the non-GAAP ratio;

(b) the non-GAAP ratio is presented with no more prominence in the document than that of similar financial measures presented in the primary financial statements of the entity to which the non-GAAP ratio relates;

(c) the document presents the non-GAAP ratio for a comparative period using the same means of calculation, unless

(i) the non-GAAP ratio is forward-looking information, or

(ii) it is impracticable to present a comparative period;

(d) in proximity to the first instance of the non-GAAP ratio in the document, the document

(i) explains the composition of the non-GAAP ratio and identifies each non-GAAP financial measure that is used as a component of the non-GAAP ratio,

(ii) explains that the non-GAAP ratio is not a standardized financial measure under the financial reporting framework used to prepare the financial statements of the entity to which the non-GAAP ratio relates and might not be comparable to similar financial measures presented by other issuers,

(iii) provides, directly or by incorporating it by reference as permitted by section 5, an explanation of how the non-GAAP ratio provides useful information to an investor and explains the additional purposes, if any, for which management uses the non-GAAP ratio, and

(iv) provides, directly or by incorporating it by reference as permitted by section 5, an explanation of the reason for a change from the comparative period, if any, in the label or the composition of the non-GAAP ratio.

Total of segments measures

9. An issuer must not disclose a total of segments measure in a document, other than financial statements of the entity to which the measure relates, unless all of the following apply:

(a) the document presents the most comparable financial measure presented in the primary financial statements of the entity;

(b) the total of segments measure is presented with no more prominence in the document than that of the most comparable financial measure referred to in paragraph (a);

(c) in proximity to the first instance of the total of segments measure in the document, the document provides, directly or by incorporating it by reference as permitted by section 5, a quantitative reconciliation of the total of segments measure to the most comparable financial measure referred to in paragraph (a);

(d) the document presents the total of segments measure, determined using the same composition, for a comparative period, if the total of segments measure for the comparative period has been previously disclosed.

Capital management measures

10. An issuer must not disclose a capital management measure in a document, other than financial statements of the entity to which the measure relates, unless all of the following apply:

(a) in proximity to the first instance of the capital management measure in the document, the document

(i) explains the composition of the capital management measure, and

(ii) unless presented in the notes to the financial statements of the entity to which the measure relates,

(A) provides, directly or by incorporating it by reference as permitted by section 5, an explanation of how the capital management measure provides useful information to an investor and explains the additional purposes, if any, for which management uses the capital management measure, and

(B) unless the capital management measure is a ratio, fraction, percentage or similar representation, provides, directly or by incorporating it by reference as permitted by section 5, a quantitative reconciliation of the capital management measure to the most comparable financial measure presented in the primary financial statements of the issuer;

(b) the capital management measure is presented with no more prominence in the document than that of similar financial measures presented in the primary financial statements of the issuer;

(c) the document presents the capital management measure, determined using the same composition, for a comparative period, if the capital management measure for the comparative period has been previously disclosed.

Supplementary financial measures

11. An issuer must not disclose a supplementary financial measure in a document unless both of the following apply:

(a) the supplementary financial measure is labelled using a term that,

(i) given the measure's composition, describes the measure, and

(ii) distinguishes the measure from totals, subtotals and line items presented in the primary financial statements of the issuer;

(b) in proximity to the first instance of the supplementary financial measure in the document, the document provides an explanation of the composition of the supplementary financial measure.

PART 3

EXEMPTION

Exemption

12.(1) The regulator or the securities regulatory authority may grant an exemption from this Instrument, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.

(2) Despite subsection (1), in Ontario, only the regulator may grant such an exemption.

(3) Except in Alberta and Ontario, an exemption referred to in subsection (1) is granted under the statute referred to in Appendix B of National Instrument 14-101 *Definitions*, opposite the name of the local jurisdiction.

PART 4

EFFECTIVE DATE

Effective date

13. This Instrument comes into force on •, 202•.

ANNEX E

PROPOSED COMPANION POLICY 52-112 *NON-GAAP AND OTHER FINANCIAL MEASURES DISCLOSURE*

Introduction

National Instrument 52-112 *Non-GAAP and Other Financial Measures Disclosure* (the "Instrument") sets out specific disclosure requirements for non-GAAP financial measures, non-GAAP ratios, and other financial measures, which are capital management measures, supplementary financial measures, and total of segments measures, as defined in the Instrument (together the "specified financial measures").The purpose of this Companion Policy (the "Policy") is to state the view of the securities regulatory authorities on certain provisions of the Instrument.

This Policy includes explanations, discussions, and examples of various parts of the Instrument.

Interpretation of "filed" and "delivered" or "submitted"

The Instrument uses the terms "filed" and "submitted". This Policy also uses the term "delivered". Material that is filed in a jurisdiction will be made available to the public in that jurisdiction, subject to the provisions of securities legislation in the local jurisdiction. Material that is delivered to a regulator or securities regulatory authority, or submitted to a recognized exchange, but not filed, is not generally required under securities legislation to be made available to the public.

Document

A document is any written communication, including a communication prepared and transmitted in electronic form, e.g. a website, but does not include a transcript of an oral statement.

Specified Financial Measures Presented by an Issuer and Financial Statements of an Entity

An issuer may present a specified financial measure that is derived from its financial statements or the financial statements of another entity. The following are examples of financial statements of an entity, other than the issuer's financial statements, that a specified financial measure may be derived from:

- Financial statements filed by or included in a document filed by an issuer, for example, financial statements of a reverse takeover acquirer, financial statements of an acquired business;
- Financial statements that are required to be filed with or delivered to a regulator or a securities regulatory authority, or made reasonably available to each holder of a security acquired, as required by a provision of National Instrument 45-106 *Prospectus Exemptions* (NI 45-106);
- Financial statements of a subsidiary, joint venture or associate for which summarized financial information is presented in the notes to the financial statements of the issuer;
- Financial statements of an investment entity's investments, where supplemental financial information is included in the financial statements or the management's discussion & analysis (the "MD&A") of the investment entity; and
- Financial statements of an entity with which the issuer completed a transaction, included in a filing statement or a listing document.

Financial Measures

The Instrument applies when a specified financial measure is presented in a document. If the financial measure is only identified by label without a corresponding numerical amount or measure, a specified financial measure has not been disclosed and, thus, the disclosure requirements within the Instrument do not apply.

For clarity, the Instrument does not apply to qualitative disclosure of targets, benchmarks or covenants that are not accompanied by a financial numerical amount or measure.

