Chapter 5

Rules and Policies

5.1.1 Notice of National Instrument 55-104 Insider Reporting Requirements and Exemptions and Related Companion Policy 55-104CP and Repeal of Related Predecessor Instruments

NOTICE OF NATIONAL INSTRUMENT 55-104
INSIDER REPORTING REQUIREMENTS AND EXEMPTIONS
AND RELATED COMPANION POLICY 55-104CP
AND
REPEAL OF RELATED PREDECESSOR INSTRUMENTS

Introduction

We, the Canadian Securities Administrators (CSA), are adopting a new insider reporting regime set out in:

- National Instrument 55-104 *Insider Reporting Requirements and Exemptions* (the New Instrument); and
- Companion Policy 55-104CP *Insider Reporting Requirements and Exemptions* (the New Policy) (together, the New Materials).

We are also repealing or withdrawing the following predecessor instruments and policies:[1]

- National Instrument 55-101 *Insider Reporting Exemptions* (NI 55-101);
- Companion Policy 55-101CP *to National Instrument 55-101 Insider Reporting Exemptions* (55-101CP);
- Multilateral Instrument 55-103 *Insider Reporting for Certain Derivative Transactions (Equity Monetization)* (MI 55-103);
- Companion Policy 55-103CP *to Multilateral Instrument 55-103 Insider Reporting for Certain Derivative Transactions (Equity Monetization)* (55-103CP); and
- In British Columbia, BCI 55-506 *Exemption from insider reporting requirements for certain derivative transactions* (BCI 55-506) (collectively, the Current Materials).

We are also making related consequential amendments to:

- Multilateral Instrument 11-102 *Passport System*;
- National Instrument 14-101 *Definitions*; and
- National Instrument 62-103 *The Early Warning System and Related Take-Over Bid and Insider Reporting Issues* (NI 62-103) (together, the Consequential Amendments).

Some jurisdictions are also making other local amendments. You will find those local amendments in the version of Appendix G published in those local jurisdictions.

Additional information about the adoption processes for some jurisdictions is described in Appendix H published in that jurisdiction.

In some jurisdictions, Ministerial approval is required for these changes. Except in Ontario, provided all necessary approvals are obtained, the New Materials and Consequential Amendments will come into force on April 30, 2010 and the Current Materials will be repealed or withdrawn on this date. In Ontario, the New Materials and Consequential Amendments will come into force and the Current Materials will be repealed or withdrawn on the later of the following: (a) April 30, 2010; and (b) the date certain amendments to the *Securities Act* (Ontario) are proclaimed into force. Please see Appendix H published in Ontario for more information.

[1] MI 55-103 and 55-103CP have been adopted in all jurisdictions other than British Columbia. In British Columbia, requirements similar to those contained in MI 55-103 were introduced into the *Securities Act* (British Columbia) in 2004. Exemptions similar to those contained in MI 55-103 were introduced in BCI 55-506.

1. Substance and Purpose of the New Materials

The New Instrument sets out the main insider reporting requirements and exemptions from those requirements for insiders of reporting issuers, except in Ontario. In Ontario, the main insider reporting requirements will remain in the *Securities Act* (Ontario). Despite this difference, the substance of the requirements for insider reporting will be the same across the CSA jurisdictions.

The New Instrument consolidates the main insider reporting requirements and exemptions in a single national instrument. This will make it easier for issuers and insiders to understand their obligations and to help promote timely and effective compliance. The New Instrument also reflects changes to the insider reporting regime that we think will improve its effectiveness. Specifically, the New Instrument will, when compared to the current insider reporting regime,

- significantly reduce the number of persons required to file insider reports;
- after a six-month transition period, accelerate the filing requirement from 10 calendar days to five calendar days;
- simplify and make more consistent the reporting requirements for stock-based compensation arrangements; and
- facilitate insider reporting of stock-based compensation arrangements by allowing issuers to file an "issuer grant report" in a similar manner to the current "issuer event report".

The New Policy provides guidance as to how we would interpret or apply certain provisions of the New Instrument.

In connection with this initiative, CSA staff will also be amending CSA Staff Notice 55-308 *Questions on Insider Reporting*, CSA Staff Notice 55-310 *Questions and Answers on the System for Electronic Disclosure by Insiders (SEDI)* and CSA Staff Notice 55-312 *Insider reporting guidelines for certain derivative transactions (equity monetization)* and withdrawing CSA Staff Notice 55-314 *Use of the terms "senior officer", "officer", and "insider" in National Instrument 55-101 Insider Reporting Exemptions.*

2. Prior publications

The CSA previously requested comment about some of the proposals reflected in the New Materials on two occasions. In October 2006, we published a Notice and Request for Comment relating to amendments to NI 55-101. As part of that Notice, we outlined at a high level proposals for future amendments to Canadian insider reporting requirements, including amendments that would consolidate the insider reporting requirements in a single instrument, refocus the insider reporting requirements on a smaller, core group of insiders, and accelerate the filing deadlines. We referred to these proposals as the "Phase 2 amendments".

On December 18, 2008, we published the New Materials and Consequential Amendments for comment (the December 2008 Materials). The Notice and Request for Comment published on December 18, 2008 contains further background on the Phase 2 amendments.

3. Summary of Written Comments Received by the CSA

The comment period for the December 2008 Materials expired on March 19, 2009. We received written submissions from 27 commenters. We considered the comments received and thank all the commenters. The names of the commenters are contained in Appendix B of this notice and a summary of their comments, together with our responses, are contained in Appendix C of this notice.

4. Summary of Changes to the December 2008 Materials

After considering the comments received, we made some revisions to the December 2008 Materials that are reflected in the New Materials and Consequential Amendments. As these changes are not material, we are not republishing the New Materials or Consequential Amendments for a further comment period.

See Appendix A for a summary of key changes made to the December 2008 Materials.

5. Amendments to local rules and concurrent legislative actions

CSA members of some jurisdictions are publishing a separate local notice regarding amendments to certain local rules. These amendments include changes to local exemptions or the repeal of local exemptions that are no longer considered necessary or appropriate.

Local consequential amendments are located in Appendix G published in each jurisdiction where required. Other information required by a local jurisdiction in order to adopt the New Instrument are in Appendix H which will only be published in that jurisdiction. In addition, these notices may also include information relating to proposed proclamation dates for amendments to securities legislation that were made as part of the Highly Harmonized Securities Legislation initiative in 2006.

6. Impact on investors

The New Instrument will benefit investors by:

- focusing the insider reporting requirement on a core group of insiders with the greatest access to material undisclosed information and the greatest influence over the reporting issuer;
- making more consistent the reporting requirements for stock-based compensation arrangements; and
- after a six month transition period, accelerating the filing deadline from 10 calendar days to five calendar days, which will make this important information available to the market sooner.

7. Where to find more information

The Notice also contains the following appendices:

1. Appendix A – Summary of key changes made to the December 2008 Materials
2. Appendix B – List of commenters
3. Appendix C – Summary of comments and CSA responses
4. Appendix D – New Instrument
5. Appendix E – New Policy
6. Appendix F – Consequential and other amendments
7. Appendix G – Local Amendments
8. Appendix H – Local Information

The New Materials and Consequential Amendments are available on websites of CSA members, including:

www.lautorite.qc.ca
www.albertasecurities.com
www.bcsc.bc.ca
www.msc.gov.mc.ca
www.gov.ns.ca/nssc
www.nbsc-cvmnb.ca
www.osc.gov.on.ca
www.sfsc.gov.sk.ca

Questions

Please refer your questions to any of:

British Columbia Securities Commission

Alison Dempsey
Senior Legal Counsel, Corporate Finance
604-899-6638
adempsey@bcsc.bc.ca

Noreen Bent
Senior Legal Counsel, Manager
Corporate Finance
604-899-6741
nbent@bcsc.bc.ca

Alberta Securities Commission

Agnes Lau
Senior Advisor, Technical and Projects
403-297-8049
agnes.lau@asc.ca

Saskatchewan Financial Services Commission

Patti Pacholek
Legal Counsel, Securities Division
306-787-5871
patti.pacholek@gov.sk.ca

Manitoba Securities Commission

Chris Besko
Legal Counsel, Deputy Director
204-945-2561
chris.besko@gov.mb.ca

Ontario Securities Commission

Paul Hayward
Senior Legal Counsel, Corporate Finance
416-593-3657
phayward@osc.gov.on.ca

Colin Ritchie
Legal Counsel, Corporate Finance
416-593-2312
critchie@osc.gov.on.ca

Autorité des marchés financiers

Livia Alionte
Insider Reporting Analyst
514-395-0337, ext. 4336
livia.alionte@lautorite.qc.ca

Sylvie Lalonde
Manager Regulation
514-395-0337, ext. 4461
sylvie.lalonde@lautorite.qc.ca

New Brunswick Securities Commission

Susan Powell
Senior Legal Counsel
506-643-7697
susan.powell@nbsc-cvmnb.ca

Nova Scotia Securities Commission

Shirley Lee
Director, Policy and Market Regulation
902-424-5441
leesp@gov.ns.ca

January 22, 2010

APPENDIX A

SUMMARY OF KEY CHANGES TO THE DECEMBER 2008 MATERIALS

New Instrument

1. **Report by certain designated insiders for historical transactions** (Parts 1 and 3) – We have amended the New Instrument to narrow the class of persons required to file these reports to the CEO, CFO, COO and each director of the issuer and to require these reports to be filed on SEDI rather than SEDAR.

2. **Definition of reporting insider** (Part 1) – We have moved the definition of reporting insider to subsection 1(1) of the New Instrument and amended the definition as follows:

   (a) in paragraph (a), we replaced the terms "chief executive officer, the chief operating officer or the chief financial officer" with the terms "CEO, CFO or COO", which are defined to include an individual who holds these titles and any other individual who acts in a similar capacity for the issuer.

   (b) in paragraph (c), we deleted the reference to "a major subsidiary".

   (c) in paragraph (e) (paragraph (f) of the New Instrument), we replaced the reference to "officer" with "every CEO, CFO and COO of the management company" to narrow the class of persons at management companies who are determined to be reporting insiders. This change achieves greater consistency among the individuals at the issuer and management company level who are determined to be reporting insiders.

   (d) deleting paragraph (h) [*a person or company designated or determined to be an insider under subsection 1.2(1)*]. These individuals and companies will only be reporting insiders if they otherwise come within the definition of "reporting insider".

   (e) in paragraph (i), we deleted the reference to "major subsidiary".

3. **Transition period to precede accelerated filing deadline for insider reports** (Parts 2, 3 and 10) – We have included a transition provision for the accelerated filing deadline for subsequent insider reports that will delay its introduction by six months from the effective date of the New Instrument. This transition period provides insiders and issuers time to become familiar with the reporting requirements in the New Instrument and to make necessary arrangements with third-party service providers.

4. **Reliance on Reported Outstanding Shares (Part 1)** – We have added a new provision to Part 1 of the New Instrument based on section 2.1 of NI 62-103.

5. **Issuer Grant Report** (Part 6) – We have amended the New Instrument to permit issuers to file the issuer grant report on SEDI rather than SEDAR.

6. **Exemption for "specified dispositions" in connection with issuer grants** (Part 6) – We amended the New Instrument to include in Part 6 a similar exemption for "specified dispositions" to the one in Part 5.

7. **Reporting exemption (nil report)** (Part 9) – We amended section 9.4 to clarify that the reporting exemption is not available to a reporting insider that is a significant shareholder based on post-conversion beneficial ownership.

8. **Exemption for certain agreements, arrangements or understandings** (Part 9) – We amended section 9.7 to include an exemption analogous to the exemption in paragraph 2.2(a) of MI 55-103 and Part 3 of BCI 55-506.

New Policy

The New Policy contains expanded guidance on various topics including:

1. The term reporting insider (section 1.4);

2. Persons and companies designated or determined to be insiders (section 1.6);

3. The concept of reporting insider, including guidance relating to the interpretation of the basket criteria in paragraph (i) of the definition of "reporting insider" and the meaning of "significant influence" (section 3.1);

4. When ownership passes for the purposes of the insider reporting requirement (section 3.2);

5. The meaning of "control or direction" (section 3.3); and

6. Contravention of insider reporting requirements (section 10.1).

Consequential Amendments

We have made the following changes to the proposed consequential amendments that were part of the December 2008 Materials:

1. **Form 51-102F5 *Information Circular* of National Instrument 51-102 *Continuous Disclosure Obligations*** – We have withdrawn the proposed requirement for an issuer to disclose whether insiders have been subject to late filings fees at this time. We may re-introduce the proposal with modification in the future at which time it would be subject to a further public comment process.

2. **National Instrument 62-103 *The Early Warning System and Related Take-Over Bid and Insider Reporting Issues*** – We revised the proposed amendment so that an eligible institutional investor is exempt from the insider reporting requirement in the New Instrument – including the requirements relating to related financial instruments and agreements, arrangements and understandings contemplated in Part 4 of the New Instrument – if that eligible institutional investor includes similar disclosure in its early warning filings under NI 62-103.

APPENDIX B

LIST OF COMMENTERS

Company or Organization	Name of Commenter/Commenters
Aird & Berlis LLP	Jennifer A. Wainwright
Astral Media	Brigitte K. Catellier
Blakes	John M. Tuzyk
Bombardier	Alain Doré
Borden Ladner Gervais	Alfred Page and David Surat
Canadian Bankers Association	Nathalie Clark
Compton, Ryan A., Daniel Sandler, Lindsay Tedds	Ryan A. Compton, Daniel Sandler, Lindsay Tedds
C.R. Jonsson Personal Law Corporation	Carl Jonsson
Enbridge	Alison Love and Gillian Findlay
Ensign Energy Services Inc.	Glenn Dagenais
F.T.Q	Mario Tremblay, Jasmine Hinse
ICSA	H. Bruce Murray, David Petrie, Patty Orr
INK	Ted Dixon
Kenmar Associates	Ken Kivenko
MÉDAC	Claude Béland
Nexen	Rick C. Beingessner
Ogilvy Renault LLP	Christine Dubé
Ontario Bar Association	Jamie K. Trimble, Christopher Garrah
Ontario Teachers' Pension Plan	Jeff Davis
Osler, Hoskin and Harcourt LLP	Desmond Lee
Scotia Capital & Wealth Management	Cecilia Williams
Stikeman Elliott	Simon A. Romano, Ramandeep Grewal
Sun Life Financial	Dana Easthope
TransCanada	Donald J. DeGrandis
TSX Group Inc.	Richard Nadeau, John McCoach
Veritas Investment Research Corporation	Sam La Bell
Wilfred Laurier University, School of Business and Economics	William J. McNally, Brian F. Smith

APPENDIX C

SUMMARY OF COMMENTS AND CSA RESPONSES

National Instrument 55-104 *Insider Reporting Requirements and Exemptions*
and
National Policy 55-104CP *Insider Reporting Requirements and Exemptions*

We received 27 comment letters in response to the request for comment. We thank the commenters for their comments.

