

NATIONAL INSTRUMENT 52-108
AUDITOR OVERSIGHT

PART 1 – DEFINITIONS AND APPLICATION

1. Definitions – In this Instrument

"CPAB" means the Canadian Public Accountability Board/Conseil canadien sur la reddition de comptes, incorporated as a corporation without share capital under the *Canada Corporations Act* by Letters Patent dated April 15, 2003;

"CPAB rules" means the rules and bylaws of CPAB, as amended from time to time;

"participating audit firm" means a public accounting firm that has entered into a participation agreement and that has not had its participant status terminated or, if its participant status was terminated, the status has been reinstated by CPAB;

"participation agreement" means a written agreement between CPAB and a public accounting firm in connection with CPAB's program of practice inspections and the establishment of practice requirements;

"professional standards" means the standards, as amended from time to time, listed in section 300 of CPAB rules that are applicable to participating audit firms;

"public accounting firm" means a person or company engaged in the business of providing the services of a public accountant.

PART 2 – AUDITOR OVERSIGHT

2. Public Accounting Firms – A public accounting firm that prepares an auditor's report with respect to the financial statements of a reporting issuer must be, as of the date of the auditor's report

- (a) a participating audit firm,
- (b) in compliance with any remedial action referred to in subsection 5(1), and
- (c) in compliance with the notice requirements of subsections 5(1) and (2).

3. Notice to Reporting Issuer if Public Accounting Firm Not in Compliance –

- (1) If a public accounting firm has been appointed to prepare an auditor's report with respect to the financial statements of a reporting issuer and, at any time before signing the auditor's report, the public accounting firm is not in compliance with the requirements of paragraphs 2(a), (b) or (c), the public accounting firm must deliver to the reporting issuer a notice in writing that it is not in compliance within 2 business days of first becoming aware of its non-compliance.
- (2) A public accounting firm that previously delivered a notice to a reporting issuer under subsection(1) must not notify the reporting issuer that it is in compliance with paragraph 2(a), (b) or (c) unless the public accounting firm has been informed in writing by CPAB that the circumstances that gave rise to the notice no longer apply.
- (3) A public accounting firm must deliver a copy of a notice required under this section to CPAB on the same day that the notice is delivered to the reporting issuer.

4. Reporting Issuers – A reporting issuer that files its financial statements accompanied by an auditor's report must have the auditor's report prepared by a public accounting firm that, as of the date of the auditor's report,

- (a) is a participating audit firm, and
- (b) has not delivered to the reporting issuer a notice under subsection 3(1) or, if it has delivered to the reporting issuer a notice under subsection 3(1), the public accounting firm has notified the reporting issuer that the circumstances that gave rise to the notice no longer apply.

PART 3 – NOTICE

5. Notice of Remedial Action to the Regulator or the Securities Regulatory Authority –

- (1) A participating audit firm appointed to prepare an auditor's report with respect to the financial statements of a reporting issuer must deliver a notice to the regulator or, in Quebec, the securities regulatory authority, if any of the following occurs:
 - (a) CPAB notifies the participating audit firm in writing that it requires the participating audit firm to take one or more of the following remedial actions:
 - (i) terminate an audit engagement;
 - (ii) engage an independent monitor to observe and report to CPAB on the participating audit firm's compliance with professional standards;
 - (iii) engage an external reviewer or supervisor to oversee the work of the participating audit firm;

- (iv) limit the type or number of new reporting issuer audit clients the participating audit firm may accept;
 - (b) CPAB notifies the participating audit firm in writing that it must disclose to the regulator or, in Quebec, the securities regulatory authority, any remedial action not referred to in paragraph (a);
 - (c) CPAB publicly discloses a remedial action with which the participating audit firm must comply.
- (2) The notice required under subsection (1) must be in writing and must include all of the following:
 - (a) how the participating audit firm failed to comply with professional standards;
 - (b) the name of each reporting issuer whose audit file was referred to by CPAB in its communications with the participating audit firm as the basis, in whole or in part, for CPAB's conclusion that the participating audit firm failed to comply with professional standards;
 - (c) each remedial action that CPAB imposed on the participating audit firm, as described by CPAB;
 - (d) the time period within which the participating audit firm must comply with each remedial action, as described by CPAB.
- (3) A participating audit firm must deliver the notice required under subsection (2) to the regulator or, in Quebec, the securities regulatory authority, no later than 2 business days after the date that CPAB notifies the participating audit firm that it must comply with any remedial action under paragraph (1)(a), (b) or (c).
- (4) The participating audit firm must deliver a copy of a notice required under this section to CPAB on the same day that the notice is delivered to the regulator or, in Quebec, the securities regulatory authority.