Financial Reporting Framework, Accounting Principles, and Accounting Policies

In Canada, there are different financial reporting frameworks for different types of Canadian entities. Generally Accepted Accounting Principles (GAAP) is a common term used to refer to a financial reporting framework which are the accounting principles that are generally accepted in a jurisdiction. National Instrument 52-107 *Accounting and Auditing Principles* prescribes, among other things, acceptable accounting principles, such as International Financial Reporting Standards (IFRS).

The application of accounting principles often requires specific accounting policies. Accounting policies encompass all accounting policies applied in preparing and presenting financial statements, not just those which are presented in the notes to the financial statements.

Misleading

Compliance with the Instrument does not relieve an issuer from other obligations under securities legislation. Specifically, an issuer may not present a specified financial measure in a way that would be misleading.

Section 1 - Definition of a non-GAAP financial measure

Common terms used to identify non-GAAP financial measures may include “adjusted earnings”, “adjusted EBITDA”, “free cash flow”, “pro forma earnings”, “cash earnings”, “distributable cash”, “adjusted funds from operations”, “earnings before non-recurring items” and measures presented on a constant-currency basis. Many of these terms lack standard meanings and issuers across a spectrum of industries may use the same term to refer to different compositions.

The following are examples of measures that are not captured by the definition:

- Amounts that do not depict historical or future “financial performance”, “financial position” or “cash flow”, which relate to elements of the primary financial statements as defined in the Instrument, such as share price, market capitalization, or credit rating.

- Financial information that does not have the effect of providing a financial measure that is different from a financial measure presented in the primary financial statements, such as the addition or subtraction of an identical line item, subtotal or total originating from multiple periods of primary financial statements. For example, rolling 12-month results or fourth quarter revenue calculated by subtracting year-to-date third quarter revenue from the annual revenue presented in primary financial statements.

Component Information

When an issuer presents a financial statement line item in a more granular way outside the financial statements, it may be a component of a line item for which the component has been calculated in accordance with the accounting policies used to prepare the line item presented in the financial statements. Such a measure would not be a non-GAAP financial measure. However, in such a situation, the issuer should consider whether such a measure meets the definition of a supplementary financial measure.

For example, an issuer may disclose sales per square foot on a periodic basis to depict its financial performance. When the sales figure, included in sales per square foot, is extracted directly from the primary financial statements or is a component of such line item (where the component is calculated in accordance with the issuer’s accounting policies used to prepare the line item presented in the financial statements), the “sales per square foot” measure would not meet the definition of a non-GAAP ratio but would meet the definition of a supplementary financial measure. However, if the sales figure is adjusted in any way, the “sales per square foot” measure in this example would meet the definition of a non-GAAP ratio.

Conversely, when the measure is not calculated in accordance with the issuer’s accounting policies, such measure would meet the definition of a non-GAAP financial measure. For example, if the sales figure in “sales per square foot” is sales presented on a constant-dollar basis, this constant-dollar sales figure meets the definition of a non-GAAP financial measure since it excludes amounts (i.e. the effect of foreign exchange differences) that are included in the most comparable measure presented in the primary financial statements (i.e. sales). As a result, the “constant dollar sales per square foot” measure in this example would meet the definition of a non-GAAP ratio.

Combinations of Line Items

A financial measure calculated by combining financial information that originates from different line items from the primary financial statements would meet the definition of a non-GAAP financial measure if the measure depicts financial performance, financial position or cash flow, unless that resulting measure is separately presented in the notes to the financial statements.

Non-GAAP Financial Measures that are Forward-looking Information

Forward-looking information for which there is an equivalent historical financial measure presented in the financial statements does not meet the definition of a non-GAAP financial measure. Therefore, section 7 of the Instrument does not apply to such measures as future capital management measures and future total of segments measures. Issuers are reminded that such forward-looking information is subject to the disclosure requirements in parts 4A and 4B and section 5.8 of National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102).

For example, if revenue is presented on a forward-looking basis using the accounting policies applied by the issuer in its latest set of financial statements (i.e. revenue as presented in the primary financial statements adjusted only for assumptions about future economic conditions and courses of action), it is not a non-GAAP financial measure. Conversely, if an issuer discloses EBITDA on forward-looking basis, and does not present or disclose this financial measure in the financial statements, it does meet the definition of a non-GAAP financial measure.

Non-Financial Information

For clarity, the definition of a non-GAAP financial measure does not include non-financial information such as the following:

- number of units;
- number of subscribers;
- volumetric information;
- number of employees or workforce by type of contract or geographical location;
- environmental measures such as greenhouse gas emissions;
- information on major shareholdings;
- acquisition or disposal of the issuer's own shares; and
- total number of voting rights.

The above list is not exhaustive.

We remind issuers that while non-financial information is not subject to the requirements of the Instrument, non-financial information is subject to various disclosure requirements under applicable securities legislation, including the requirement not to disclose misleading information.

Section 1 – Definition of primary financial statements

The Instrument uses the terms "statement of financial position", "statement of profit or loss and other comprehensive income", "statement of changes in equity", and "statement of cash flows", to describe the primary financial statements. Issuers may use titles for the statements other than those terms if the titles comply with the accounting policies used in the preparation of the financial statements. For example, an issuer may use the title of "balance sheet" instead of "statement of financial position".

Section 1 - Definition of a supplementary financial measure

Component Information

An issuer that operates in the retail industry may disclose financial results for "same-store sales" each reporting period. Where same-store sales, a component of overall sales, is calculated in accordance with the accounting policies used to prepare the sales line item presented in the primary financial statements, it would not meet the definition of a non-GAAP financial measure. However, since in this example "same-store sales" is used by the issuer to report sales performance from period to period, it would meet the definition of a supplementary financial measure.

For clarity, if an issuer discloses a financial measure that is a component of a financial statement line item to explain how the financial statement line item changed from period to period, such a measure would not meet the definition of a supplementary financial measure if the measure is not intended to be disclosed on a periodic basis. For example, if an issuer experienced an unexpected increase in administrative expenses, it may analyze the reasons for changes in administrative expenses by, among other things, disclosing information about its insurance expense, a component of overall administrative expenses. In this example, insurance expense would not meet the definition of a supplementary financial measure where the insurance expense was calculated in accordance with the accounting policies used to prepare the administrative expenses line item presented in the primary financial statements.

Periodic Basis

An element of the definition of a supplementary financial measure is that it is disclosed or is intended to be disclosed on a periodic basis. A measure will not be precluded from being considered a supplementary financial measure the first time it is disclosed if the measure is intended to be disclosed on an ongoing basis (e.g., in future quarterly and/or annual disclosures).

Financial Ratios

A financial ratio that is not a non-GAAP ratio would typically meet the definition of supplementary financial measure because such ratio is often disclosed on a periodic basis to depict historical or future financial performance, financial position or cash flow.

Financial ratios contain at least one financial component (either the numerator or the denominator).