List of commenters

June 16, 2009	William J. McNally and Brian F. Smith (School of Business and Economics, Wilfrid Laurier University) in PDF
April 13, 2009	Jeff Davis (Ontario Teachers' Pension Plan) in PDF
April 9, 2009	Cecilia Williams (Scotia Capital & Wealth Management) in PDF
March 27, 2009	Sam La Bell (Veritas Investment Research Corporation) in PDF
March 19, 2009	Ted Dixon (INK Research) in PDF
March 19, 2009	Alfred Page and David Surat (Borden Ladner Gervais LLP) in PDF
March 19, 2009	Donald J. DeGrandis (TransCanada) in PDF
March 19, 2009	Nathalie Clark (Canadian Bankers Association) in PDF
March 19, 2009	Alison Love and Gillian Findlay (Enbridge) in PDF
March 19, 2009	Jennifer A. Wainwright (Aird & Berlis LLP) in PDF
March 19, 2009	Christine Dubé (Ogilvy Renault LLP) in PDF
March 19, 2009	Alain Doré (Bombardier) in PDF
March 19, 2009	Desmond Lee (Osler, Hoskin & Harcourt LLP) in PDF
March 19, 2009	Rick C. Beingessner (Nexen Inc.) in PDF
March 19, 2009	Mario Tremblay and Jasmine Hinse (F.T.Q.) (in FRENCH) in PDF
March 18, 2009	Simon A. Romano and Ramandeep K. Grewal in PDF
March 18, 2009	John M. Tuzyk (Blakes) in PDF
March 18, 2009	Dana Easthope (Sun Life Financial) in PDF
March 18, 2009	Claude Béland (MÉDAC) (in FRENCH) in PDF
March 17, 2009	Carl Jonsson (C.R. Jonsson Personal Law Corporation) in PDF
March 17, 2009	H. Bruce Murray, David Petrie and Patty Orr (ICSA) in PDF
March 16, 2009	Jamie K. Trimble and Christopher Garrah (Ontario Bar Association) in PDF
March 13, 2009	Richard Nadeau and John McCoach (TSX Group Inc.) in PDF
March 13, 2009	Brigitte K. Catellier (Astral Media) in PDF
March 10, 2009	Daniel Sandler, Lindsay Tedds and Ryan A. Compton in PDF
January 15, 2009	Glenn Dagenais (Ensign Energy Services Inc.) in PDF
December 23, 2008	Ken Kivenko (Kenmar Associates) in PDF

The comment letters are available at www.osc.gov.on.ca.

In the following summary, we refer to the authors of a comment letter as “the commenter” regardless of the number of authors.

Summary of Comments and Responses

NI 55-104 *Insider Reporting Requirements and Exemptions* (NI 55-104 or the Instrument)
and
55-104CP *Insider Reporting Requirements and Exemptions* (55-104CP or the Policy)

Comment #	Themes	Comments	Responses
Part 1 – General			
1	**General – Support for the initiative**	Eighteen commenters expressed general support for the initiative and the objective of modernizing, harmonizing and streamlining insider reporting in Canada. Many of these commenters specifically commented on the benefits of consolidating insider reporting requirements and exemptions in a single instrument and the narrowing of the reporting obligation to a core group of insiders who have routine access to material undisclosed information and significant influence over their issuers. Some commenters think that eliminating unnecessary insider reporting will provide investors with more meaningful insider information, while reducing the regulatory burden and costs for issuers and insiders.	We thank the commenters for their support.
2		One commenter noted that investors, analysts and others use insider reports as part of their decision making and that it was well established that there is a correlation with these trading patterns and company health. The commenter also noted that the timely knowledge of stock option grants (or equivalent compensation) assists investors in assessing the efficacy of corporate governance in relation to executive compensation and in conducting option backdating analysis, making this initiative very important from an investor perspective.	We thank the commenter for its support.
3		One commenter commented that, in general, it believes that Canadian regulators have made significant and impressive progress in developing Canada's insider reporting regime over the past seven years. The commenter was further encouraged that regulators are continuing to focus their attention on ensuring our reporting system remains modern and transparent, particularly in relation to competing capital markets around the world.	We thank the commenter for its support.
4	**General – Opposition**	One commenter questioned whether the initiative would achieve any improvement in the deterrence or signalling objectives of insider reporting. (a) With respect to deterrence, the commenter expressed concern over insiders effecting illicit insider trades through family members or by	We acknowledge the comments but disagree with the concerns raised by the commenter. The CSA have not previously amended the definition of "insider" to eliminate family members, associates and affiliates. In the case of family

Comment #	Themes	Comments	Responses
		associates or affiliates and suggested that previous CSA initiatives may have exacerbated this. The commenter suggested that the current initiative, by reducing the number of insiders who have to report, would remove the deterrence effect for those insiders no longer required to report. (b) With respect to signalling, the commenter questioned whether the CSA had any significant evidence that investors access insider reports or make decisions based on insider trading information. Unless this is the case, there is no point in requiring insider reports to be filed in 5 days instead of 10 days. The commenter suggested the current 10-day requirement is already very onerous. (c) The commenter also suggested that the proposed acceleration of the filing deadline to 5 days will result in increased numbers of late filings and therefore increased late filing fees collected by the regulators. The commenter suggested that the current late fee system in Ontario ($50 per day to a maximum of $1,000) is enforced rigorously, and that Ontario's enforcement is a revenue-generating scheme.	members, the CSA have included guidance in the Policy about the meaning of the term "control or direction" and clarified that a reporting insider in certain circumstances may have or share control or direction over securities held by family members. We think this guidance should help reduce the risk of insiders effecting unreported trades through family members. As explained in the Notice, we think we can improve the effectiveness of the insider reporting system by narrowing the focus to insiders who have both routine access to material undisclosed information and significant influence over the reporting issuer. We think the enhanced deterrent and signalling effect on the core group of insiders with the greatest access to material undisclosed information and the greatest influence outweighs the potential loss of these effects on insiders who are outside this core group. As to whether investors make decisions based on insider trading information, several commenters attest to the benefits for investors from insider reporting. Finally, in view of the significant reduction in the number of reporting insiders under the Instrument and the other improvements to the system, we anticipate that late filing fees will decrease.
5	**General – Carve-out for Ontario in Part 2 of NI 55-104**	Two commenters supported the initiative but expressed concern about the carve-out for Ontario in Part 2 of NI 55-104. One commenter suggested that the policy goals achieved by an insider reporting regime which results in timely, accurate and consistent disclosure of insider trading are substantially prejudiced by the principal insider reporting requirements applicable in Ontario remaining in the *Securities Act* (Ontario). The commenter urged the CSA to communicate this concern to the appropriate governmental bodies. The commenter indicated its strong preference for the insider reporting requirements in all Canadian jurisdictions to be contained in NI 55-104.	We acknowledge these comments. As explained in section 2.1 of the Policy, the insider reporting requirements set out in the Instrument and in Part XXI of the Ontario Act are substantially harmonized. CSA staff intend to publish revised staff guidance when the Instrument takes effect that will clarify any material differences.

Comment #	Themes	Comments	Responses
		The commenter also urged the CSA to clarify the numerous comments in NI 55-104 about the similarities between the insider reporting requirements in Ontario and those applicable in the balance of Canada. If it is the view of the CSA that NI 55-104 and the insider reporting requirements in Ontario provide an identical regime, the CSA should make that statement unequivocally. In the alternative, if the CSA is of the view that the regimes are not the same, the CSA should provide clear guidance on the differences. In the absence of definitive guidance, market participants will have to make this determination, and inconsistent reporting will inevitably result, neither of which will foster efficient capital markets in Canada.	
6	**General – Complexity as a result of statutory definitions overriding definitions in the Instrument**	Two commenters expressed concerns over the additional complexity arising from statutory definitions overriding definitions in the rule. One commenter stated that in order to fully understand the proposed insider reporting regime, a market participant will need to consult one or more of: (i) NI 55-104; (ii) the Act and regulations in Ontario; and (iii) the definition of terms such as “insider”, “derivative”, “economic exposure”, “economic interest”, “exchange contract” and “related financial instrument” in Canadian securities legislation of each of the relevant provinces and territories.	As explained in subsection 1.4(1) of the Policy, in the case of terms that are defined by reference to the definition in the local statute rather than the Instrument, the CSA consider the meanings given to these terms to be substantially similar in each of the CSA jurisdictions and to the definitions set out in the Instrument. CSA staff intend to publish revised staff guidance when the Instrument takes effect that will clarify any material differences.
Part 2 – Concept of “reporting insider”			
1	**Concept of “reporting insider” – Support**	Twenty commenters supported the introduction of the reporting insider concept and the proposal to limit the reporting requirement to insiders who satisfy the criteria of routine access to material undisclosed information and significant influence over the reporting issuer.	We thank the commenters for their comments.
2		One commenter was delighted to see that the CSA is proposing to significantly reduce the number of persons required to file insider reports. The commenter’s preliminary view was that the proposals would result in a 70% reduction in the number of reporting insiders for the commenter. The commenter believed that this would significantly reduce the burden of filing insider reports without negatively impacting the quality of the information available to the market. However, the commenter believed that the proposed definition of reporting insider was still overly inclusive. The commenter recommended that the CSA streamline the definition of reporting insider in the Instrument and add	As explained below, we have made a number of amendments to further streamline the definition of “reporting insider” and have added guidance to the Policy to illustrate how the CSA think the knowledge criteria should be interpreted.

Comment #	Themes	Comments	Responses
		guidance to the Policy to illustrate how the CSA think the knowledge criteria should be interpreted.	
3		One commenter agreed with the principle of generally limiting reporting requirements to persons who have routine access to material undisclosed information and significant influence over the reporting issuer but suggested it may be appropriate and clearer to amend the statutory definition of "insider" directly rather than adding a new definition of a "reporting insider".	We have not proposed an amendment to the definition of "insider" in securities legislation since the concept of "insider" is a core component of the definition of "person or company in a special relationship with a reporting issuer" in securities legislation. We do not think it is appropriate to remove from the special relationship definition (and the insider trading prohibition) insiders who may have access to material undisclosed information but who do not satisfy the routine access and significant influence criteria reflected in the definition of reporting insider.
4	**Concept of "reporting insider" – reference to clause 3.2(1)(c)** **["person or company responsible for a principal business unit, division or function of the reporting issuer or of a major subsidiary"]**	Three commenters recommended the definition of reporting insider be amended to delete clause 3.2(1)(c). One commenter stated that, given the intent to narrow the focus to a core group of insiders with the greatest access to material undisclosed information and the greatest influence, clause (c) should be removed. The commenter believed the continued inclusion of clause (c) would perpetuate the inclusion of persons with knowledge or influence over a portion of the operations or financial results of the reporting issuer but not the reporting issuer as a whole. One commenter noted that the express reference to a person responsible for a principal business unit, division or function of a major subsidiary of a reporting issuer results in a separate definition that is different from the definitions of "executive officer," "officer" or "senior officer" in securities legislation.	We have amended clause 3.2(1)(c) to delete the reference to "major subsidiary".
5	**Concept of "reporting insider" – reference to significant shareholders**	One commenter said including significant shareholders in the definition of reporting insider may, in many cases, be over-inclusive. Depending upon the reporting issuer's shareholder base, a 10% ownership interest may not provide a shareholder with any access to material undisclosed information, or significant influence over, the reporting issuer. The commenter suggested that the CSA consider including only those significant shareholders who satisfy the criteria of access and influence. Alternatively, the CSA could consider expanding the exemption in section	We have not amended the Instrument in response to this comment. Section 9.3 of the Instrument contains an exemption for a director or officer of a significant shareholder of a reporting issuer if the director or officer does not satisfy the criteria of routine access to material undisclosed information or significant influence over the issuer. We do not think it is appropriate to extend this exemption to the significant shareholder itself. We think

Comment #	Themes	Comments	Responses
		9.3 so that it applies to the significant shareholder itself, as well as its officers and directors.	that an ownership or control position representing more than 10% of a reporting issuer's voting securities will generally give rise to a level of potential access to and influence over the reporting issuer as to warrant reporting.
6	**Concept of "reporting insider" – reference to significant shareholders and major subsidiaries**	Three commenters agreed that the definition should be limited to persons who satisfied the access and influence criteria but suggested the definition was too broadly drafted and would catch persons (namely executives and directors of major subsidiaries and significant shareholders) who do not otherwise meet the access criteria. Similarly, one commenter suggested that the CSA should consider removing the concept of major subsidiaries and significant shareholders from the definition except in clause (d) of the definition since a significant shareholder itself should be an insider. The commenter suggested this is feasible since the basket provision in clause (i) captures anyone with routine access and significant influence. Similarly, one commenter suggested that the concept of reporting insider should be limited by removing the concept of "major subsidiary" from paragraphs (a), (b), (c), (e) and (i) of the definition. This would result in the reporting requirement more closely resembling the U.S. model where reporting is effectively limited to directors, executive officers and major shareholders and in general does not reach down to the directors and officers of subsidiary companies. The commenter suggested that if the concept of "major subsidiary" is removed from the definition of reporting insider, the two criteria in "basket" provision (i) would similarly prevent avoidance of the reporting requirement by other insiders who should be reporting.	We have amended clause 3.2(1)(c) and the basket provision in clause 3.2(1)(i) to delete the reference to "major subsidiary". We have also added related guidance to the Policy. We think it is appropriate to retain insider reporting by the CEO, CFO, and COO and directors at the significant shareholder or major subsidiary level and persons and companies responsible for a principal business unit, division or function of the reporting issuer as we think that these individuals will generally satisfy the policy reasons for insider reporting described in section 1.3 of 55-104CP. For example, where a subsidiary represents a significant proportion of the assets or revenues of a reporting issuer parent on a consolidated basis, information about the subsidiary may be material to the reporting issuer. This is most clearly the case with many income trusts and similar indirect offering structures, since the reporting issuer parent may have few officers and directors and all or substantially all of the issuer's assets and revenues are held at the major subsidiary level. Other officers at the significant shareholder or major subsidiary level will only be required to file insider reports if they satisfy the basket criteria in clause 3.2(1)(i).
7		Two commenters suggested that including directors of major subsidiaries, as well as persons or companies responsible for principal business units, divisions or functions of a major subsidiary, in the enumerated list of the proposed definition of reporting insiders without providing for an exemption based on lack of access to material undisclosed information could potentially increase the number of reporting insiders. The commenter suggested that directors of	We have amended clause 3.2(1)(c) and the basket provision in clause 3.2(1)(i) to delete the reference to "major subsidiary". Including directors of major subsidiaries in the enumerated list of the proposed definition of reporting insider will not increase the number of reporting insiders, when compared to the present exemptions regime contained in NI 55-101 *Insider*