6. Additional Notice Relating to Defects in the System of Quality Control –

- (1) If CPAB required a participating audit firm to comply with any remedial action relating to a defect in the participating audit firm's system of quality control, and CPAB notifies the participating audit firm in writing that it has failed to address the defect in its system of quality control to the satisfaction of CPAB within the time period required by CPAB, the participating audit firm must deliver a notice to all of the following:
 - (a) for each reporting issuer for which the participating audit firm is appointed to

prepare an auditor's report,

(i) the audit committee, or

(ii) if the reporting issuer does not have an audit committee, the person or company responsible for reviewing and approving the reporting issuer's financial statements before they are filed;

(b) the regulator or, in Quebec, the securities regulatory authority.

(2) The notice required under subsection (1) must be in writing and must describe all of the following:

(a) the defect in the participating audit firm's system of quality control identified by CPAB;

(b) the remedial action imposed by CPAB, including the date the remedial action was imposed and the time period within which CPAB required the participating audit firm to address the defect in its system of quality control;

(c) why the participating audit firm failed to address the defect in its system of quality control within the time period required by CPAB.

(3) A participating audit firm must deliver the notice required under subsection (1) no later than 10 business days after the participating audit firm received notice from CPAB in writing that the participating audit firm failed to address the defect in its system of quality control within the time period required by CPAB.

(4) The participating audit firm must deliver a copy of a notice required under this section to CPAB on the same day the notice is delivered to the regulator or, in Quebec, the securities regulatory authority.

7. Notice Before New Appointment –

(1) A participating audit firm that is seeking an appointment to prepare an auditor's report with respect to the financial statements for a financial year of a reporting issuer must deliver a notice to the reporting issuer's audit committee or, if the reporting issuer does not have an audit committee, the person or company responsible for reviewing and approving the reporting issuer's financial statements before they are filed, if

(a) the participating audit firm did not audit the financial statements of the reporting issuer for the immediately preceding financial year, and

(b) CPAB informed the participating audit firm within the preceding 12-month period that the participating audit firm failed to address a defect in its system of quality control to the satisfaction of CPAB.

- (2) The notice required under subsection (1) must be in writing and include the information referred to in subsection 6(2).

PART 4 – EXEMPTION

8. Exemption –

- (1) The regulator or the securities regulatory authority may grant an exemption from this Instrument, in whole or in part, subject to such conditions and 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 Ontario, an exemption referred to in subsection (1) is granted under the statute referred to in Appendix B of NI 14-101 opposite the name of the local jurisdiction.

PART 5 – REPEAL AND EFFECTIVE DATE

9. Repeal – National Instrument 52-108 *Auditor Oversight* is repealed.

10. Effective Date – This Instrument comes into force on September 30, 2014.

COMPANION POLICY 52-108CP **AUDITOR OVERSIGHT**

Introduction

CPAB is an independent oversight body for public accounting firms that audit financial statements of reporting issuers. The purpose of CPAB is to promote high quality external audits of reporting issuers. It is responsible for developing and implementing an oversight program that includes regular inspections of participating audit firms. CPAB's primary means of assessing the quality of audits is through the inspection of selected high-risk sections of audit files and elements of a participating audit firm's system of quality control.

The purpose of National Instrument 52-108 is to contribute to public confidence in the integrity of financial reporting by reporting issuers by requiring:

- a reporting issuer to engage an auditor that has entered into a participation agreement with CPAB in connection with CPAB's program of practice inspections and the establishment of practice requirements,
- a participating audit firm to be in compliance with specified remedial actions imposed by CPAB,
- a participating audit firm to deliver a notice to the regulator or, in Quebec, the securities regulatory authority, if CPAB imposes specified remedial actions, including the termination of an audit engagement or the engagement of an independent monitor to observe and report on compliance with professional standards, and
- a participating audit firm to deliver a notice to the reporting issuer's audit committee or the person or company responsible for reviewing and approving financial statements, of its reporting issuer clients if the firm failed to address a defect in the firm's system of quality control that was previously identified by CPAB.

The purpose of this Companion Policy is to state the view of the securities regulatory authorities on various matters related to the Instrument.

Section 1 - Definition of Participating Audit Firm

Many of the requirements in the Instrument are linked to the definition of participating audit firm in section 1. For example, section 5 of the Instrument imposes a notice requirement on a participating audit firm in a number of circumstances, including where CPAB requires the firm to terminate an audit engagement. CPAB may impose a remedial action on a participating audit firm that specifically pertains to one or more individuals involved in a professional capacity with the participating audit firm. If a remedial action imposed by CPAB on a participating audit firm specifically pertains to an individual acting in a professional capacity with the participating audit firm, this remedial action would be included in the content of a notice to the regulator or, in Quebec, the securities regulatory authority in accordance with paragraph 5(2)(c).

Section 1 - Definition of Professional Standards

The definition of professional standards refers to the standards listed in section 300 of CPAB rules, which are standards relating to auditing, ethics, independence and quality control.