Examples include, but are not limited to the following ratios:

- liquidity ratios such as the current ratio;
- solvency ratios such as the debt-to-equity ratio;
- profitability ratios such as the return on equity ratio or revenue per user; and
- activity ratios such as the inventory turnover ratio.

Section 2 – Application to reporting issuers

Websites and Social Media

The Instrument applies to a reporting issuer in respect of its disclosure, on a website and social media, of a specified financial measure.

A reporting issuer should not disclose a specified financial measure using social media, if it is unable to include all the relevant disclosure.

If a reporting issuer uses social media to provide links to publications (e.g., analyst reports), such publications are within the scope of the Instrument.

Statement of Executive Compensation

For clarity, the Instrument applies to Form 51-102F6 *Statement of Executive Compensation* (Form 51-102F6). Form 51-102F6 requires, among other things, an issuer that discloses performance goals or similar conditions that are non-GAAP financial measures, to explain how the issuer calculates these performance goals or similar conditions.

In the context of Form 51-102F6, if a financial measure is identified (e.g., adjusted net income) and the calculation is described (e.g., net income adjusted for foreign exchange gains or losses) but no financial amount is presented (i.e., no dollar amount), it would not be within the scope of the Instrument because a financial measure has not been presented – only identified and described.

If a non-GAAP financial measure amount or other specified financial measure amount that is in scope of the Instrument is disclosed in Form 51-102F6 (e.g., adjusted net income of $X), part 2 of the Instrument applies.

Section 3 – Application to issuers that are not reporting issuers

The Instrument applies to an issuer that is not a reporting issuer in respect of its disclosure of a specified financial measure in a document if the document is filed with a regulator or a securities regulatory authority in connection with a distribution made in reliance on the offering memorandum exemption under NI 45-106. The following are examples of document that are within the scope of the Instrument:

- the offering memorandum filed; and
- the offering memorandum marketing materials filed with a regulator or a securities regulatory authority.

Subparagraphs 4(c)(i) and (ii) – Mineral projects

The Instrument does not apply to disclosure required under *National Instrument 43-101 Standards of Disclosure for Mineral Projects* (NI 43-101) related to an issuer's material mineral project. For example, item 22 of Form 43-101F1 *Technical Report* requires an issuer to disclose an economic analysis that includes certain financial measures. Item 5.4 of Form 51-102F2 *Annual Information Form* requires an issuer to disclose certain measures such as capital and operating costs, and annual cash flow, net present value, internal rate of return, and payback period disclosed in an economic analysis.

The Instrument does not apply to these measures because they are specifically required to be disclosed under NI 43-101. However, if an issuer discloses a financial measure that is not specifically required to be disclosed under NI 43-101, for example, EBITDA, it may be considered a non-GAAP financial measure or other specified financial measure and, thus, is within the scope of the Instrument.

Subparagraph 4(c)(iii) – Oil and gas metrics

The Instrument does not apply to disclosure required under National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities* (NI 51-101). However, disclosures of oil and gas metrics that are made under section 5.14 of NI 51-101 are subject to the requirements of the Instrument because such disclosure is made on a voluntary basis.

Subparagraph 4(d)(ii) – Pro forma financial statements

The Instrument does not apply to pro-forma financial statements included in a filing required under securities legislation, such as pro-forma financial statements required to be included in a business acquisition report under NI 51-102.

The Instrument does apply to pro-forma financial statements included in a filing made on a voluntary basis (i.e., it is not explicitly required under securities legislation).

Paragraph 4(e) – Financial measures required under law or by an SRO

Financial measures that are required to be disclosed by a law or SRO of which the issuer is a member and which composition is determined in compliance with the law or the requirement of the SRO are not subject to the Instrument. This includes financial measures disclosed in accordance with prescribed requirements under applicable securities legislation. For example, disclosure of earnings coverage ratios prescribed by item 9 of Form 41-101F1 *Information Required in a Prospectus* are not subject to the Instrument.

While disclosure of a financial measure in order to comply with other securities legislation is not subject to the requirements of the Instrument, the disclosure is subject to the provisions of that legislation. Voluntary disclosure that is permitted but is not required by other securities legislation is subject to the requirements of the Instrument.

The Instrument also does not apply to a financial measure that is disclosed in accordance with the laws of a jurisdiction of Canada, or jurisdiction outside Canada, including governments, governmental authorities and SROs. This exclusion is, however, only applicable in situations where a financial measure is required to be disclosed and the law specifically specifies its composition; for example, a government payment calculated and disclosed in accordance with the *Extractive Sector Transparency Measures Act* (Canada).

If an issuer discloses a financial measure that is prepared in accordance with voluntary guidance published by a government, governmental authority or SRO that is applicable to the issuer then the financial measure is subject to the requirements of this Instrument.

Section 5 – Incorporation by reference

The Instrument allows an issuer to incorporate by reference certain required disclosure, if the reference is to the issuer's MD&A. For clarity, the MD&A must be filed on SEDAR before it can be incorporated by reference under the Instrument. For example, if an issuer is filing an annual information form that includes non-GAAP financial measure information and the issuer is incorporating certain information in the MD&A by reference to satisfy the disclosure requirements of the Instrument, that MD&A would have to be filed on SEDAR prior to filing the annual information form.

Paragraph 5(2)(b) requires the identification of the specific location of the required information in the MD&A. Issuers would not satisfy this requirement with a general hyperlink to the relevant MD&A. To comply with the requirement the issuer would need to hyperlink or identify (e.g., identify the specific section) where the required information is specifically located within the MD&A.

Section 6 – Non-GAAP financial measures that are historical information

Paragraph 6(a) – Labelling non-GAAP financial measures that are historical information

Any label or term used to describe a non-GAAP financial measure or adjustments in a reconciliation must be appropriate given the nature of information.

For example, the following are not in compliance with the labelling requirement in paragraph 6(a) of the Instrument:

- Labels that are the same as, or confusingly similar to, those normally used under the accounting policies used to prepare the financial statements. For example, a measure labelled as "cash flows from operations" calculated as cash flows from operating activities before changes in non-cash working capital items, is confusingly similar to the term "cash flows from operating activities" specified in IAS 7 *Statement of Cash Flows*;

- Labels that purport to represent “results from operating activities” or a similar title but exclude items of an operating nature, such as inventory write-downs, restructuring costs, impairment of assets used for operations and stock-based compensation;
- Labels that are overly optimistic (e.g., guaranteed profit or protected returns); and
- Labels that may cause confusion based on the financial measure’s composition. For example, in presenting EBITDA as a non-GAAP financial measure, it would be inappropriate to exclude amounts for items other than interest, taxes, depreciation and amortization.