Comment #	Themes	Comments	Responses
		major subsidiaries and persons or companies responsible for principal business units of major subsidiaries should be excluded from the enumerated list and be captured by the basket provision in clause 3.2(1)(i).	*Reporting Exemptions*, since such persons are currently "ineligible insiders" and therefore ineligible for the exemption in Part 2 of NI 55-101. In view of the increase of the assets and revenue thresholds in the definition of major subsidiary from 20% to 30%, the number of insiders who are reporting insiders because they are directors of major subsidiaries should decrease.
8	**Concept of "reporting insider" – inclusion of insiders at "major subsidiary" level – increase of assets and revenue thresholds from 20% to 30%**	All eight commenters who commented on the threshold question supported the amendment to the definition of "major subsidiary" (as it presently exists in NI 55-101) that would increase the assets and revenue thresholds from 20% to 30%.	We thank the commenters for their comments.
9	**Concept of "reporting insider" – inclusion of insiders at "major subsidiary" level – proposed exemption for major subsidiaries that are passive holding companies**	One commenter recommended that the definition of "major subsidiary" be modified to exclude intermediate holding companies (in contrast to operating companies). Holding companies that carry on no business (other than holding assets) and have no operations and as such, generally would have no business or functions for which to assign responsibility to insiders. As such, directors and officers of holding companies generally have no control over any business units, divisions or functions of the reporting issuer or access to material information regarding the reporting issuer by virtue of their positions with the holding company. In general, the commenter thought that individuals in this situation do not meet the thresholds of relevance or materiality underlying the policy rationale of insider reporting regulations by virtue of their positions with a holding company if the associated operating company does not itself meet the definition of 'major subsidiary', and that investors would receive no material or meaningful information from disclosure made by insiders of holding companies.	We will consider applications for an exemption from the reporting requirement for insiders in these circumstances.
10	**Concept of "reporting insider" –**	One commenter noted that subsection 3.2(1)(d) and (h) are duplicative for a significant shareholder based on post-conversion	We have amended the definition of "reporting insider" to address this comment.

Comment #	Themes	Comments	Responses
	clauses 3.2(1)(d) and (h)	beneficial ownership, given the interpretation provision set out in subsection 3.2(2) that states "reference to a significant shareholder includes a significant shareholder based on post-conversion beneficial ownership."	We have amended subsection 3.2(2) to clarify that, if a significant shareholder based on post-conversion beneficial ownership is a reporting insider, every director, CEO, CFO, and COO of the shareholder will also be reporting insiders. Please see Part 7 of the Summary for further information on this change.
11	**Concept of "reporting insider" – reporting issuer as insider of itself – clause 3.2(1)(g)**	Two commenters questioned the usefulness of including the issuer as a class of reporting insider. One commenter suggested that including a reporting issuer while it holds its own securities as a reporting insider, as subsection 3.2(1)(g) does, has always been a troublesome concept. Canadian corporate statutes generally require cancellation of repurchased shares, and result in the termination of other obligations, when an issuer acquires its own securities. Thus, an issuer acquiring its own securities should not have to report as a reporting insider. The commenter also suggested further consideration of whether the reporting requirements set out in section 3.3(b) and Part 4 would be appropriate for the issuer itself where it holds its own securities.	We have not amended the Instrument in response to this comment. The Instrument has not changed the existing reporting requirement for issuers but does include a new exemption for issuer transactions where there is other public disclosure. We have not eliminated the existing reporting requirement for issuers because we think participants would find the monthly reporting of acquisitions under a normal course issuer bid (NCIB) useful. The comment letter filed by McNally and Smith cites extensive research that suggests that issuer reporting of issuer purchases may provide valuable information to investors. Although corporate statutes generally require cancellation of purchased shares, these provisions may not apply to non-corporate issuers. In addition, as explained in Part 7 of the Policy, corporations and non-corporate issuers may also acquire their shares through affiliates.
12		One commenter suggested removing the language "for so long as it continues to hold that security" in subsection 3.2(1)(g) and in the Policy. This language could lead to ambiguity among issuers as to whether or not they need not file an insider report on SEDI if shares are immediately bought and cancelled during an NCIB. Alternatively, clear language should be added to 3.2(1)(g) to include the fact that all NCIB transactions are subject to insider reporting. The commenter opposed any initiative to move NCIB reporting onto SEDAR.	We have not amended clause 3.2(1)(g) of the definition since this language is based on the corresponding language in the definition of "insider" in Canadian securities legislation.
13		One commenter cited research that shows that executives are able to use their insider knowledge to cause the issuer to repurchase shares when they are undervalued. In so doing,	Please see response in 11.

Comment #	Themes	Comments	Responses
		they transfer wealth from selling to non-selling shareholders, including themselves. The commenter also submitted that research shows that repurchases convey valuable information to the market so release of information about repurchases should be made in a timely manner. A uniform system of timely disclosure of NCIBs through a single source like SEDI would promote greater market efficiency.	
14	**Concept of "reporting insider" – reference to significant power or influence in clause 3.2(1)(i)**	One commenter was concerned that implementing a dual criteria system may inadvertently limit the number of insiders, leaving out individuals who should remain classified as insiders. The commenter was supportive of the first criterion, routine access to material undisclosed information, but was concerned the second criterion, namely, "significant power or influence over the business, operations, capital or development of the reporting issuer" was ambiguous and open to broad interpretation. Another commenter suggested that the CSA qualify the meaning of "significant power or influence". The commenter was concerned that, without qualification, reporting issuers will tend to err on the side of caution, diluting the intent to focus on a primary group of reporting insiders.	We have not amended the Instrument in response to this comment. We have added guidance to the Policy to clarify the interpretation of "significant influence".
15	**Concept of "reporting insider" – inclusion of principles-based basket provision (s. 3.2(1)(i))**	One commenter recommended that the "basket" provision in subsection 3.2(1)(i) be removed from the definition of reporting insider. The commenter thinks that subsections 3.2(1)(c) and (f) will capture all the individuals that subsection 3.2(1)(i) intends to, as it is only individuals performing the roles, or having the responsibilities, set out in 3.2(1)(a) to (f) that would have access to information as to material facts or changes concerning the reporting issuer and exercise significant influence over the reporting issuer or its principal business units, divisions or functions (or those of a major subsidiary). The inclusion of the subsection could lead to inaccurate or over-reporting by issuers, in turn undermining the CSA's attempt in the Instrument to make insider reporting data more meaningful for investors. In the alternative, if the CSA feels that the provision does add value, the commenter recommended that it be moved to the Policy so that insiders and issuers may use it as guidance.	We have not amended the Instrument in response to this comment. However, as noted above, we have added guidance to the Policy to address the concern that the concept of "significant influence" may be vague. The drafting of the definition of reporting insider represents a principles-based approach to determining which insiders should file insider reports. The basket provision articulates the fundamental principle that any insider who satisfies the criteria of routine access to material undisclosed information concerning a reporting issuer and significant influence over the reporting issuer should file insider reports. All commenters who commented on this question agreed that these were the appropriate principles for determining which insiders should be

Comment #	Themes	Comments	Responses
			required to file insider reports. The definition enumerates positions that, in our view, will generally satisfy these criteria. In the case of an insider that does not fall within the enumerated categories, the issuer and insider should consider whether the insider exercises a degree of influence over the reporting issuer that is commensurate with that of the enumerated positions and, if so, if the individual comes within the 'basket provision'.
16	**Concept of "reporting insider" – subsection 3.2(2) – reference to "significant share-holder" to include "significant shareholder based on post-conversion beneficial ownership"**	One commenter questioned whether a significant shareholder based on post-conversion beneficial ownership should be included as a reporting insider. The commenter noted that the reporting requirement in section 3.3 would likely never apply to a "reporting insider" who is a reporting insider only on account of being a "significant shareholder based on post-conversion beneficial ownership" because such reporting insider would not have either (i) direct or indirect, beneficial ownership or control, or control or direction or (ii) an interest, right or obligation associated with a related financial instrument. The same comment also applies to subsection 3.4.	We have amended the nil report exemption in section 9.4 in response to this comment. If a person or company is a reporting insider solely on account of being a "significant shareholder based on post conversion beneficial ownership", the reporting insider will still have a reportable interest. The convertible securities that give rise to reporting insider status will generally be "related financial instruments" or will be subject to the Part 4 requirements. See also the response below to comments relating to the concept of post-conversion beneficial ownership.
17	**Concept of "reporting insider" – proposal to include family members**	One commenter noted that, although the Québec *Securities Act* ("QSA") prohibits related persons from using privileged information, they are not subject to the insider reporting requirement. The commenter believed that such persons should be subject to a reporting requirement so that investors have a complete portrait of the insider situation, thereby avoiding any attempt to use these channels.	We have not amended the Instrument in response to this comment. However, we have expanded the guidance in Part 3 of the Policy to address the situation of "related persons". As explained in Part 3 of the Policy, reporting insiders must file insider reports in respect of transactions in securities over which the insider has or shares "control or direction". It will generally be a question of fact whether a reporting insider has or shares control or direction over securities held by the "related persons" referred to in the comment. However, we think that the relationships reflected in the list of related persons will generally give rise to a presumption that the insider has or shares control or direction over the

Comment #	Themes	Comments	Responses
			securities held by the related person. The reporting insider may also have or share beneficial ownership over these securities.
18	**Concept of "reporting insider" – opposition – will increase the number of insiders required to report**	One commenter suggested that limiting the reporting requirement to reporting insiders (according to the current definition) would not reduce the number of insiders required to file reports for development capital funds.	We disagree with this comment.
Part 3 – Proposal to accelerate reporting deadline from 10 calendar days to 5 calendar days			
1	**Proposal to accelerate reporting deadline from 10 calendar days to 5 calendar days – Support**	Eight commenters supported the acceleration of the reporting deadline from 10 calendar days to five calendar days for subsequent insider reports. Some commenters said that the reporting deadline should be two days. One commenter supported the change but urged the CSA to consider accelerating the filing window to, at a minimum, the two-business-day window that exists in the U.S. The commenter suggested that Canada is not immune to the backdating scandal that has unfolded in the United States in recent years. The commenter has recently published research in the Canadian Business Law Journal that demonstrates that the incidence of backdating in Canada is much broader than the few Canadian companies that have publicly announced inappropriate backdating behaviour. The commenter noted that, as a result of the Sarbanes-Oxley Act, the SEC reporting regulations now require executive stock option grants to be reported to the SEC within two business days of the grant. Recent U.S. research shows that, with the introduction of a two-day reporting period, the return pattern associated with backdating is much weaker and the percent of unscheduled grants backdated or manipulated fell dramatically. The move to a two-day rule provides a much smaller window to opportunistically backdate option grants and still meet the reporting requirements.	We thank the commenters for their comments. We have not amended the proposed filing deadline of five calendar days for subsequent insider reports.
2		One commenter noted that the proposed reduction in the reporting window from ten days to five days should reduce the ability to manipulate stock option grants in Canada,	We have not made any changes in response to this comment. We think that given the significant media attention and recent enforcement

Comment #	Themes	Comments	Responses
		although not to the same extent as the U.S. two-day window. The commenter urged the CSA to consider accelerating the filing window to, at a minimum, match that which exists in the U.S.	actions in the U.S. and Canada issuers and insiders are aware of their obligations and will act in compliance with these obligations. Issuers and insiders that do not comply could face enforcement action.
3		One commenter supported the proposal to require timely disclosure of grants of stock options and similar instruments through the insider reporting system or through the issuer filing an issuer grant report. The commenter cited U.S. research that illustrated that share prices dropped systematically before the registered date of options grants, and rose systematically after the date of the grant, something that could not have happened by chance. The pattern was most pronounced prior to 2002 when U.S. companies had until the end of the fiscal year to file their options grants, giving them ample opportunity to retroactively pick favourable grant prices. The research also found that the statistical "V" that characterized prices around the grant date all but disappeared after the 2002 introduction of the Sarbanes-Oxley requirement to file insider reports about these grants within two days. The commenter cited its own 2006 study of Canadian S&P/TSX 60 options grants showed the same "V" shaped pattern, signalling that Canada did in fact have an options problem. The commenter viewed the reduction to a five-day filing window for existing filers as a major improvement but was concerned that it did not eliminate the opportunity to backdate options created by late filings. Whatever the required filing window for transactions, the *de facto* filing window stretches to the point when the report is actually filed.	We agree timely disclosure of grants of securities and similar instruments, whether through the insider reporting system or through the issuer filing an issuer grant report, allows investors to monitor whether insiders may be causing issuers to engage in improper or unauthorized dating practices including backdating, spring-loading and bullet-dodging. Under NI 55-104, reporting insiders will generally be required to file insiders reports about grants of options and similar instruments within five days of the grant. This is generally consistent with insider reporting (section 16) requirements in the U.S., which require insiders to report grants of options, phantom share units and similar equity derivatives within two business days.
4	**Proposal to accelerate reporting deadline from 10 calendar days to five calendar days – Opposition**	Eight commenters suggested the period to file insider reports should not be shorter than five business days. This would balance the need for timely information with the administrative burden of filing insider reports. Three commenters opposed shortening the reporting deadlines from 10 days to five calendar days because they thought that a shortened time period would be difficult to comply with for some insiders. One commenter was supportive of the proposal to accelerate the reporting deadline but urged	We have not amended the proposed filing deadline of five calendar days for subsequent insider reports. However, we have amended the Instrument to include a transition provision that will delay the introduction of the accelerated filing deadline until six months after the effective date. Accordingly, issuers and insiders will have an additional six months to become familiar with the new reporting