Subsection 5(1) and Paragraph 6(1)(b) – Notice to the Regulator or the Securities Regulatory Authority

Both subsection 5(1) and paragraph 6(1)(b) of the Instrument require a participating audit firm to deliver a notice to the regulator or, in Quebec, the securities regulatory authority. “Regulator” and “securities regulatory authority” are defined in NI 14-101 – *Definitions*. Each participating audit firm that is subject to either of these provisions must deliver the notice to the regulator or, in Quebec, the securities regulatory authority, in each jurisdiction in which the firm is appointed by one or more reporting issuers to prepare an auditor’s report with respect to their financial statements. The securities regulatory authorities will consider the notice requirement in each of these provisions of the Instrument to have been satisfied if the notice is sent to auditor.notice@acvm-csa.ca and identifies each jurisdiction that is to receive notice.

Subsection 5(1) – Remedial Action Imposed by CPAB

Subsection 5(1) of the Instrument requires a participating audit firm to deliver a notice to the regulator or, in Quebec, the securities regulatory authority, of certain remedial actions imposed by CPAB. CPAB may refer to an item in subsection 5(1) of the Instrument as a recommendation, a requirement, a restriction or a sanction, or CPAB may use a different term. A participating audit firm must deliver the notice under section 5 of the Instrument if the remedial action is described in that section, without regard to how CPAB refers to it. For example, a notice is required by subparagraph 5(1)(a)(i) of the Instrument if CPAB requires a participating audit firm to terminate an audit engagement regardless of whether CPAB refers to it as a recommendation, requirement, restriction, sanction or uses a different term.

Subparagraph 5(1)(a)(iii) – Engagement of an External Reviewer or Supervisor

Subparagraph 5(1)(a)(iii) of the Instrument requires a participating audit firm to deliver a notice to the regulator or, in Quebec, the securities regulatory authority, if CPAB requires a participating audit firm to engage an external reviewer or supervisor to oversee its work. One example of when a participating audit firm would notify the regulator is when CPAB requires the firm to engage an external engagement quality control reviewer to perform a technical review of one or more audits performed by the firm.

Subparagraph 5(1)(a)(iv) – Limitation on a Participating Audit Firm from Accepting New Reporting Issuer Audit Clients

Subparagraph 5(1)(a)(iv) of the Instrument requires a participating audit firm to deliver a notice to the regulator or, in Quebec, the securities regulatory authority, if CPAB limits the type or number of new reporting issuer audit clients the firm accepts. The securities regulatory

authorities consider this type of limitation to include restrictions on accepting audit engagements of reporting issuers in a particular industry. For example, a participating firm that is limited for any period of time from auditing the financial statements of mining companies is subject to subparagraph 5(1)(a)(iv) in the Instrument even if the firm may continue to audit reporting issuers in other industries.

The securities regulatory authorities also consider the term “new reporting issuer audit client” to refer to any reporting issuer the financial statements of which were not audited by the participating audit firm for the reporting issuer’s most recently completed financial year. For example, if a participating firm was asked to audit the financial statements of a reporting issuer for the first time in respect of its 2013 fiscal year, that issuer would be a new reporting issuer audit client of the firm. Similarly, if a participating audit firm had audited the reporting issuer’s 2011 financial statements but did not audit the 2012 financial statements, the securities regulatory authorities would also consider the issuer to be a new reporting issuer audit client of the firm in respect of the 2013 financial statement audit.

Paragraph 5(1)(b) – Notice Required at Discretion of CPAB

Paragraph 5(1)(b) of the Instrument requires a participating audit firm to deliver a notice to the regulator or, in Quebec, the securities regulatory authority, at the discretion of CPAB. One example of when CPAB may require a participating audit firm to notify the regulator is when the firm failed to comply with a remedial action within the period CPAB required.

Subsection 5(2) – Contents of Notice

Subsection 5(2) of the Instrument sets out the content requirements for a notice delivered to the regulator or, in Quebec, the securities regulatory authority, by a participating audit firm.

Paragraph 5(2)(a) requires a participating audit firm to include a description of how the participating audit firm failed to comply with professional standards. The description included in the notice should be substantially similar to the description CPAB has provided the participating audit firm. There may be situations in which the description may need to be modified to remove reference to information protected by professional secrecy in Quebec.

Paragraph 5(2)(c) requires a participating audit firm to include a description of each remedial action that CPAB imposed on the firm, as described by CPAB. This includes, but is not limited to, remedial actions referred to in subsection 5(1). For example, if CPAB requires a participating audit firm to engage an independent monitor under subparagraph 5(1)(a)(ii) of the Instrument and also imposes additional remedial actions on the firm other than those referred to in subsection 5(1), the notice must include a complete description of such other remedial actions.