The above list is not exhaustive.

The label used for a non-GAAP financial measure that is historical information may arise from a written agreement, such as a credit agreement containing a material covenant regarding a non-GAAP financial measure. If the label in the written agreement is inconsistent with the requirements of paragraph 6(a) of the Instrument, the issuer will be expected to clarify that the label is from a written agreement so that a reader does not confuse it with an amount prepared in accordance with the accounting policies used in the preparation of the financial statements.

Paragraph 6(c) – Prominence of a non-GAAP financial measure that is historical information

Determining the relative prominence of a non-GAAP financial measure is a matter of judgment, considering the overall disclosure and the facts and circumstances in which the disclosure is made.

The presentation of a non-GAAP financial measure should not in any way confuse or obscure the presentation of financial measures presented in accordance with the accounting policies used in the preparation of the financial statements.

The following are examples that would cause a non-GAAP financial measure to be more prominent than the most comparable measure presented in the financial statements:

- Presenting a non-GAAP financial measure in the form of a statement of profit or loss and other comprehensive income without presenting it in the form of a reconciliation to the most comparable measure, sometimes referred to as a “single column approach”;
- Omitting the most comparable measure from a news release headline or caption that includes a non-GAAP financial measure;
- Presenting a non-GAAP financial measure using a style of presentation (for example, bold, underlined, italicized, or larger font) that emphasizes the non-GAAP financial measure over the most comparable measure;
- Multiple non-GAAP financial measures being used for the same purpose thereby obscuring disclosure of the most comparable measure;
- Providing tabular or graphical disclosure of non-GAAP financial measures without presenting an equally prominent tabular or graphical disclosure of the most comparable measures or without including the most comparable measures in the same table or graph; and
- Providing a discussion and analysis of a non-GAAP financial measure in a more prominent location than a similar discussion and analysis of the most comparable measure. For greater certainty, we take the view that a location is not more prominent if it allows an investor who reads the document, or other material containing the non-GAAP financial measure, to be able to view the discussion and analysis of both the non-GAAP financial measure and the most comparable measure contemporaneously. For example, within the previous, same or next page of the document.

The above list is not exhaustive.

The Instrument requires that the non-GAAP financial measure be presented with “no more prominence in the document than that of the most comparable financial measure” presented in the primary financial statements. If the most comparable measure is presented with “equal or greater prominence” than the non-GAAP financial measure, the requirement under paragraph 6(c) of the Instrument has been met.

The purpose of Form 51-102F6 is to provide information about executive compensation within the context of the overall stewardship and governance of the issuer, in contrast to disclosure explaining an issuer’s financial performance, financial position, or cash flow. Therefore, for purposes of Form 51-102F6 only, a reference to the specific location where disclosures are made in the MD&A as required by section 5 of the Instrument would provide sufficient prominence of the most comparable GAAP measure.

Paragraph 6(d) – Comparative information

Impracticable

Understandably, it is impracticable for an issuer to provide the comparative disclosure required by paragraph 6(d) of the Instrument when the current period is the first period of operations and no comparative period exists. We do not consider the cost or the time involved in preparing the comparative information to be sufficient rationale for an issuer to assert that it is impracticable to present such information.

Changes in Accounting Standards

We would not consider adoption of a new accounting standard, which would include adoption of amendments to current accounting standards, or a change in accounting policy, a basis for not presenting comparative period disclosure, as the composition of the non-GAAP financial measure should continue to be the same.

Adoption of new accounting standards, or changes in accounting policy, may modify measurement and recognition of transactions which will have an impact on line items, subtotals and totals over different financial periods. However, the composition of the non-GAAP financial measure itself should not change. For example, an issuer discloses EBITDA as its non-GAAP financial measure. In the current year it adopts a new accounting standard which modifies the classification of certain expenditures from administrative expense to interest expense. While the resulting EBITDA measure will no longer include those transactions, EBITDA will continue to have the same composition, as it will be comprised of earnings before interest, taxes, depreciation and amortization. Therefore, the issuer would not be subject to subparagraph 6(e)(vi).

The accounting policies used to prepare an entity's financial statements would determine whether comparative information is restated with adoption of a new accounting standard or change in accounting policy. For example, we expect comparative non-GAAP financial measures to be restated when a new accounting standard or policy is applied retrospectively to each prior reporting period presented. Conversely, if a new accounting standard is applied prospectively or retrospectively without restatement of a prior reporting period presented, the non-GAAP financial measures would also not be restated. In such circumstances, the issuer communicates that the comparative non-GAAP financial measures are presented under the previous accounting policies used to prepare the entity's financial statements.

In both cases, the composition of the non-GAAP financial measure has not changed, and disclosure under subparagraph 6(e)(vi) would not be required.

Paragraph 6(e) – Proximity to the first instance

The information required by paragraph 6(e) of the Instrument should be presented in the same document as the non-GAAP financial measure. To satisfy these requirements, an issuer may identify the non-GAAP financial measure as such when it first appears in the document and then reference a separate section within the same document that contains the disclosure required under subparagraphs 6(e)(ii), (iii), (iv), (v) and (vi) of the Instrument.

There may be types of documents where it is not clear when the non-GAAP financial measure first occurs or appears, for example, websites and social media. In these instances, the "first instance" disclosure requirements are satisfied by clearly identifying the financial measure as being a non-GAAP financial measure on each webpage where the financial measure appears and providing a website hyperlink to where the disclosures required by subparagraphs 6(e)(ii), (iii), (iv), (v) and (vi) are found (e.g., on another section of the website) with minimal to no scrolling or navigation.

To prevent duplicate disclosure, an issuer may provide all the required disclosures for all non-GAAP financial measures in one section of the document that contains the non-GAAP financial measures, and cross-reference that section each time a non-GAAP financial measure is presented in that document.

If there is a discrete document within a larger document (e.g., a pull-out glossy page in an annual report), both will be treated as separate documents.

Subparagraph 6(e)(i) – Identification of a non-GAAP financial measure

Non-GAAP financial measures do not have standardized meanings under the financial reporting framework used to prepare the financial statements of entity to which the measure relates. Therefore, it is important that non-GAAP financial measures are appropriately identified. This also signals to an investor that additional information about the measure should be considered as it may not be comparable to similar measures presented by other issuers.

An issuer may satisfy the subparagraph 6(e)(i) identification requirement by inserting a footnote to the non-GAAP financial measure with a statement or language similar to the following: "This is a non-GAAP financial measure. Refer to the Non-GAAP Financial Measures section of this document for more information on each non-GAAP financial measure".