Comment #	Themes	Comments	Responses
		the CSA to consider SEDI improvements prior to implementing the accelerated reporting deadline. The commenter noted its members have found that SEDI is unduly complicated and difficult to use which has resulted in mistakes being made and late filing fees being imposed when those mistakes are rectified. As such, the commenter was concerned that those difficulties will impede the ability of insiders to report transactions within the shorter time frame proposed by the CSA. In addition, the commenter suggested that an option of five calendar days *or three business days*, whichever is later, be provided so that reporting insiders have sufficient time to file reports where a five calendar day period includes weekends and statutory holidays. One commenter believed that it was premature to accelerate the filing deadline until the System for Electronic Disclosure by Insiders (SEDI) is made more user friendly for people required to file insider reports. In addition, the commenter noted that an insider may need to seek support from the SEDI help desk or local commission staff before completing a filing. While SEDI is available seven days a week, neither the SEDI help desk nor local securities commissions are available to provide support seven days a week. Consequently, the commenter strongly recommended that the support functions are enhanced and perhaps centralized before accelerated filings are introduced.	requirements in the Instrument and to make necessary arrangements with third-party service providers. We acknowledge the comments relating to the user friendliness of SEDI from the perspective of people required to file insider reports. As explained in the Notice and Request for Comment, we anticipate that several of the proposed substantive changes to our insider reporting regime will help address concerns raised by issuers and insiders in relation to SEDI. We are continuing to review measures to improve the user friendliness of SEDI.
5	**Proposal to retain 10 day reporting deadline for initial reports**	All commenters who commented on the issue supported the retention of the current 10-day timeline for filing initial reports to accommodate new filers.	We thank the commenters for their support.
Part 4 – Proposal to ensure consistent treatment of stock options and similar equity derivatives			
1	**Proposal to ensure consistent treatment of stock options and similar equity derivatives – Support**	Seven commenters supported the proposal to ensure that cash-settled equity derivatives that have a similar economic effect to stock options are reported in a similar manner to stock options. Several commenters also made related comments in connection with the issuer grant report proposal.	We thank the commenters for their support. As explained below, we have not made any changes to the proposal to require cash-settled equity derivatives that have a similar economic effect to stock options to be reported in a similar manner to stock options.
2		One commenter supported the proposal to require timely disclosure of grants of stock options and similar instruments through the insider reporting system.	We agree that timely disclosure of grants of stock options and similar instruments is important since it allows investors, among other things, to monitor whether issuers and insiders

Comment #	Themes	Comments	Responses
		The commenter cited its own 2006 study of Canadian S&P/TSX 60 options grants that showed that option backdating was very likely occurring in Canada. The commenter noted that if backdating is the problem, then investors and regulators should also be concerned with the proliferation of other forms of compensation linked to share prices, since these are equally prone to abuse. Otherwise, compensation will simply gravitate to forms featuring less oversight and disclosure. The commenter noted that many companies are converting their conventional options, which grant the right to buy shares at a specified price, into plans that provide a cash alternative, such as: 1. Stock Appreciation Right or SARs 2. Tandem Options 3. Deferred Share Units or DSUs or 4. Performance Share Units or PSUs. The commenter noted that some companies argue that these forms of compensation are "just like cash bonuses", and therefore should not be tracked by insider filings but instead by conventional rules for disclosing compensation. Because of their link to equity prices, these instruments are just as prone to abuse as conventional options. The commenter noted that SARs and Tandem Options can be backdated in exactly the same way as conventional options by looking backwards and setting a price lower than the current share price. The commenter also provided examples of how PSUs and DSUs are subject to gaming.	may be engaging in improper or unauthorized dating practices Under NI 55-104, reporting insiders will generally be required to file insiders reports about grants of options and similar instruments within five days of the grant. This is generally consistent with insider reporting (section 16) requirements in the U.S. that require insiders to report grants of options, phantom share units and similar equity derivatives within two business days. Part 6 of NI 55-104 contains an exemption from the insider reporting requirement for a grant of options or similar instruments under a compensation arrangement, provided the issuer has disclosed the existence and material terms of the arrangement in a public filing and filed an issuer grant report in accordance with s. 6.3. We encourage issuers to assist their insiders in complying with their insider reporting requirements by, for example, making use of the new exemption in Part 6 of NI 55-104 for issuer grant reports.
3	**Proposal to ensure consistent treatment of stock options and similar equity derivatives – Opposition**	Several commenters did not support the proposal to ensure that instruments that have a similar economic effect to stock options are reported in a similar manner to stock options. *Proposed exemption for all compensation instruments* One commenter recommended that the CSA introduce a new exemption that would exempt from the insider reporting requirements all grants of securities and equity derivatives under compensation arrangements, including stock options, restricted share units (RSUs), deferred share units (DSUs), whether settled in cash, securities acquired in the market, or shares issued from treasury. The commenter suggested that these do not provide any meaningful information relating to discrete investment decisions. These arrangements are disclosed (for certain insiders) as executive and	We have not amended the Instrument in response to these comments. Part 6 of NI 55-104 contains an exemption from the insider reporting requirement for a grant of options or similar instruments under a compensation arrangement, provided the issuer has disclosed the existence and material terms of the grant in a public filing and filed an issuer grant report in accordance with s. 6.3. We do not think it is appropriate to create a separate exemption for a grant of options or similar instruments which would eliminate timely disclosure about the grant. Similarly, we do not think it is appropriate to create a separate exemption for grants of certain types of instruments – based

Comment #	Themes	Comments	Responses
		director compensation in management proxy circulars for directors and the five key named executive officers. *Proposed exemption for PSUs and RSUs* One commenter recommended excluding from the insider reporting requirements compensation instruments such as performance share units (PSUs) and restricted share units (RSUs). The commenter noted that its insiders currently report stock options and deferred share units (DSUs) and was not suggesting any changes for these instruments. In the commenter's view, options and DSUs are fundamentally different from PSUs and RSUs because insiders are making an investment decision when they exercise options or elect to take a portion of their annual incentive compensation in the form of DSUs rather than cash. However, the commenter stated that at no time does an insider make an investment decision with respect to PSUs or RSUs. Each grant of PSUs and RSUs is a compensation decision made by the person to whom the insider reports or the board of directors. These types of compensation arrangements must be disclosed pursuant to Form 51-102F6 and therefore disclosure through SEDI seems unnecessary. *Proposed exemption for cash-settled related financial instruments* Two commenters proposed that the CSA include an exemption for awards of units to insiders under compensation arrangements in respect of which • the material terms are publicly disclosed; • the alteration to the insider's economic interest occurs as a result of a pre-established condition or criterion; and • the alteration does not involve a "discrete investment decision" by the insider. One commenter noted the proposed exemption would not cover grants of stock options or other compensation arrangements that provide for or permit a conversion of a unit into securities. The commenter noted that the plans under which such units are awarded are disclosed (for certain insiders) in other public filings, such as management information circulars. The commenter questioned the need for disclosure through SEDI and suggested that the disclosure of the number of units awarded to a particular individual would not signal anything to the market or provide meaningful information to	solely on the legal form of the instrument – which would eliminate timely disclosure about the grant. *Policy rationale for insider reporting* Timely disclosure of a grant or exercise of options or similar instruments serves all of the policy reasons for insider reporting described in section 1.3 of 55-104CP. The policy reasons apply equally to grants and exercises of stock options, instruments that provide for or permit settlement in securities (physically settled instruments) and instruments that provide for or permit a payout in cash (cash-settled instruments). First, timely disclosure of a grant performs a deterrence function since insiders may be able to profit from material undisclosed information, by, for example, timing the grant prior to the announcement of favourable information. Similarly, insider reporting of cash-settled instruments performs the same deterrence function as insider reporting of options and physically settled instruments since cash-settled instruments provide the same opportunities for insiders to profit from material undisclosed information as those instruments. Secondly, the timing of a grant (or repricing of a grant) may be highly relevant information to investors since some investors rely on information about grants in making their own investment decisions. Information about the timing or repricing of a grant may be particularly relevant if insiders participate in the decision to make the grant, since the decision may be based on material undisclosed information or reflect the insiders' views about the issuer's prospects generally. See section 5.1 of Companion Policy 55-101CP and section 5.1 of Policy 55-104CP. Thirdly, insider reporting of grants or repricings of options and similar instruments allows investors to monitor whether insiders may be causing issuers to engage in improper

Comment #	Themes	Comments	Responses
		investors. One commenter noted that there is currently an exemption in MI 55-103 *Insider Reporting for Certain Derivative Transactions (Equity Monetization)* ("MI 55-103") from the requirement to report a compensation arrangement on an insider report if the compensation arrangement is publicly disclosed. This exemption has not been continued in the Instrument. While the commenter understood the CSA's desire to create a class of reportable transactions that does not distinguish between physical and cash-settled plans, the commenter suggested that providing an exemption for certain cash-settled compensation plans would be appropriate where the award does not involve • an investment decision by the reporting insider or • an ability to influence the granting of the award by the reporting insider. *Proposed carve out from definition of "related financial instrument" for cash-settled related financial instruments* Four commenters suggested that compensation arrangements that entitle insiders solely to cash payments based on the value or growth in value of shares, such as restricted share units (RSUs) and deferred share units (DSUs), should be carved out of the definition of "related financial instrument" and excluded from the insider reporting requirements as such compensation arrangements are in fact tax-deferred bonuses and are fully disclosed in annual filings such as management information circulars. One commenter suggested that, if the purposes of insider reporting are to deter improper insider trading based on material undisclosed information and providing investors with the insiders' views of an issuer's prospects, these purposes are not achieved by requiring reporting of cash-settled compensation arrangements. These types of arrangements are generally not transferable, and therefore there is no insider trading concern. Further, the disclosure of payouts under such arrangements do not provide investors with the insiders' views of an issuer's prospects. The commenter suggested disclosure of these types of arrangements through insider reporting would be a significant burden, and would not provide meaningful information to the market.	or unauthorized dating practices including backdating, spring-loading and bullet-dodging. *U.S. insider reporting requirements* Under NI 55-104, reporting insiders will generally be required to file insiders reports about grants of options and similar instruments within five days of the grant. If an issuer files an issuer grant report within five days of the grant, the insider may report the grant on an annual basis. The five-day reporting requirement is generally consistent with insider reporting requirements in the U.S. which require insiders to report grants of options, phantom share units and similar instruments within two business days. *Executive compensation disclosure requirements* The fact that grants to some insiders may also be subject to executive compensation disclosure requirements in an annual filing such as an information circular does not obviate the need for timely disclosure of such grants to investors. The insider reporting requirements and executive compensation disclosure requirements serve different purposes. Insider reporting is a form of timely disclosure, and serves the policy reasons described above. Conversely, disclosure about a grant of options or similar instruments through an information circular may not occur until more than a year after the grant. In addition, the executive compensation disclosure requirements are generally limited to the CEO, CFO and top three Named Executive Officers. Accordingly, these disclosure requirements may not cover many insiders who routinely have access to material undisclosed information and exercise significant influence over the reporting issuer. Moreover, executive compensation disclosure requirements do not require disclosure of the grant date. Accordingly, the information reported

Comment #	Themes	Comments	Responses
			by issuers may not be sufficient to determine whether the issuer may have engaged in improper or unauthorized dating practices, such as backdating, spring-loading or bullet dodging. Several commenters cite U.S. research that indicates that abnormal return patterns to insiders associated with option grants were substantially reduced in the U.S. following the acceleration of U.S. insider reporting requirements to two business days. Accordingly, we remain of the view that the insider reporting regime is the most effective regime for investors to monitor whether issuers and insiders may be engaging in improper or unauthorized dating practices including backdating, spring-loading and bullet-dodging. *Avoidance concerns* As noted by several commenters, an insider reporting system that requires insiders to file insider reports about grants of securities and instruments that are physically settled but that exempts instruments that are cash-settled would be inconsistent and would not provide an accurate picture of an insider's true economic exposure to the insider's issuer. In addition, such an exemption may invite structuring transactions to avoid disclosure, such as substituting a cash-settled plan for a physically settled plan. At least one study has previously criticized the lack of timely disclosure about grants of cash-settled equity derivatives through SEDI as a "significant loophole".
4	**Proposed exemption for "specified dispositions" under compensation arrangements**	One commenter suggested that Part 6 of the Proposed Rules include a similar exemption to that contained in Part 5 for "specified dispositions".	We have amended the Instrument in response to this comment.
5	**Other proposed exemptions based on existing U.S.**	One commenter noted that US securities laws include exemptions from the definition of "derivative securities" (for insider reporting	In many cases, comparable exemptions already exist in the Instrument. In other cases, we will consider applications for exemptive

Comment #	Themes	Comments	Responses
	exemptions	purposes) in a number of situations.	relief where the applicant can demonstrate the policy reasons for insider reporting do not apply.
6	**Other proposed exemptions based on existing exemptions in MI 55-103/BCI 55-506**	One commenter made reference to the exemptions in subsections 2.2(a), (e), (f), (g), (h), (i) and (j) of MI 55-103, and corresponding exemptions in BCI 55-506, and suggested these exemptions should be included in the Instrument. Two other commenters said the CSA had omitted the exemption that currently exists in s. 2.2(a) of MI 55-103 and subsection 3(a) of BCI 55-506. Finally, one commenter suggested that SEDI is currently not able to accommodate the type of disclosure that the proposed disclosure of economic interests requires of insiders.	Section 9.7 of the draft version of the Instrument published for comment already included all of these exemptions, except for subsection 2.2(a). We have amended section 9.7 to include an exemption analogous to the exemption that currently exists in subsection 2.2(a) of MI 55-103 and subsection 3(a) of BCI 55-506. We are not aware of any situations where SEDI is not able to accommodate the proposed disclosure of economic interests required of insiders. We note that, prior to the adoption of MI 55-103 in 2004, several commenters raised a similar comment. Accordingly, we published CSA Staff Notice 55-312 *Insider Reporting Guidelines for Certain Derivative Transactions (Equity Monetization)* to provide examples of how such arrangements could be reported.
Part 5 – Concept of "issuer grant report"			
1	**Concept of "issuer grant report" – Overview**	Ten commenters supported the concept of the issuer grant report, subject to their comments relating to the question of whether the report should be filed on SEDAR, SEDI and the appropriate deadline for filing the report. Several commenters agreed this would encourage issuers to assist their insiders in the reporting of option grants and should reduce late insider filings. Three commenters did not support the proposal for an issuer grant report, primarily due to concerns that filing the report on SEDAR would result in fragmented insider disclosure and may result in delayed public disclosure of option grants. Four commenters did not oppose the issuer grant report but believed it would be of limited benefit. One commenter suggested that the exemption from insider reporting under the issuer grant report provisions would be of minimal benefit to significant shareholders (since the securities must continue to be disclosed under the early warning reporting regime) and may lead to inconsistent disclosure in the market.	We thank the commenters for their support. As a result of the comments received, we have amended the proposal to permit an issuer to file the issuer grant report on SEDI rather than SEDAR. The instrument would now enable, the issuer grant report to be filed in a similar manner to an "issuer event report". Accordingly, if an issuer files an "issuer grant report" on SEDI within five days of a grant, each insider recipient of the grant will be exempt from the requirement to file an insider report within five days of the grant and may instead file an alternative report on an annual basis.