Subparagraph 6(e)(iv) – Usefulness of non-GAAP financial measure disclosure

The Instrument does not define the term "useful". The term "useful" is intended to reflect how management believes that presentation of the non-GAAP financial measure provides incremental information to investors regarding the issuer's financial position, financial performance or cash flows. The term "useful" should be considered in the context of what a person making an investment decision would consider useful.

A statement made to satisfy the requirement of subparagraph 6(d)(iv) of the Instrument should

- be clear and understandable,
- be specific to the non-GAAP financial measure used, the issuer, the nature of the business and the industry (i.e., not boilerplate), and
- specifically explain how the non-GAAP financial measure is assessed and applied to decisions made by management and explain the reasons why the non-GAAP financial measure is useful to an investor.

Issuers should avoid making inappropriate or potentially misleading statements about the usefulness of a measure. The Instrument does not explicitly prohibit certain adjustments. However, if adjustments are not consistent with the usefulness explanation provided to address subparagraph 6(e)(iv) of the Instrument, this may result in a non-GAAP financial measure that is inappropriate or misleading.

A non-GAAP financial measure may be misleading if it

- includes positive components of the most comparable measure but omits negative components (e.g., presenting a non-GAAP financial measure that excludes unrealized losses on financial instruments but not unrealized gains), or
- excludes operating expenses necessary to operate an issuer's business from an operating performance measure.

Subparagraph 6(e)(v) – Reconciliation of a non-GAAP financial measure

Subparagraph 6(e)(v) of the Instrument requires a quantitative reconciliation between the non-GAAP financial measure and the most comparable financial measure presented in the primary financial statements. An issuer may satisfy this requirement by providing a reconciliation in a clearly understandable way, such as a table. For purposes of presenting the reconciliation, an issuer may begin with the non-GAAP financial measure or the most comparable financial measure presented in the primary financial statements, provided the reconciliation is presented in a comprehensible and consistent manner.

Most Comparable Measure

The Instrument does not define the "most comparable financial measure" and therefore the issuer needs to apply judgment in determining the most comparable financial measure. In applying judgment, it is important for an issuer to consider the context of how the non-GAAP financial measure is used. For example, where the non-GAAP financial measure is discussed primarily as a performance measure used in determining cash generated by the issuer or its distribution-paying capacity, its most comparable GAAP measure will be from the statement of cash flows. In practice, earnings-based measures and cash flow-based measures are used to disclose operational performance. If it is not clear from the way the non-GAAP financial measure is used what the most comparable measure is, consideration can be given to the nature, number and materiality of the reconciling items.

Reconciling Items

The reconciliation must be quantitative, separately itemizing and explaining each significant reconciling item.

Source of Reconciling Items

Where a reconciling item is taken directly from the entity's financial statements, it should be named such that an investor is able to identify the item in those financial statements, and no further explanation of that reconciling item is required.

Where a reconciling item is not extracted directly from the entity's financial statements, but is, for example, a component of a line item in the entity's primary financial statements or originates from outside the primary financial statements, disclosure must be provided to satisfy subparagraph 6(e)(v) of the Instrument. Such disclosure should identify the financial statement line item that is the source of the reconciling item, if not obvious, and explain how the amount is calculated, including a discussion of any significant judgments or estimates management has made in developing the reconciling items used in the reconciliation.

Entity-Specific Inputs

Reconciling items should be calculated using entity-specific inputs. An entity may make adjustments that are accepted within an industry; however, the quantum of these adjustments should be calculated using entity-specific information. For example, an entity may make an adjustment for operating capital expenditures, which is a standard adjustment in certain industries, but the amount of the adjustment should be calculated based on the entity's operating capital expenditures, and not by using only an 'industry average' amount as the sole factor.

Level of Detail

The level of detail expected in the reconciliation depends on the nature and complexity of the reconciling items. The adjustments made from the most comparable financial measure should be consistent with the explanation required by subparagraph 6(e)(iv) of the Instrument regarding why the information is useful to investors and if applicable, how it is used by management. Explanations should be more detailed than merely stating what the reconciling item represents and should also cover the circumstances that give rise to the particular adjustment if it is not obvious.

An "other" or "adjusting items" category to describe numerous insignificant reconciling items should not be used without further explanation as to the nature of items that comprise the category.

Gross Basis

Issuers should consider significant reconciling items on a gross basis. For example, an issuer is expected to separately itemize positive and negative adjustments unless netting is permitted under the accounting policies used in the preparation of the financial statements.

Tax

Reconciling items are commonly presented on a pre-tax basis to ensure that investors understand the gross amount of each reconciling item. If an issuer chooses to present reconciling items on a post-tax basis then the tax effect for each reconciling item should also be disclosed.

Comparatives

For comparative non-GAAP financial measures presented for a previous period, a reconciliation to the corresponding most comparable measure is required for that previous period.

Presentation in the Form of a Primary Financial Statement

An issuer may present adjusted financial information outside the entity's financial statements using a format that is similar to one or more of the primary financial statements, but that is not in accordance with the accounting policies used to prepare the entity's financial statements. In this case, the adjusted financial information would contain non-GAAP financial measures. Specifically, this would arise if an issuer presents such financial measures in a form that is similar to the following financial statements:

- a statement of financial position;
- a statement of profit or loss and other comprehensive income;
- a statement of changes in equity; or
- a statement of cash flows.

Presentation of this information as a single column that excludes the most comparable GAAP financial measures in a separate column would not satisfy paragraph 6(e)(v) of the Instrument. However, this information may be presented in the form of a reconciliation of the non-GAAP financial measure to the most comparable financial measure if such presentation shows in separate columns each of the most comparable measures, the reconciling items, and the non-GAAP financial measures.

When the adjusted presentation is used as a basis for the qualitative discussions and analysis of an entity's financial performance, financial position or cash flows with greater prominence than financial measures presented in the primary financial statements, this would not be considered to be in compliance with the requirement in paragraph 6(c) of the Instrument.

Subparagraph 6(e)(vi) – Changes in a non-GAAP financial measure

If the comparative non-GAAP measure presented in accordance with paragraph 6(d) of the Instrument is not presented on the same basis as that previously presented, the requirement of subparagraph 6(e)(vi) of the Instrument would apply. This would be the case when the composition of the comparative non-GAAP financial measure is not the same as previously presented.

Including additional reconciling items or excluding previously included reconciling items between the non-GAAP financial measure and the most comparable measure constitutes a change in composition. A clear explanation of the reason for this change is required under subparagraph 6(e)(vi) of the Instrument.

A change in magnitude of an individual item would not constitute a change in composition. For example, an issuer may define adjusted earnings as earnings before impairment losses and transaction costs. Transaction costs may only be incurred every three years, such that there may be no adjustment in year two to reflect transaction costs, but there should be an explanation noting that the issuer expects that it will incur transaction costs in the future. In this example, the issuer should continue to include transaction costs in the explanation of the composition under subparagraph 6(e)(iii) to maintain consistency of the non-GAAP financial measure.