Comment #	Themes	Comments	Responses
2	**Concept of "issuer grant report" –SEDI v. SEDAR**	Two commenters agreed with the CSA's proposal that the issuer grant report be filed on SEDAR first, pending necessary changes being made to SEDI. One commenter suggested there should be a separate category created on SEDAR for purposes of filing issuer grant reports and other insider related reports. Thirteen commenters suggested the issuer grant report should be filed on SEDI rather than SEDAR.	We thank the commenters for their support. As a result of the comments received, we have decided to amend the proposal to permit an issuer to file the issuer grant report on SEDI rather than SEDAR. The instrument would now enable the issuer grant report to be filed in a similar manner to an "issuer event report". Accordingly, if an issuer files an "issuer grant report" on SEDI within five days of a grant, each insider recipient of the grant will be exempt from the requirement to file an insider report within five days of the grant and may instead file an alternative report on an annual basis.
3	**Concept of "issuer grant report" – Concern over lack of timely disclosure of option grants**	One commenter was concerned that annual reporting of grants was not sufficiently timely, particularly given the disparity that will result on SEDI profiles for such reporting insiders. The commenter supported necessary changes being made to SEDI to enable filing of the issuer grant report, to make it simpler for investors to gain a complete understanding of insider positions and to make it easier for filers to keep profiles up to date. One commenter indicated it did not intend to use an issuer grant report. Use of such a report increases the administrative burden and the delayed filing of grants issued to reporting insiders reduces the meaning and impact of the reports currently captured on SEDI. The commenter objected to the annual filing of option grants, as SEDI would no longer reflect a complete record of holdings. The filing of annual accumulations under automatic securities plans is generally immaterial, whereas stock option grants, for example, can be material.	The deadline for an issuer to file an issuer grant report is effectively within five days of the grant. This is because, in order for a reporting insider to be able to rely on the exemption in Part 6, the insider must first confirm that issuer has previously filed an issuer grant report. Accordingly, if an issuer chooses to file an issuer grant report with a view to assisting its insiders with their reporting obligations, there will continue to be timely public disclosure of the grant.
4	**Concept of "issuer grant report" – Timing – Ambiguity**	Three commenters suggested it was unclear whether the issuer grant reports needed to be filed within five days of the grant or within 90 days of the end of the calendar year.	The deadline for an issuer to file an issuer grant report is effectively within five days of the grant. This is because, in order for a reporting insider to be able to rely on the exemption in Part 6, the insider must first confirm that issuer has previously filed an issuer grant report.
5	**Concept of "issuer grant report" – Timing – Date of grant**	One commenter suggested that the onus for filing reports about stock option grants should rest on the corporation and not on the insider, and this obligation should arise on the day the	We have not amended the Instrument in response to this comment.

Comment #	Themes	Comments	Responses
		options are granted. Reporting issuers should not have the option of filing such reports, as is proposed in NI 55-104. Reporting by the corporation should be mandatory. Second, companies granting executive stock options should be required to issue a public press release on the *day of* an option grant (and any amendments to existing options). The commenter noted this is the practice currently in place for companies listed on the TSX Venture Exchange. Through this requirement, the ability to backdate should be eliminated completely and at a relatively low cost in terms of regulatory resources.	Currently, timely disclosure of grants (or repricings) of options and similar instruments is achieved through the insider reporting system. There does not currently exist a timely disclosure obligation on issuers to report grants of options or similar instruments, other than through certain exchange requirements, unless such a grant is considered a material change. So long as the reporting obligation rests with the insider recipient, it is necessary to balance the interest in investors in timely disclosure about grants or repricings with the interest in not imposing an undue burden on insiders in being able to comply with their obligations.
6	**Concept of "issuer grant report" – Timing – Proposal for annual filing only**	One commenter requested the CSA consider revising the exemption so that issuers could report option grants to insiders for the year within 90 days of the year end, instead of five days after each grant. The commenter believed that the annual reporting of option grants to insiders would be sufficiently timely as option grants are not exercisable and do not vest, generally, until at least one year after issuance. Options grants comprise a part of an individual's compensation and do not, upon award, reflect an investment decision made by the option grant recipient and do not indicate receipt of or access to insider information regarding an issuer's securities by an option grant recipient. Reporting issuers will have also made extensive disclosure regarding options grants and programs in particular and compensation in general in compliance with continuous disclosure obligations. Finally, the commenter believed the CSA should not limit the ability to file an issuer grant report to stock options. The commenter suggested that this proposal should be extended to any reportable interest that is granted from an issuer to an insider. This would harmonize the reporting requirements for different types of securities which is one of the stated aims of the Proposed Instrument.	We have not amended the Instrument in response to this comment. As explained in Part 4 above, timely disclosure of a grant of options or similar instruments serves all of the policy reasons for insider reporting described in section 1.3 of 55-104CP. The fact that grants to some insiders may also be subject to executive compensation disclosure requirements in an annual filing such as information circular does not obviate the need for timely disclosure of such grants to investors. Disclosure about a grant of securities or RFIs through an information circular may not occur until more than a year after the grant.
7	**Concept of "issuer grant report" – Timing – Filing deadline for**	Seven commenters supported retaining the current 90-day filing deadline for filing annual insider reports.	We have amended the annual filing deadline for the alternative report contemplated by Parts 5 and 6 of the Instrument to refer to a precise deadline of March 31.

Comment #	Themes	Comments	Responses
	alternative report	One commenter recommended the CSA set a precise deadline of March 31. The commenter also recommended this March 31 deadline be extended to apply to all automatic securities purchase plans.	
8	**Concept of "issuer grant report" – Proposal for aggregated disclosure**	One commenter recommended that disclosure required in an issuer grant report be amended to require disclosure on an aggregate basis only, and not with respect to each director or officer. In the case of officers, this could potentially include a very long list of people, including people who are not otherwise subject to executive compensation disclosure requirements. The reference to "acquisition of securities" in section 6.2 and section 6.4 is not clear. It should be clarified whether this is intended to apply to grants and exercises, in the case of option-based compensation arrangements, and to grants and vesting, in the case of other types of arrangements (non-option based).	We have not amended the Instrument in response to the proposal that information be provided on an aggregate basis. As noted above under Part 4, the fact that certain reporting insiders may be subject to executive compensation disclosure requirements does not obviate the need for disclosure of a grant through the insider reporting system. The reference to "acquisition of securities" in Part 6 includes both an acquisition of options or similar instruments at the time of the grant, and the acquisition of underlying securities at the time of exercise. CSA staff will include additional guidance relating to the reporting of compensation arrangements in CSA Staff Notice 55-308.
9	**Other – Require option grant terms to be set at the time of disclosure**	One commenter suggested that the insider reporting could be made more effective in one of two ways: 1) Require that option grant prices and terms be set on the date they are filed with regulators. 2) Require that option grant prices and terms be set in a public press release. Under currently proposed rules, whether 5 days or 10 days, if insiders file late then *the window for backdating is extended to the date of actual filing*, allowing a much greater opportunity for abuse. The commenter suggested that the penalties for late filing are not significant enough to dissuade this behaviour.	We have not amended the Instrument in response to the proposal. We agree that timely disclosure of grants of options and similar instruments is important since it fulfils each of the policy reasons for insider reporting described in section 1.3 of the Policy. Accordingly, we agree that the insider reporting system should seek to ensure there is timely disclosure about a grant. However, while the commenter's suggestions may have the effect of enhancing the timely disclosure of a grant, they would also interfere with the ability of an issuer set the terms of a grant. In addition, requiring that option grant prices and terms be set on the date they are filed with regulators may be inconsistent with existing tax and stock exchange requirements relating to grants.

Comment #	Themes	Comments	Responses
Part 6 – Disclosure of late insider filings in information circulars			
1	**Disclosure in shareholder meeting information circulars – Support**	Three commenters supported this proposal.	We have decided to withdraw this proposal at this time. However, we may reintroduce a modified version of this proposal in the future, at the time we publish for comment proposals that would harmonize late fees and other consequences of late insider filings. We will make a decision on whether to reintroduce this proposal based in part on consideration of other aspects of the harmonization proposals, including the proposed level of late fee and whether the proposal includes disclosure of late filers on CSA member websites, SEDI or elsewhere. We will also consider the general level of compliance by reporting insiders with the new requirements after the completion of an initial six-month transition period. If we reintroduce this proposal, it will be subject to a further public comment process.
2	**Disclosure in shareholder meeting information circulars – Opposition**	Fifteen commenters did not support this proposal. However, many of these commenters did support harmonization of the consequences of late insider filings across jurisdictions. Commenters cited the following reasons among others for their opposition: • Insider reports may be late for many reasons, many of which are innocent or inadvertent. Requiring such disclosure may imply a degree of materiality to the information which is in and of itself misleading. • Implementing this proposal effectively imposes a “sanction”. Disclosure would be required when in fact there is no substantive adjudication of wrong-doing. One result of requiring such disclosure will be to provide a significant incentive for everyone subject to a late insider reporting fee with an explanation to contest that finding, adding more cost and stress to the system, to little benefit to anyone. • This type of information will not generally come within the categories of information which meet the primary objective of the preparation and distribution of an	While we do not necessarily agree with certain of these comments, we have decided to withdraw this proposal at this time. However, we may reintroduce a modified version of this proposal in the future, at the time we publish for comment proposals that would harmonize late fees and other consequences of late insider filings. We will make a decision on whether to reintroduce this proposal based in part on consideration of other aspects of the harmonization proposals, including the proposed level of late fee and whether the proposal includes disclosure of late filers on CSA member websites, SEDI or elsewhere. We will also consider the general level of compliance by reporting insiders with the new requirements after the completion of an initial six-month transition period. If we reintroduce this proposal, we will provide more detailed responses to these comments at that time. If reintroduced, the proposal would be subject to a further public comment process.

Comment #	Themes	Comments	Responses
		information circular, which is to provide information reasonably relevant for shareholders to vote in respect of the election of directors. • It may be inefficient and unduly harsh to both impose late filing fees and to subject those same late filers to public disclosure. In other jurisdictions where there is public disclosure of late filers, late filing fees are not also imposed, and that public disclosure has been an effective deterrent. A dual penalty is not necessary to accomplish effective deterrence and the additional cost may therefore be undue. • Securities regulators in several Canadian jurisdictions already publish information about late filings, so the information is publicly available and clearly associated with each insider's name. In addition, many reporting insiders are not directors, so including this information in an information circular bears little relevance to the core function of the circular's disclosures about individuals and director elections and would serve limited use if the same information is already publicly available through regulators. • The current deterrents of fines and publication of the event by regulators are sufficient and proportionate to the problem of late filing, such that requiring disclosure of late filing details by the issuer would often be excessive. However, should publication by issuers become a requirement, only insiders who have multiple late filings in a reasonably prescribed time period should be subject to the requirement. This would avoid unduly harsh treatment where a *de minimis* late filing has occurred, for whatever reason, since filing deadlines are currently treated as a strict compliance requirement. • An individual who has received a penalty or sanction has had the opportunity to present a defence before an impartial arbiter; an individual who receives a late filing fee has no such opportunity. To elevate late filing fees to the same disclosure status as a penalty or sanction seems unduly excessive. • The issuer is responsible for the accuracy of the disclosure in its information circular. In the commenter's case, the issuer does	

Comment #	Themes	Comments	Responses
		not file insider reports for its insiders and therefore is not aware if these reports are filed late or have been subject to late filing fees. If the CSA required the issuer to disclose late filing fees in its information circular, the issuer would have to develop new processes to gather this information. Information Circulars are becoming very detailed and complex thereby running the risk of salient information being overlooked. The commenter agreed that shareholders should readily be able to find information on late filing insiders if they so choose to, and recommended that a listing of late filing insiders be filed on SEDAR by issuers, similar to the SEDAR filing currently used for an issuer's annual report on voting. Such a stand-alone SEDAR filing would be accessible and easily searchable by any shareholder wanting to find such information. Such a report could be completed annually by issuers and filed under a special report name.	
Part 7 – Specific Requests for Comment (Appendix A to the Notice and Request for Comment) not otherwise discussed			
1	**Definition of "significant shareholder" – amendment to refer to "any class" of voting securities – Support**	Five commenters suggested the significant shareholder determination should be based on "any class of the issuer's outstanding voting securities". This would be consistent with the current requirements of item 6 of Form 51-102F5. The CSA should clarify that, when determining securityholder ownership, an insider is entitled to rely on the most recent information provided by the issuer in its continuous disclosure, as permitted by section 2.1 of National Instrument 62-103 *The Early Warning System and Related Take-Over Bid and Insider Reporting Issues* ("NI 62-103"). One commenter argued any consideration of the insider reporting regime should include a consideration of the relationship between the insider reporting regime and early warning reporting regime. The relationship between the two regimes is of particular importance to insiders who are significant shareholders. The commenter urged the CSA to conform the calculation of the 10% threshold in the two regimes to the maximum extent possible. The commenter argued the benefits of calculations which are consistent in both regimes far outweigh policy reasons for using different tests.	We thank the commenters for their comments. We have decided it is not appropriate at this time to amend the definition of significant shareholder, and to seek legislative amendment of the corresponding provisions in the definition of insider, to replace the language "all of the issuer's outstanding voting securities" with "any class of the issuer's outstanding voting securities". We agree with the suggestion that, when determining securityholder ownership, a person or company should be entitled to rely on the most recent information provided by the issuer in its continuous disclosure, unless the person or company is aware the information is inaccurate, and have added a new provision to Part 1 of the Instrument based on section 2.1 of NI 62-103.

Comment #	Themes	Comments	Responses
2	**Definition of "significant shareholder" – amendment to refer to "any class" of voting securities – Opposition**	Seven commenters did not support amending the definition of significant shareholder to include those holding 10% of the voting rights attached to any class of the issuer's outstanding voting securities instead of all of the issuer's outstanding securities. Two commenters noted that control over 10% of the votes may not provide a shareholder with meaningful access to material undisclosed information of, or influence over, a reporting issuer. The proposed change would be inconsistent with the rationale of the reporting insider concept, since it expands the number of potential reporting insiders without reference to access or influence. Furthermore, depending on an issuer's capital structure, the proposed change could include shareholders that hold an inconsequential percentage of votes of a reporting issuer on a fully diluted basis. It is more relevant to consider a person's shareholdings within the entire structure. Given that insider reporting and the early warning system have different purposes, the commenter did not see any inconsistency in maintaining the current difference in the reporting threshold. Some commenters noted that, for early warning purposes, the test should be based on a class-by-class basis whereas it makes sense to base the insider reporting threshold on "all of the issuer's outstanding voting securities", since the underlying rationale of the insider reporting requirements relates to influence over the reporting issuer. Accordingly, they did not support changing the disclosure threshold for a "significant shareholder" so that it is calculated in respect of voting securities on a class-by-class basis.	We thank the commenters for their comments. We have decided it is not appropriate at this time to amend the definition of significant shareholder, and to seek legislative amendment of the corresponding provisions in the definition of insider, to replace the language "all of the issuer's outstanding voting securities" with "any class of the issuer's outstanding voting securities". However, we will consider this further and may propose this amendment in the future. We agree with the suggestion that, when determining securityholder ownership, a person or company should be entitled to rely on the most recent information provided by the issuer in its continuous disclosure, unless the person or company is aware the information is inaccurate, and have added a new provision to Part 1 of the Instrument based on section 2.1 of NI 62-103.
3	**Definition of "significant shareholder" – use of the term "significant shareholder"**	Two commenters were concerned about the CSA's use of the term "significant shareholder" because its definition in the Instrument diverges from the definition of "significant shareholder" provided in the Universal Market Integrity Rules (UMIR) and therefore may cause confusion. One commenter suggested that the CSA address this issue either by harmonizing the thresholds or changing the defined term.	We acknowledge the comment. However, we have not amended the instrument as we think the term facilitates readability and that the potential for confusion between the insider reporting regime and the UMIR regime is limited.
4	**Concept of "post-conversion beneficial ownership" – support – inclusion of 60-day**	Several commenters supported harmonization of the insider reporting regime with the early warning regime. Several commenters suggested it should be clarified that the calculation basis is the same for both regimes. In those instances where the number of shares issuable on conversion is not	We have not amended the definition of "significant shareholder based on post-conversion beneficial ownership" as we think such shareholders should have the same reporting requirements as significant shareholders. Accordingly, the test for 60-day convertibles in the early warning

Comment #	Themes	Comments	Responses
	convertibles – Support	fixed at the time of issuance of the convertibles, insider reporting may be difficult. If possible, the ability to explain the conversion feature should be added to the form of insider report without having to disclose a specific number of shares. No exemption for "out of the money" convertible securities should be provided since this would make monitoring more complicated. One commenter urged the CSA to conform the concepts of post-conversion beneficial ownership within the insider reporting and early warning reporting regimes to the maximum extent possible. One commenter supported the concept but suggested an exemption for out-of-the-money convertibles once an appropriate threshold had been identified.	regime and the insider reporting regime are substantially harmonized. We have also amended subsection 3.2(2) to clarify that, if a significant shareholder based on post-conversion beneficial ownership is a reporting insider of an issuer, every director and CEO, CFO and COO of the shareholder will also be reporting insiders for that issuer.
5	**Concept of "post-conversion beneficial ownership" – inclusion of 60-day convertibles – Opposition**	Several commenters opposed this proposal. Two commenters suggested the calculation of the 10% threshold for the definition of "significant shareholder" should not be based on the concept "post-conversion beneficial ownership". The underlying rationale of the insider reporting requirements relates to influence over the reporting issuer. A security holder holding less than 10% of an issuer's voting rights on a pre-conversion basis is generally not in a position to exercise sufficient influence until the conversion rights are exercised and further voting securities are acquired. Therefore, it is not appropriate for the security holder to be considered a "significant shareholder" until it actually has those voting rights. The commenter also suggested that it is inappropriate to include convertible securities that are significantly out of the money in making such this calculation, since it may be unlikely such conversion rights will ever be exercised. Nevertheless, a commenter acknowledged that under U.S. rules, the basis for determining whether a shareholder holds at the 10% level for early warning and insider reporting purposes is the same, and that beneficial ownership of the underlying securities includes ownership of convertible securities if they are convertible within 60 days. Accordingly, the proposal would be more consistent with U.S. rules.	Please see response in 4.
6		One commenter noted that harmonizing the determination of beneficial ownership for the purposes of insider reporting with deemed	Please see response in 4.

Comment #	Themes	Comments	Responses
		beneficial ownership in the context of the take-over bid and early warning requirements may lead to unnecessary reporting. Although the anti-avoidance rationale applies equally to insider reporting, the specific mechanisms used in the take-over bid and early-warning provisions may not be appropriate in the context of insider reporting.	
7		One commenter suggested that introducing the concept of post-conversion beneficial ownership is problematic. While used in the early warning reporting context, it causes significant problems in the case of out-of-the-money convertible securities and leads to strange results by failing to account for the entire class of subject securities on a fully diluted basis. For example, a holder of a portion of an issue of special warrants may be subject to a reporting obligation despite the fact that, if all of the special warrants are taken into account, the holder would not be a "significant shareholder." For early warning purposes there is sufficient flexibility to explain this. SEDI filings do not allow for such explanations. In the first instance the commenter recommends against it. However, if such proposal is to go forward, the commenter would recommend permitting the calculation to be done on a fully-diluted basis and excluding counting convertible securities that are out-of-the-money. These comments apply to proposed NI 55-104, and on a broader basis, to the early warning reporting requirements as well.	Please see response in 4.
8		Regarding the CSA's request for comment on whether convertible securities (such as options) that are significantly "out of money" should be exempted from post-conversion beneficial ownership calculation for the purposes of determining insider status, a commenter noted that the description "significantly out of money" is vague and recommends that the CSA add a definition of the term to the Proposed Instrument. If the CSA proceeds with introducing the concept of "post-conversion beneficial ownership", the commenter agrees that convertible securities that are significantly "out of money" should be exempted. In addition, the commenter agrees that "eligible institutional investors" should be exempted from the post-conversion beneficial ownership calculation. One commenter did not believe that introducing the concept of "post-conversion beneficial ownership" from the early warning regime into	Please see response in 4.

Comment #	Themes	Comments	Responses
		the insider reporting regime is appropriate. Insider reporting is based on routine access to material undisclosed information and significant influence over a reporting issuer. Generally these thresholds are crossed by individuals who have seniority at an issuer or individuals who have access based on holding voting securities. The commenter does not feel it is appropriate for the insider reporting requirement to be triggered earlier because there is no correlation between a holding of a convertible security and routine access to material undisclosed information and significant influence over a reporting issuer.	
9		One commenter proposed that institutional investors, such as development capital funds, should be exempt from the application of this definition for insider reporting purposes. The commenter believed these new provisions would have a significant impact on the Funds. As part of its operations, the Funds purchase securities and financial instruments related to the securities of issuers and reporting issuers in which they invest, which are convertible. The conversion right attached to these securities and related financial instruments, whether automatic or exercised at the option of the Funds, is usually subject to the occurrence of an event of default or future events which are unknown at the time of purchase. The commenter does not believe it advisable to calculate the interest in an issuer taking into account the post-conversion beneficial ownership of financial instruments which may never be converted and to which no voting right is attached prior to the conversion. The commenter believes current practice is more than adequate as it requires that the convertible financial instruments held by an insider be reported without being used to determine its interest in the issuer and thereby cause it to become an insider.	As explained in the Notice, the concept of "significant shareholder based on post-conversion beneficial ownership" is based on a similar concept which exists in the early warning regime. Accordingly, development capital funds are already required to take into account the post-conversion beneficial ownership of financial instruments when determining their early warning reporting requirements.
10	**Report by certain designated insiders for certain historical transactions – Support**	One commenter supported the proposal to require designated insiders to file insider reports in accordance with the deemed insider look-back provisions in paper format on SEDAR. The commenter agreed that these filings commonly arise in a take-over bid and it makes sense for market participants to view these filing in conjunction with other filings on SEDAR relating to the take-over bid. Such filings should be made on SEDAR in a category specifically designated for insider related reports.	We have amended the deemed insider look-back provisions to limit the application of these provisions to directors and the CEO, CFO and COO. Please see subsections 1.2(2) and (3) and section 3.6 of the Instrument. In addition, we have responded to the concerns expressed by a large majority of the commenters that insider reports should be accessible in one location and amended the

Comment #	Themes	Comments	Responses
			provisions so that these reports must be made on SEDI rather than SEDAR.
11		One commenter noted that, while the CSA has reduced the number of insiders that need to file insider reports by creating the concept of a reporting insider, it does not appear that this logic has been applied to the look back provisions included in section 3.6 of the Instrument. The commenter recommended that the CSA amend the look back provision so that instead of applying to all officers, the look back only applies to the officers that are identified in the reporting insider concept. Some commenters supported the CSA's desire to harmonize the deemed look back provisions by including them in the Instrument. These commenters do not believe that filing on SEDAR is an appropriate solution. Some said that SEDAR is a proprietary system that is not web based. Consequently, insiders cannot file on SEDAR without hiring a filing agent. Several commenters think the filing must remain on SEDI. Nonetheless, it urges the CSA to continue to try to address this issue. One commenter suggested one approach might be to modify SEDI to make it clear when a look back filing is being made.	We have amended the deemed insider look-back provisions to limit the application of these provisions to directors and the CEO, CFO and COO. Please see subsections 1.2(2) and (3) and section 3.6 of the Instrument. In addition, we have amended the provisions so that these reports must be made on SEDI.
Part 8 – Consequential Amendments			
1	**Consequential Amendment to the Early Warning Regime** **NI 62-103**	One commenter disagreed with the proposal to amend NI 62-103 to exclude the supplemental insider reporting obligation from the scope of the insider reporting exemption in NI 62-103. The commenter noted this would require eligible institutional investors to report all transactions under the supplemental insider reporting obligation on SEDI within 5 days, while allowing them to report aggregate changes in direct ownership over the 2.5% thresholds on a monthly basis on SEDAR under the alternative monthly reporting system. The commenter suggested that the concern that derivative transactions may not be captured in NI 62-103 would be better addressed through conditions to the insider reporting exemption in NI 62-103.	We agree with this comment and have revised the proposed amendment to NI 62-103. As a result of this change, an eligible institutional investor will be exempt from the insider reporting requirement, including the requirements relating to related financial instruments and agreements, arrangements and understandings contemplated by Part 4 of NI 55-104, if the eligible institutional investor includes similar disclosure in its early warning filings.
2		One commenter stated he did not agree with the proposed changes to NI 62-103. The commenter suggested that, contrary to the suggestion under paragraph 9 of the request for comments, s. 2.2(c) of MI 55-103 exempts	We have amended the proposed amendments to NI 62-103 in response to this comment and the similar comment above.

Comment #	Themes	Comments	Responses
		eligible institutional investors from equity monetization reports in the same way that Part 9 of NI 62-103 exempts eligible institutional investors from the insider reporting requirement generally. This is appropriate, as the structure of the alternative monthly reporting system was designed to enable eligible institutional investors to only review their holdings on a monthly basis. A similar approach should apply under the proposed amendments as currently exists. The proposed amendments would result in imposing a requirement upon an eligible institutional investor to disclose interests covered by Part 4 of NI 55-104 even though such investor would not have any corresponding requirement to file an initial insider report outside of the alternative monthly reporting systems.	As a result of this change, an eligible institutional investor will be exempt from the insider reporting requirement, including the requirements relating to related financial instruments and agreements, arrangements and understandings contemplated by Part 4 of NI 55-104, if the eligible institutional investor includes similar disclosure in its early warning filings.
3		One commenter urged the CSA to consider the provisions contained in NI 62-103 in conjunction with its consideration of the insider reporting regime, as NI 62-103 contains an alternative reporting regime relied upon by a notable reporting segment of Canadian capital markets.	We will consider these comments as part of a broader initiative to review the early warning regime.
4	**NI 62-103 – Opposition to alternative monthly reporting system**	One commenter opposed the alternative reporting system in Part 4 of NI 62-103 part 4 and the associated exemption from the insider reporting requirement in Part 9 of NI 62-103. The commenter suggested that all significant shareholders should be required to file on SEDI and called for the elimination of the exemption in NI 62-103 for eligible institutional investors. The commenter suggested that having a dual reporting structure is costly and confusing for investors and does not promote transparency. Instead, it provides an advantage to large domestic investors who have the resources to monitor the flood of mid-month alternative report filings on SEDAR. While the interests of eligible fund holders and pension plan participants are important, the interest of transparency for all global investors is paramount.	We have not amended the Instrument in response to this comment. We will consider these comments as part of a broader initiative to review the early warning regime.
5	**Part 4 of NI 55-104 - Supplemental insider reporting requirement for derivatives**	One commenter supported Part 4 of the Instrument to the extent that only monetization transactions are covered by this new provision and assuming the provision did not include other types of trading in derivatives.	As explained in the Policy, the supplemental insider reporting requirement is consistent with the former insider reporting requirement for derivatives that previously existed in some jurisdictions under former MI 55-103. However, because Part 3 of the Instrument requires insiders, as part of the primary insider reporting

Comment #	Themes	Comments	Responses
			requirement, to file insider reports about transactions involving "related financial instruments", most transactions that were previously subject to a reporting requirement under former MI 55-103 will be subject to the primary insider reporting requirement under Part 3 of the Instrument.
Part 9 – Future Initiatives			
1	**Harmonized filing fees**	The majority of commenters who commented on this issue supported the proposed future initiative of harmonizing late filing fees. One commenter stated it makes no sense to have non-uniform rules for late filing depending on provincial jurisdiction. The commenter recommended that the fee schedule be harmonized across Canada. As regards the amount, the commenter concluded that the token amount will not be a deterrent for late filers if it offers them advantage. The CSA should also reveal how it will treat chronic late /incomplete or non-filers. One commenter believed that the current fees set out in section 274.1 of the QSA, namely, $100 per failure to report for each day during which the insider is in default up to a maximum $5,000 fine, are not high enough to deter offenders. In the commenter's opinion, this harmonization should include the most stringent penalties. In this regard, Québec is the most strict regulatory authority. The commenter suggested that the $5,000 ceiling be abolished and that wrongdoing and non-compliant conduct be punished according to how extensive it is. The commenter also recommended that late insider trading reports indicate the amount of the trades in question as well as the fees charged to offenders. One commenter urged the CSA to review late insider reporting fee requirements, especially in light of the proposed contraction of the filing requirement to five days. Because the current regime varies from jurisdiction to jurisdiction, and is variously applied, it is difficult for market participants to understand and quantify the consequences of late insider reporting. In addition, the commenter suggested it was appropriate to impose a maximum fee payable across all jurisdictions. The commenter suggested that the calculation of fees in some jurisdictions is excessive.	We thank the commenters for their comments.