Given that the disclosure of non-GAAP financial measures is optional, disclosing a particular non-GAAP financial measure does not generate a requirement to continue disclosing that measure in future periods. If, however, an issuer replaces a non-GAAP financial measure with another measure that achieves the same objectives (that is, the information provided to comply with subparagraph 6(e)(iv) of the Instrument was consistent for both measures), the requirement of subparagraph 6(e)(vi) of the Instrument would apply.

If the label of a non-GAAP financial measure has changed, while the explanation for the change may be incorporated by reference, we expect that the issuer make it clear in the document that the label has changed in the current period from that disclosed in the prior period.

Section 7 – Non-GAAP financial measures that are forward-looking Information

Paragraph 7(2) – Historical non-GAAP financial measure

An issuer needs to apply judgment in determining the historical non-GAAP financial measure. In applying judgment, it is important for an issuer to consider the context of how the non-GAAP financial measure that is forward-looking information is used. For example, adjusted EBITDA could be the historical non-GAAP financial measure of forward-looking adjusted EBITDA. We remind issuers that the historical non-GAAP financial measure disclosed is subject to the provisions of the Instrument. For example, the Instrument requires a non-GAAP financial measure that is forward-looking to be presented with no more prominence in the document than that of the historical non-GAAP financial measure presented. This means that the non-GAAP financial measure that is forward looking information must be presented with no more prominence than that of the most comparable measure that is presented in the primary financial statements, as required by paragraph 6(b) of the Instrument.

Determining the relevant historical period to satisfy the requirement in subparagraph 7(2)(b) of the Instrument is also a matter of judgment, considering the time period covered by the forward-looking information and the extent to which the business of the issuer is cyclical or seasonal. For example, where an issuer presents forward-looking information for the three months ending June 30, 20X2, the relevant period for the historical non-GAAP financial measure may be:

- in the case where the business of the issuer is not seasonal, the issuer's most recent interim period ended for which annual financial statements or an interim financial report has been filed (e.g., the three months ended March 31, 20X2), or

- in the case where the business of the issuer is seasonal, the comparable historical interim period to that of the financial outlook presented (e.g., the three months ended June 30, 20X1).

Section 8 – Non-GAAP ratios

Financial ratios may be useful in communicating aspects of an issuer's financial performance, financial position or cash flow. A ratio where a non-GAAP financial measure is used as one of its components is a non-GAAP ratio and subject to the disclosure requirements of section 8. For clarity, ratios may also meet the definition of forward-looking information. Examples of non-GAAP ratios include "adjusted EBITDA per share", "free cash flow per ounce", "funds flow per barrel of oil equivalent", and the equivalent future measures "forecasted adjusted EBITDA per share", "forecasted free cash flow per ounce" and "forecasted funds flow per barrel of oil equivalent".

Ratios that are calculated using exclusively:

- financial measures that are presented in the primary financial statements; or
- operating measures or other measures that are not non-GAAP financial measures

would not meet the definition of a non-GAAP ratio. For example, working-capital ratio would not meet the definition if the ratio is calculated as total current assets divided by total current liabilities as both total current assets and total current liabilities are presented in the primary financial statements. A percentage increase or decrease year over year with respect to a line item presented in the primary financial statements (or a component of such line item) for the purpose of variance analysis would not meet the definition of a non-GAAP ratio.

Subparagraphs 8(b) and 10(b) – Prominence of similar financial measures

The prominence requirements in paragraphs 8(b) and 10(b) of the Instrument for non-GAAP ratios and capital management measures differ from the requirements for non-GAAP financial measures in paragraph 6(c) and the requirements for total of segments measures in paragraph 9(b). However, the principle that the non-GAAP ratios and capital management measures should be presented with no more prominence than that of measures from the primary financial statements remains the same.

Many non-GAAP ratios and capital management measures do not have a most comparable financial measure. As such, issuers should consider the disclosure of the non-GAAP ratio and capital management measure in relation to the overall disclosure of similar financial measures presented in the primary financial statements to which the non-GAAP ratio or the capital management measure relates. For example, the prominence requirement in paragraph 8(b) of the Instrument is not met if the issuer focused its disclosure on an increased gross margin percentage without giving at least equally prominent disclosure to the fact sales have significantly decreased over the same period of time, resulting in a reduction in total profit period over period. In this example, it is assumed that the financial measure of “gross margin” is not presented in the primary financial statements and therefore meets the definition of a non-GAAP financial measure. As another example, an issuer that discloses a capital management measure such as “adjusted debt” will meet the requirement in paragraph 10(b) by giving at least equally prominent disclosure to similar financial measures presented in the primary financial statements such as short-term and long-term debt.

For a non-GAAP ratio or a capital management measure which has a most comparable financial measure presented in the primary financial statements, the guidance on prominence contained in this Policy for paragraph 6(b) or 10(b) should be referred to. For example, the most comparable measure of “adjusted earnings per share” is “earnings per share” and we expect that the discussion of “adjusted earnings per share” should not be more prominent than the discussion of “earnings per share”.

Section 9 – Disclosure of total of segments measures

An entity’s accounting policies used in the preparation of the financial statements may permit disclosure of a broad range of segment measures, but not necessarily specify how such financial measures should be calculated or require that these financial measures comply with the recognition and measurement requirements of the accounting policies used to prepare the financial statements of the entity.

When disclosed outside the financial statements, to the extent a total of segments measures is not also presented as a line item in the primary financial statements, the disclosures made under section 9 of the Instrument should allow a reader to understand how the measure is calculated and how it relates to the primary financial statements.

For example, in the notes to the financial statements, an issuer discloses adjusted EBITDA for each of its reportable segments: segment A, segment B, and segment C. The issuer then sums the adjusted EBITDA for each segment and discloses total “entity-adjusted EBITDA”. “Entity-adjusted EBITDA” is a total of segments measures and is not presented in the primary financial statements. When this financial measure is disclosed in a document other than the financial statements, the issuer must comply with section 9 of the Instrument.

If an issuer discloses a financial measure of a reportable segment and such financial measure is not presented in the financial statements to which the financial measure relates, the issuer should consider whether this financial measure meets the definition of a non-GAAP financial measure.

An SEC issuer may characterize a total of segments measure as a non-GAAP financial measure in compliance with SEC rules on non-GAAP financial measures.

Section 10 – Disclosure of capital management measures

Disclosure of information that enables a person to evaluate an entity’s objectives, policies and processes for managing capital may be required by the accounting policies used in the preparation of the financial statements; for example, requirements in IFRS under IAS 1 *Presentation of Financial Statements*.