Comment #	Themes	Comments	Responses
		One commenter recommended that the CSA harmonize late filing fees across Canadian jurisdictions and eliminate the imposition of a late filing fee where the lateness only occurred as a result of rectifying an error on the original report filed within the deadline.	
2	**Hidden ownership and empty voting**	One commenter stated that one area that has been of concern is that of empty voting by hedge funds and other entities. The commenter requested that the CSA clarify the rules surrounding securities lending and ownership/voting rights. Such votes distort the marketplace and can lead to disenfranchisement for retail investors. In particular, the commenter asked the CSA to consider rescinding the right for a mutual fund to engage in securities lending. This lending adds significant risk to fund unitholders while providing minimal benefit. One commenter noted that this increasingly widespread use of derivatives by hedge funds in connection with proxy battles and take-over bids has encouraged, over the past year: • "over 40 New York Stock Exchange-listed US companies (to amend) their bylaws to require shareholders nominating directors for election to state their shareholdings, including any derivatives that provide the shareholder with economic exposure to the company's shares; • " … some US issuers (to amend) their shareholder rights plans … to expand the definition of beneficial ownership contained in such documents to include equity swap positions." The commenter thinks that the Canadian regulatory authorities should be more proactive. One commenter noted (in connection with the comment re post-conversion beneficial ownership) "We are a reporting issuer that is committed to transparency and believe that investors should be similarly committed. In fact, it is disingenuous that investors can demand full transparency from a reporting issuer while remaining largely in the shadows themselves. We want to know who our shareholders are and how we may engage them in understanding their investment."	We thank the commenters for the comments. As explained in the Notice, we are reviewing the recent reform proposals in other jurisdictions and are considering developing similar proposals for Canada. We will consider the comments in the course of developing these proposals. The CSA are reviewing issues relating to empty voting and securities lending as part of a separate initiative.

Comment #	Themes	Comments	Responses
3	**Enforcement of insider reporting requirements**	One commenter was critical of the level of enforcement of insider reporting and other securities law requirements and stated that rules without enforcement are of little value. The commenter expected the CSA to enforce these reporting rules with vigour and to report annually on the statistics, late filing fees paid, other sanctions applied, SEDI and enforcement process improvements etc.	As explained in Part 10 of 55-104CP, it is an offence to fail to file an insider report in accordance with the filing deadlines prescribed by the Instrument or to submit information in an insider report that is materially misleading. Part 10 outlines the potential penalties, sanctions and other consequences that may result from non-compliance. The CSA expect issuers and insiders to comply with their obligations and will take enforcement action where appropriate in the case of serious or repeated non-compliance.
4		One commenter suggested the consequences (i.e., penalties) attached to a failure to comply with insider reporting requirements relating to grants of options must be sufficiently meaningful to promote compliance. The commenter cited U.S. research that shows clearly that the evidence of backdating is amplified when the report of an option grant is filed late. The commenter suggested that current CSA late filing fees do not appear to be a significant deterrent, even if rigorously enforced.	Please see response in 3.
5		One commenter was most concerned about the insider who uses complex arrangements to avoid filing and detection. In such cases, regulators must have at their disposal very harsh penalties. This would not only promote justice, but also raise the stakes for those considering undertaking nefarious activities such as hidden ownership empty and parked voting strategies and, perhaps most importantly, nominee offshore accounts.	Please see response in 3.
6	**Other – Transitional Period**	Several commenters suggested the CSA include a transitional period of 6 months to make sure insiders will be familiar with their new insider reporting requirements.	We have amended the Instrument to include a transition provision that will give insiders additional time if they need it to comply with the new insider reporting requirements. Accordingly, issuers and insiders will have an additional six months to become familiar with the new reporting requirements in the Instrument and to make necessary arrangements with third-party service providers.
7	**Other – Mutual Funds**	One commenter questioned why mutual funds are exempted from insider reporting in those cases where the fund family is a significant shareholder as a result of the cumulative ownership of shares in its many mutual funds.	Section 9.1 of the Instrument provides an exemption from the insider reporting requirement for an insider of an issuer that is a mutual fund. The exemption applies to transactions

Comment #	Themes	Comments	Responses
		To a large extent, investment funds **are** the market in Canada. They certainly have *control and direction* over the shares and bonds. In the case of the fund companies that have brokerage affiliates, banking or investment banking operations, the conflict of interest can be significant. These funds clearly have voting rights which they can and do exercise and report upon, albeit with significant delay. When they make trades, the impact can be significant to the market. Indeed the impact may be greater than any one individual insider that is required to file transactions.	involving units of the mutual fund. To the extent a mutual fund is significant shareholder of another reporting issuer, the mutual fund will be required to file insider reports relating to that reporting issuer in the normal manner.
8	**Other – Broker DRIPS**	One commenter noted the Instrument continues to define an "automatic securities purchase plan" to include, in part, issuer-established dividend reinvestment plans meeting the other requirements of the definition. Many brokerages offer "broker dividend reinvestment plans" that automatically use dividends received in the brokerage account to purchase additional securities of the issuer that made the dividend payment. Provided that such plan meets the other requirements of a "automatic securities purchase plan" set out in the definition, it is not clear why reporting insiders participating in such plans would not have the benefit of deferred reporting. The commenter recommended removing the requirement that that the plan be issuer-established in order to be eligible for deferred reporting.	We have not amended the Instrument in response to this comment. We will consider applications for relief in appropriate circumstances.
9	**Other – Sales to address margin requirements**	One commenter recommended that insiders be required to disclose purchases or sales of securities using margin arrangements with brokerages. The commenter suggested considering whether a new SEDI code should be implemented that identifies a "public market margined acquisition/disposition". This would identify at the time of purchase or sale that the insider transacted on margin. There may be better solutions to tackle this problem, but the issue needs to be addressed.	We have not amended the Instrument in response to this comment. The Canadian insider reporting regime generally does not require an insider to explain the reasons for a transaction although an insider may choose to do so through the general remarks section on SEDI or through other public disclosure.
10	**Other – Guidance re "indirect trades"**	One commenter requested additional guidance regarding the required filings for "indirect" trades by insiders through corporations. The commenter did not think the existing rules clearly enough define which partly owned corporations are insiders themselves and which trades by such partly owned corporations have to be shown as an indirect trade by the insider.	We have included guidance in the Policy relating to the meaning of the terms "beneficial ownership" and "control or direction". As explained in Part 3 of the Policy, reporting insiders must file insider reports in respect of transactions in securities over which the insider has or shares "control or direction". A person will generally have or share control or direction over securities if the person, directly or indirectly,

Comment #	Themes	Comments	Responses
			through any contract, arrangement, understanding or relationship or otherwise has or shares • voting power, which includes the power to vote, or to direct the voting of, such securities and/or • investment power, which includes the power to acquire or dispose, or to direct the acquisition or disposition of such securities.
11	**Other – definition of "economic exposure" – proposal for exemption from Part 4 based on lack of knowledge**	One commenter suggested that, if an insider is unaware that its economic exposure to the reporting issuer (or interest in its securities) has altered in particular circumstances, there should not be a requirement for the insider to file a report under NI 55-104, so long as the insider remains unaware of the alteration.	Section 9.7(d) of the Instrument contains an exemption from the Part 4 requirement for a reporting insider who did not know and, in the exercise of reasonable diligence, could not have known of the alteration to economic exposure described in section 4.1 of the Instrument. We have amended the Instrument to include an exemption from the Part 4 requirement corresponding to subsection 2.2(a) of MI 55-103 and subsection 3(a) of BCI 55-506.
12	**Other – definition of "issuer event"**	One commenter recommended that the definition of "issuer event" be amended to include issuer repurchases or that another exemption be added to address the situation where an issuer repurchases and then cancels securities under an issuer bid, with the result that an investor becomes an insider (and under the Instrument, a "significant shareholder") through no action of his, her or its own. The commenter noted that, similar to the other events listed in the definition of "issuer event," the investor may not become aware of its having become a "significant shareholder" until well after the reporting deadline. As repurchases and cancellations of securities under an issuer bid may not affect all holdings "in the same manner, on a per share basis" as set out in the definition of issuer event, the definition should be amended to expressly include repurchases by the issuer, or an equivalent exemption should be provided. The commenter noted that the equivalent exemption from the early warning requirements in s. 6.1 of NI 62-103 is not similarly limited, and applies to a broader range of reductions in outstanding securities resulting from "issuer actions," including repurchases by the issuer itself. In his view, a similar exemption should	We have added a new provision to Part 1 of the Instrument based on section 2.1 of NI 62-103. This provision provides that, when determining securityholder ownership, a person or company may rely on the most recent information provided by the issuer in its continuous disclosure, unless the person or company is aware the information is inaccurate.

Comment #	Themes	Comments	Responses
		also be available from the insider reporting requirement.	
13	**Other – Section 1.2 – Persons designated or determined to be insiders.**	One commenter suggested that subsection 1.2(1) should be amended so that it is clear that persons identified in section 1.2 are designated or determined to be insiders for the purposes of NI 55-104 only.	We have added guidance to the Policy to make it clear that persons identified in section 1.2 are designated or determined to be insiders for the purposes of NI 55-104 only. However, in many cases, persons and companies designated or determined to be insiders will also be insiders in another capacity.
14	**Other – Part 5 – Automatic securities purchase plans**	One commenter noted that automatic securities purchase plans are expressly provided for yet automatic securities disposition plans are not. While subsection 5.1(3) of the proposed Policy contemplates circumstances under which the regulators may consider granting exemptive relief for automatic securities disposition plans, the commenter suggested that consideration should be given to including an express exemption in NI 55-104 itself on the basis of the criteria for relief outlined in the Companion Policy.	We have not amended the Instrument in response to this comment. Automatic securities purchase plans may raise different considerations from automatic securities disposition plans in that the former are typically established and administered by the issuer while the latter, in many cases, are private arrangements between the reporting insider and their broker. Although the principles underlying the exemptive relief may be similar, the lack of issuer involvement in the latter may raise additional concerns. Accordingly, we will consider applications for exemptive relief on a case-by-case basis.
15	**Other – Exemptions – Section 9.5**	One commenter questioned whether subsection 9.5(b) should also include reference to reporting of interests required under Part 4 of NI 55-104.	We have not amended the Instrument in response to this comment. The exemption is available if the affiliated reporting insider has filed an insider report that discloses substantially the same information as would be contained in an insider report filed by the reporting insider. This would include information relating to interests described in Part 4 of the Instrument.
16	**Other – Exemptions – Section 9.7**	One commenter requested the exemptions in subsection (e) be clarified. The commenter also questioned whether the exemptions set out in subsection (e) or (f) are worded broadly enough to cover all reporting obligations under Part 3 and 4 of NI 55-104. For example, should references to an acquisition or disposition of a security or an interest in a security also include an interest in, or right or obligation associated with, a related financial instrument? Similarly, the interests set out in subsections (e) and (f) do not clearly apply to reporting obligations that could be triggered under Part 4. The result is	We have not amended the Instrument in response to this comment. The exemptions in subsections s. 9.7(e) and (f) are substantially consistent with the exemptions in ss. 2.2(i) and (j) of MI 55-103 and corresponding exemptions in Part 3 of BCI 55-506. We have added an exemption corresponding to s. 2.2(a) of MI 55-103 and subsection 3(a) of BCI 55-506.

Comment #	Themes	Comments	Responses
		that a person may not have a reporting requirement with respect to direct or indirect beneficial ownership, control or direction of the securities, but may still have a reporting obligation with respect to related financial instruments or agreements or arrangements covered by Part 4. Additional guidance should also be provided for the purposes of determining whether the securities form a "material component" of an investment fund's market value for the purposes of subsection (e).	We are not aware of any difficulties in applying these exemptions under the current insider reporting regime.
17	**Other – Exemptions – Section 9.7 – Proposed exemption for development capital funds**	One commenter proposed a new exemption for development capital funds. The commenter was concerned that, under the Instrument, every time a development capital fund becomes a significant shareholder of a reporting issuer as a result of an investment made in the ordinary course of business, its directors, several of its officers and other insiders would be required to file an insider report. This would impose a significant additional burden on development capital funds in terms of workload and costs.	We have not amended the Instrument in response to this comment. The consequences of a development capital fund becoming a significant shareholder, and therefore an insider, of a reporting issuer arise under current legal requirements. The Instrument significantly narrows the class of persons required to file insider reports as compared with current legal requirements. Accordingly, we expect the Instrument will significantly reduce the administrative burden associated with insider reporting. We also note that, if a development capital fund is an "eligible institutional investor" under NI 62-103, the fund may be entitled to rely on the alternative monthly reporting system contained in NI 62-103.
18	**Other – General Anti Avoidance Rule**	One commenter suggested that the CSA consider adding a General Anti-Avoidance Rule (GAAR) that would require firms and individuals to report any form of arrangement that moves equity-derived or stock-based assets or cash from the Company balance sheet to them or related parties/entities.	We do not think it is necessary to add a separate GAAR provision similar to the GAAR provision that exists in the *Income Tax Act* (Canada). As explained in Part 4 of 55-104CP, If a reporting insider enters into a transaction which satisfies one or more of the policy rationale for insider reporting, but for technical reasons it may be argued that the transaction falls outside of the primary insider reporting requirement in Part 3 of the Instrument, the insider will be required to file an insider report under Part 4 unless an exemption is available to the insider. In this way, the market can make its own determination as to the significance, if any, of the transaction in question.