How an entity manages its capital is entity-specific and the accounting policies used to prepare the financial statements might not prescribe a specific calculation. The accompanying disclosure required by section 10 of the Instrument allows a reader to understand how an entity calculates these measures and how they relate to measures presented in the entity's primary financial statements when these measures are disclosed in documents other than the financial statements.

Subparagraph 10(a)(i) of the Instrument requires a clear explanation of the composition of the capital management measure. For example, if the capital management measure was calculated in accordance with an agreement, a description of the agreement (e.g. the measure was calculated in accordance with lending agreements) together with a description of the composition, or details of the calculations, would satisfy the requirement.

The level of detail expected in the reconciliation required under subparagraph 10(a)(ii)(B) is a matter of judgment and depends on the nature and complexity of the reconciling items required to provide the necessary context. In situations where the capital management measure is an aggregation of individual line items presented on the primary financial statements, the requirements of subparagraph 10(a)(ii)(B) of the Instrument can be met by detailing quantitatively how the measure has been calculated.

If the capital management measure was calculated using one or more non-GAAP financial measures, the issuer must comply with section 6 of the Instrument, in respect of each non-GAAP financial measure used.

ANNEX F

PROPOSED AMENDMENTS TO MULTILATERAL INSTRUMENT 45-108 *CROWDFUNDING*

The securities regulatory authorities in British Columbia, Prince Edward Island, Newfoundland and Labrador, Northwest Territories, Yukon Territory and Nunavut are not proposing these consequential amendments because Multilateral Instrument 45-108 Crowdfunding does not apply in these jurisdictions.

1. Multilateral Instrument 45-108 Crowdfunding is amended by this Instrument.

2. Form 45-108F1 Crowdfunding Offering Document is amended by replacing the heading "Non-GAAP financial measures" and the paragraph that follows this heading, in the "Instructions related to financial statement requirements and the disclosure of other financial information" of Schedule A with the following:

> ***Non-GAAP financial measures and other financial measures*** *- An issuer that intends to disclose financial measures that are subject to National Instrument 52-112 Non-GAAP and Other Financial Measures Disclosure in its crowdfunding offering document should refer to the requirements set out in that Instrument.**.***

3. This Instrument comes into force on ●.

ANNEX G

PROPOSED CHANGE TO COMPANION POLICY 45-108CP *CROWDFUNDING*

The securities regulatory authorities in British Columbia, Prince Edward Island, Newfoundland and Labrador, Northwest Territories, Yukon Territory and Nunavut are not proposing these consequential changes to Companion Policy 45-108CP Crowdfunding because Multilateral Instrument 45-108 Crowdfunding does not apply in these jurisdictions.

1. Companion Policy 45-108CP Crowdfunding is changed by this Document.

2. Section 16 is changed by replacing the last paragraph with the following:

> Non-GAAP financial measures and other financial measures – An issuer that intends to disclose financial measures that are subject to National Instrument 52-112 *Non-GAAP and Other Financial Measures Disclosure*, including in its crowdfunding offering document, should refer to the requirements set out in that Instrument.***.***

3. This change becomes effective on ●.

ANNEX H

PROPOSED CHANGES TO COMPANION POLICY 51-102CP *CONTINUOUS DISCLOSURE OBLIGATIONS*

1. Companion Policy 51-102CP Continuous Disclosure Obligations is changed by this Document.

2. Section 4.2 is changed by replacing the heading "**Non-GAAP Financial Measures*****" with* **"Non-GAAP Financial Measures and Other Financial Measures"** *and by replacing the paragraph with the following:***

> Reporting issuers that intend to publish financial measures that are subject to National Instrument 52-112 *Non-GAAP and Other Financial Measures Disclosure* should refer to the requirements set out in that Instrument.*.*

3. These changes become effective on ●.

ANNEX I

PROPOSED CHANGE TO
COMPANION POLICY 51-105CP MULTILATERAL INSTRUMENT 51-105 *ISSUERS QUOTED IN THE U.S. OVER-THE-COUNTER MARKETS*

The Ontario Securities Commission is not proposing this consequential change as Multilateral Instrument 51-105 Issuers Quoted in the U.S. Over-the-Counter Markets and its Companion Policy do not apply in Ontario.

1. Companion Policy 51-105CP Multilateral Instrument 51-105 Issuers Quoted in the U.S. Over-the-Counter Markets is changed by this Document.

2. Section 5 is changed by adding the following paragraph under the heading "National Instruments":

(e) National Instrument 52-112 *Non-GAAP and Other Financial Measures Disclosure* which sets out disclosure requirements for non-GAAP financial measures and certain other financial measures*.*

3. This change becomes effective on ●.

ANNEX J

PROPOSED CHANGE TO
COMPANION POLICY 52-107CP *ACCEPTABLE ACCOUNTING PRINCIPLES AND AUDITING STANDARDS*

1. Companion Policy 52-107CP Acceptable Accounting Principles and Auditing Standards is changed by this Document.

2. Section 2.10 is replaced with the following:

> **2.10 Acceptable Accounting Principles** — Readers are likely to assume that financial information disclosed in a news release is prepared on a basis consistent with the accounting principles used to prepare the issuer's most recently filed financial statements. To avoid misleading readers, an issuer should alert readers if financial information in a news release is prepared using accounting principles that differ from those used to prepare an issuer's most recently filed financial statements or includes financial measures that are subject to National Instrument 52-112 *Non-GAAP and Other Financial Measures Disclosure*..

3. This change becomes effective on ●.

ANNEX K

Local Matters

Ontario Securities Commission

Description of Anticipated Costs and Benefits of the Proposals

This analysis is provided to supplement the anticipated costs and benefits discussion in the attached notice[1].

Overview

As identified in the Notice, the most significant cost and benefit considerations arise in limiting the application of the Proposed Materials to certain issuers and in the process inherent in identifying and disclosing non-GAAP financial measures, non-GAAP ratios, and other financial measures.

Benefits to Firms

Currently, disclosure expectations in SN 52-306 apply to *all* issuers. In contrast, the Proposed Materials exempt investment funds, SEC foreign issuers, and designated foreign issuers, resulting in reduction of regulatory burden for over 5,800 investment funds in Ontario[2] and over 60 issuers who meet the definition of SEC foreign issuer or designated foreign issuer. We expect this exemption will result in cost savings to these issuers.

In addition, as discussed in the Notice, we believe the Proposed Materials will result in an overall net reduction in regulatory burden and cost savings for those issuers that are in scope, particularly in the long-term, because compared to current regulatory expectations as outlined in SN 52-306, we propose to:

- exempt certain disclosures, financial measures, and documents,
- remove categorization of certain measures as non-GAAP financial measures,
- reduce and simplify disclosures for certain non-GAAP financial measures,
- eliminate duplication, in certain areas, through targeted provisions of incorporating information by reference,
- reduce uncertainty regarding disclosure obligations, and
- diminish the time and effort investors spend on understanding certain financial information.

Costs to Firms

Most activities associated with the reporting of non-GAAP financial measures, non-GAAP ratios, and other financial measures can generally be categorized into one of the following:

- Identification
- Drafting disclosure (e.g., compiling information and drafting)
- Review (e.g., management oversight, review and approvals, corporate governance etc.)
- Communication (e.g., publications and presentations, investor engagement etc.)

Since non-GAAP financial measures, non-GAAP ratios, and other financial measures are often used by management for internal management purposes and already typically reported to the audit committee or board of directors as well as to investors, no significant incremental costs associated with review and communication are expected.

Incremental costs of identifying and drafting disclosure for such measures are considered below.

[1] The analysis does not address the considerations inherent in the issuer's determination of whether to disclose certain financial measures – a determination that is distinct from the Proposed Materials because it is based on, among other things, entity-specific business objectives and investor needs. Once an issuer determines that it will disclose a non-GAAP or other financial measure, consideration of the Proposed Materials applies.

[2] As of September 2019, Ontario has over 4,300 investment funds that are reporting issuers (of which approximately 830 are listed) and over 1,500 investment funds that are non-reporting issuers.

Non-GAAP Financial Measures

Currently, SN 52-306 applies to both historical and future non-GAAP financial measures. Compared to SN 52-306, the overall population of non-GAAP financial measures is not expected to materially change.

Since the disclosures for non-GAAP financial measures aim to formalize the existing disclosure expectations in SN 52-306, an issuer that is satisfying the existing disclosure expectations in SN 52-306 is expected to meet the disclosure requirements in the Proposed Materials.

As such, no significant incremental costs associated with identifying and disclosing non-GAAP financial measures are expected. In some cases, incremental costs may be lower because of the introduction of certain regulatory reduction provisions, such as incorporation of information by reference.

Non-GAAP Ratios

Currently, SN 52-306 applies to a non-GAAP financial measure used to calculate a ratio such as adjusted earnings per unit. To address the unique nature of non-GAAP ratios, the Proposed Materials have excluded these measures from the definition of a non-GAAP financial measure and created a separate category with tailored disclosures compared to SN 52-306.

We expect the activity of identifying a non-GAAP ratio can be substantially leveraged from existing reporting processes.

Although issuers have existing reporting processes for such measures, time will be needed to draft the new disclosure, which is substantially limited to including a description of the composition of the measure. Since these measures are often used by management for internal management purposes and typically reported to the audit committee or board of directors, it is expected that the information necessary to comply with the Proposed Materials can be substantially leveraged from existing information available to the issuer.

As such, we expect an issuer to initially incur, on average, less than one hour drafting the new disclosure upon initial application of the Proposed Materials. It is assumed that this work would primarily be undertaken by a finance or accounting professional, at the management level, with an annual salary of $157,350.[3] Assuming an overhead charge of 25%, the total incremental cost for one hour of work is anticipated to be $95 or less.[4] If an issuer chooses to introduce a new non-GAAP ratio, similar one-time costs are expected to be incurred.

Total of Segments Measures

Total of Segments Measures are currently non-GAAP financial measures subject to staff expectations in SN 52-306.[5] To address the unique nature of Total of Segments Measures, the Proposed Materials have excluded these measures from the definition of a non-GAAP financial measure and created a separate category, resulting in tailored and more limited disclosures compared to SN 52-306.

Total of Segments Measures, by definition, are measures disclosed in the financial statements, and therefore are easily identifiable. Since these measures are often used by management for internal management purposes and typically reported to the audit committee or board of directors, it is expected that the information necessary to comply with the Proposed Materials can be substantially leveraged from existing information available to the issuer.

Since issuers have existing reporting processes for such measures, no significant incremental costs are expected upon initial application of the Proposed Materials, or in the future if an issuer chooses to disclose a new Total of Segments Measures outside of the financial statements. In some cases, incremental costs may be lower because of the introduction of certain regulatory reduction provisions, such as incorporation of information by reference.

Capital Management Measures

Capital Management Measures, by definition, are measures disclosed in the financial statements, and are therefore easily identifiable.

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[3] The salary figure is based on information from the Robert Half 2019 *Salary Guide for Accounting and Finance Professionals* for a manager involved with corporate financial reporting in Toronto, Ontario. The salary range is $92, 837 - $157,350. The analysis is based on the upper end of the range. This figure is based on information regarding Toronto, Ontario salaries, which may differ from the salary of an equivalent position in another area or jurisdiction.

[4] $157,350 / 2,080 annual working hours (based on 40-hour work week) x 1.25% overheard charge = $94.56 hourly rate.

[5] Notwithstanding the fact that such measures may be disclosed in the financial statements, these measures are often not in accordance with the recognition and measurement principles used to prepare the primary financial statements and therefore have no authoritative meaning outside of the notes to the financial statements.

If certain required information is already disclosed in the notes to the financial statements, the additional disclosure requirements are substantially limited to including a description of the composition of the measure and providing a comparative. Since these measures are often used by management for internal management purposes and typically reported to the audit committee or board of directors it is expected that the information necessary to comply with the Proposed Materials can be substantially leveraged from existing information available to the issuer.

As such, we expect an issuer to incur, on average, less than one hour in drafting disclosures. It is assumed that this work would primarily be undertaken by a finance or accounting professional, at the management level, with an annual salary of $157,350. Assuming an overhead charge of 25%, the total incremental cost is anticipated to be $95 or less. If an issuer chooses to introduce a new Capital Management Measure, it is expected to incur similar one-time costs.

Supplementary Financial Measures

To comply with the disclosure requirements for Supplementary Financial Measures, an issuer will need to incur time to identify such measures in its existing disclosure.

Once identified, the disclosure is substantially limited to providing an explanation of the composition of the measure, which is inherently based on information available to the issuer. Since these measures are often used by management for internal management purposes and typically reported to the audit committee or board of directors it is expected that the information necessary to comply with the Proposed Materials can be substantially leveraged from existing information available to the issuer.

As such, we expect an issuer to incur, on average, less than one hour in drafting disclosures. It is assumed that this work would primarily be undertaken by a finance or accounting professional, at the management level, with an annual salary of $157,350. Assuming an overhead charge of 25%, the total incremental cost is anticipated to be $95 or less. If an issuer chooses to introduce a new supplementary financial measure, it is expected to incur similar one-time costs.