APPENDIX D

NATIONAL INSTRUMENT 55-104
INSIDER REPORTING REQUIREMENTS AND EXEMPTIONS

PART 1 DEFINITIONS AND INTERPRETATION

1.1 **Definitions and interpretation**

(1) In this Instrument

"acceptable summary form" means, in relation to the alternative form of insider report described in sections 5.4 and 6.4, an insider report that discloses as a single transaction, with December 31 of the relevant year as the date of the transaction, using an average unit price of the securities,

(a) the total number of securities of the same type acquired under an automatic securities purchase plan or compensation arrangement, or under all such plans or arrangements, for the calendar year; and

(b) the total number of securities of the same type disposed of under all specified dispositions of securities under an automatic securities purchase plan or compensation arrangement, or under all such plans or arrangements, for the calendar year;

"automatic securities purchase plan" means a dividend or interest reinvestment plan, a stock dividend plan, or any other plan established by an issuer or by a subsidiary of an issuer to facilitate the acquisition of securities of the issuer if the timing of acquisitions of securities, the number of securities which may be acquired under the plan by a director or officer of the issuer or of the subsidiary of the issuer, and the price payable for the securities are established in advance by written formula or criteria set out in a plan document and not subject to a subsequent exercise of discretion;

"cash payment option" means a provision in a dividend or interest reinvestment plan under which a participant is permitted to make cash payments to purchase from the issuer, or from an administrator of the plan, securities of the issuer's own issue;

"CEO" means a chief executive officer and any other individual who acts as chief executive officer for an issuer or acts in a similar capacity for the issuer;

"CFO" means a chief financial officer and any other individual who acts as chief financial officer for an issuer or acts in a similar capacity for the issuer;

"compensation arrangement" includes, but is not limited to, an arrangement, whether or not set out in any formal document and whether or not applicable to only one individual, under which cash, securities or related financial instruments, including, for greater certainty, options, stock appreciation rights, phantom shares, restricted shares or restricted share units, deferred share units, performance units or performance shares, stock, stock dividends, warrants, convertible securities, or similar instruments, may be received or purchased as compensation for services rendered, or otherwise in connection with holding an office or employment with a reporting issuer or a subsidiary of a reporting issuer;

"convertible security" means a security of an issuer that is convertible into, or carries the right of the holder to purchase or otherwise acquire, or of the issuer to cause the purchase or acquisition of, a security of the same issuer;

"COO" means a chief operating officer and any other individual who acts as chief operating officer for an issuer or acts in a similar capacity for the issuer;

"credit derivative" means a derivative in respect of which the underlying security, interest, benchmark or formula is, or is related to or derived from, in whole or in part, a debt or other financial obligation of an issuer;

"derivative"

(a) means, other than in New Brunswick, the Northwest Territories, Nunavut, Ontario, Prince Edward Island, Québec and the Yukon Territory, an instrument, agreement, security or exchange contract, the market price, value or payment obligations of which is derived from, referenced to, or based on an underlying security, interest, benchmark or formula;

(b) in New Brunswick, the Northwest Territories, Nunavut, Ontario, Prince Edward Island and the Yukon Territory, has the same meaning as in securities legislation; and

(c) in Québec, has the same meaning as in *The Derivatives Act*;

"dividend or interest reinvestment plan" means an arrangement under which a holder of securities of an issuer is permitted to direct that the dividends, interest or distributions paid on the securities be applied to the purchase, from the issuer or an administrator of the issuer, of securities of the issuer's own issue;

"economic exposure" in relation to an issuer

(a) means, other than in Ontario, the extent to which the economic or financial interests of a person or company are aligned with the trading price of securities of the issuer or the economic or financial interests of the issuer;

(b) in Ontario, has the same meaning as in securities legislation;

"economic interest" in a security or an exchange contract

(a) means, other than in British Columbia, New Brunswick, the Northwest Territories, Nunavut, Ontario, Prince Edward Island, Québec, Saskatchewan and the Yukon Territory,

(i) a right to receive or the opportunity to participate in a reward, benefit or return from a security or an exchange contract, or

(ii) exposure to a risk of a financial loss in respect of a security or an exchange contract;

(b) in British Columbia, New Brunswick, the Northwest Territories, Nunavut, Ontario, Prince Edward Island, Québec, Saskatchewan and the Yukon Territory, has the same meaning as in securities legislation;

"exchange contract"

(a) means, other than in Alberta, British Columbia, New Brunswick and Saskatchewan, a futures contract or an option that meets both of the following requirements:

(i) its performance is guaranteed by a clearing agency; and

(ii) it is traded on an exchange pursuant to standardized terms and conditions set out in that exchange's by-laws, rules or regulatory instruments, at a price agreed on when the futures contract or option is entered into on the exchange;

(b) in Alberta, British Columbia, New Brunswick and Saskatchewan, has the same meaning as in securities legislation;

"exchangeable security" means a security of an issuer that is exchangeable for, or carries the right of the holder to purchase or otherwise acquire, or of the issuer to cause the purchase or acquisition of, a security of another issuer;

"income trust" means a trust or an entity, including corporate and non-corporate entities, the securities of which entitle the holder to net cash flows generated by an underlying business or income-producing properties owned through the trust or by the entity;

"insider report" means a report to be filed by an insider under securities legislation;

"insider reporting requirement" means

(a) a requirement to file insider reports under Parts 3 and 4;

(b) a requirement to file insider reports under any provisions of Canadian securities legislation substantially similar to Parts 3 and 4; and

(c) a requirement to file an insider profile under NI 55-102;

"investment issuer" means, in relation to an issuer, another issuer in respect of which the issuer is an insider;

"issuer event" means a stock dividend, stock split, consolidation, amalgamation, reorganization, merger or other similar event that affects all holdings of a class of securities of an issuer in the same manner, on a per share basis;

"lump-sum provision" means a provision of an automatic securities purchase plan that allows a director or officer to acquire securities in consideration of an additional lump-sum payment, and includes a cash payment option;

"major subsidiary" means a subsidiary of an issuer if

(a) the assets of the subsidiary, as included in the issuer's most recent annual audited or interim balance sheet, or, for a period relating to a financial year beginning on or after January 1, 2011, a statement of financial position, are 30 per cent or more of the consolidated assets of the issuer reported on that balance sheet or statement of financial position, as the case may be, or

(b) the revenue of the subsidiary, as included in the issuer's most recent annual audited or interim income statement, or, for a period relating to a financial year beginning on or after January 1, 2011, a statement of comprehensive income, is 30 per cent or more of the consolidated revenue of the issuer reported on that statement;

"management company" means a person or company established or contracted to provide significant management or administrative services to an issuer or a subsidiary of the issuer;

"NI 55-102" means National Instrument 55-102 *System for Electronic Disclosure by Insiders (SEDI)*;

"normal course issuer bid" means

(a) an issuer bid that is made in reliance on the exemption, contained in securities legislation from requirements relating to issuer bids, that is available if the number of securities acquired by the issuer within a period of twelve months does not exceed 5 per cent of the securities of that class issued and outstanding at the commencement of the period, or

(b) a normal course issuer bid as defined in the rules or policies of the Toronto Stock Exchange, the TSX Venture Exchange or an exchange that is a recognized exchange, as defined in National Instrument 21-101 *Marketplace Operation*, and that is conducted in accordance with the rules or policies of that exchange;

"operating entity" means a person or company with an underlying business or with assets owned in whole or in part by an income trust for the purposes of generating cash flow;

"principal operating entity" means an operating entity that is a major subsidiary of an income trust;

"related financial instrument"

(a) means, other than in British Columbia, New Brunswick, the Northwest Territories, Nunavut, Ontario, Prince Edward Island, Québec, Saskatchewan and the Yukon Territory,

  (i) an instrument, agreement, security or exchange contract the value, market price or payment obligations of which are derived from, referenced to or based on the value, market price or payment obligations of a security, or,

  (ii) any other instrument, agreement, or understanding that affects, directly or indirectly, a person or company's economic interest in a security or an exchange contract;

(b) in British Columbia, New Brunswick, the Northwest Territories, Nunavut, Ontario, Prince Edward Island, Québec, Saskatchewan and the Yukon Territory, has the same meaning as in securities legislation;

"reporting insider" means an insider of a reporting issuer if the insider is

(a) the CEO, CFO or COO of the reporting issuer, of a significant shareholder of the reporting issuer or of a major subsidiary of the reporting issuer;

(b) a director of the reporting issuer, of a significant shareholder of the reporting issuer or of a major subsidiary of the reporting issuer;

(c) a person or company responsible for a principal business unit, division or function of the reporting issuer;

(d) a significant shareholder of the reporting issuer;

(e) a significant shareholder based on post-conversion beneficial ownership of the reporting issuer's securities and the CEO, CFO, COO and every director of the significant shareholder based on post-conversion beneficial ownership;

(f) a management company that provides significant management or administrative services to the reporting issuer or a major subsidiary of the reporting issuer, every director of the management company, every CEO, CFO and COO of the management company, and every significant shareholder of the management company;

(g) an individual performing functions similar to the functions performed by any of the insiders described in paragraphs (a) to (f);

(h) the reporting issuer itself, if it has purchased, redeemed or otherwise acquired a security of its own issue, for so long as it continues to hold that security; or

(i) any other insider that

(i) in the ordinary course receives or has access to information as to material facts or material changes concerning the reporting issuer before the material facts or material changes are generally disclosed; and

(ii) directly or indirectly exercises, or has the ability to exercise, significant power or influence over the business, operations, capital or development of the reporting issuer;

"significant shareholder" means a person or company that has beneficial ownership of, or control or direction over, whether direct or indirect, or a combination of beneficial ownership of, and control or direction over, whether direct or indirect, securities of an issuer carrying more than 10 per cent of the voting rights attached to all the issuer's outstanding voting securities, excluding, for the purpose of the calculation of the percentage held, any securities held by the person or company as underwriter in the course of a distribution;

"stock dividend plan" means an arrangement under which securities of an issuer are issued by the issuer to holders of securities of the issuer as a stock dividend or other distribution out of earnings, retained earnings or capital; and

"underlying security" means a security issued or transferred, or to be issued or transferred, in accordance with the terms of a convertible security, an exchangeable security or a multiple convertible security.

(2) **Affiliate** – In this Instrument, an issuer is an affiliate of another issuer if

(a) one of them is the subsidiary of the other, or

(b) each of them is controlled by the same person or company.

(3) **Control** – In this Instrument, a person or company (first person or company) is considered to control another person or company (second person or company) if

(a) the first person or company beneficially owns or has control or direction over, whether direct or indirect, securities of the second person or company carrying votes which, if exercised, would entitle the first person or company to elect a majority of the directors of the second person or company, unless that first person or company holds the voting securities only to secure an obligation,

(b) the second person or company is a partnership, other than a limited partnership, and the first person or company holds more than 50 per cent of the interests of the partnership, or

(c) the second person or company is a limited partnership and the general partner of the limited partnership is the first person or company.

(4) **Post-conversion beneficial ownership** – In this Instrument, a person or company is considered to have, as of a given date, post-conversion beneficial ownership of a security, including an unissued security, if the person or company is the beneficial owner of a security convertible into the security within 60 days following that date or has a right or obligation permitting or requiring the person or company, whether or not on conditions, to acquire beneficial ownership of the security within 60 days, by a single transaction or a series of linked transactions.

(5) **Significant shareholder based on post-conversion beneficial ownership** – In this Instrument, a person or company is a significant shareholder based on post-conversion beneficial ownership if the person or company is not a significant shareholder but the person or company has beneficial ownership of, post-conversion beneficial ownership of, control or direction over, whether direct or indirect, or any combination of beneficial ownership of, post-conversion beneficial ownership of, or control or direction over, whether direct or indirect, securities of an issuer carrying more than 10 per cent of the voting rights attached to all the issuer's outstanding voting securities, calculated in accordance with subsections (6) and (7).

(6) For the purposes of the calculation in subsection (5), an issuer's outstanding voting securities include securities in respect of which a person or company has post-conversion beneficial ownership.

(7) For the purposes of the calculation in subsections (4) and (5), a person or company may exclude any securities held by the person or company as underwriter in the course of a distribution.

1.2 **Persons and companies designated or determined to be insiders for the purposes of this Instrument**

(1) The following persons and companies are designated or determined to be insiders of an issuer:

(a) a significant shareholder of the issuer based on post-conversion beneficial ownership of the issuer's securities;

(b) a management company that provides significant management or administrative services to the issuer or a major subsidiary of the issuer, and every director, officer and significant shareholder of the management company; and

(c) if the issuer is an income trust, every director, officer and significant shareholder of a principal operating entity of the issuer.

(2) **Issuer as insider of reporting issuer** – If an issuer (the first issuer) becomes an insider of a reporting issuer (the second issuer), the CEO, CFO, COO and every director of the first issuer are designated or determined to be an insider of the second issuer and must file insider reports in accordance with section 3.5 in respect of transactions relating to the second issuer that occurred in the previous six months or for such shorter period that the individual was a CEO, CFO, COO or director of the first issuer.

(3) **Reporting issuer as insider of other issuer** – If a reporting issuer (the first issuer) becomes an insider of another issuer (the second issuer), the CEO, CFO, COO and every director of the second issuer is designated or determined to be an insider of the first issuer and must file insider reports in accordance with section 3.5 in respect of transactions relating to the first issuer that occurred in the previous six months or for such shorter period that the individual was a CEO, CFO, COO or director of the second issuer.

1.3 **Reliance on Reported Outstanding Shares**

(1) In determining the securityholding percentage of a person or company in a class of securities for the purposes of the definition "significant shareholder" and in determining if the person or company is a significant shareholder based on post-conversion beneficial ownership, the person or company may rely upon information most recently filed by the issuer of the securities in a material change report or under section 5.4 of National Instrument 51-102 *Continuous Disclosure Obligations*, whichever contains the most recent relevant information.

(2) Subsection (1) does not apply if the person or company has knowledge both

(a) that the information filed is inaccurate or has changed; and

(b) of the correct information.

PART 2 APPLICATION

2.1 **Insider reporting requirements (insiders of Ontario reporting issuers)** – In Ontario, the insider reporting requirements in sections 3.2 and 3.3 do not apply to an insider of a reporting issuer under the *Securities Act* (Ontario).

Note: In Ontario, requirements similar to the insider reporting requirements in sections 3.2 and 3.3 of this Instrument are contained in section 107 of the *Securities Act* (Ontario).

2.2 **Reporting deadline** – In Ontario, for the purposes of subsection 107(2) of the *Securities Act* (Ontario), in the case of a transaction occurring after October 31, 2010, the prescribed period is within five days of any change in the beneficial ownership of, or control or direction over, whether direct or indirect, securities of the reporting issuer or any interest in, or right or obligation associated with, a related financial instrument.

PART 3 PRIMARY INSIDER REPORTING REQUIREMENT

3.1 **Reporting requirement** – An insider must file insider reports under this Part and Part 4 in respect of a reporting issuer if the insider is a reporting insider of the reporting issuer.

3.2 **Initial report –** A reporting insider must file an insider report in respect of a reporting issuer, within 10 days of becoming a reporting insider, disclosing the reporting insider's

(a) beneficial ownership of, or control or direction over, whether direct or indirect, securities of the reporting issuer, and

(b) interest in, or right or obligation associated with, a related financial instrument involving a security of the reporting issuer.

3.3 **Subsequent report** – A reporting insider must within five days of any of the following changes file an insider report in respect of a reporting issuer disclosing a change in the reporting insider's

(a) beneficial ownership of, or control or direction over, whether direct or indirect, securities of the reporting issuer, or

(b) interest in, or right or obligation associated with, a related financial instrument involving a security of the reporting issuer.

3.4 **Reporting requirements in connection with convertible or exchangeable securities** – For greater certainty, a reporting insider who exercises an option, warrant or other convertible or exchangeable security must file, within five days of the exercise, separate insider reports in accordance with section 3.3 disclosing the resulting change in the reporting insider's beneficial ownership of, or control or direction over, whether direct or indirect, each of

(a) the option, warrant or other convertible or exchangeable security, and

(b) the common shares or other underlying securities.

3.5 **Report by certain designated insiders for certain historical transactions –** A CEO, CFO, COO or director of an issuer (the first issuer) who is designated or determined to be an insider of another issuer (the second issuer) under subsection 1.2(2) or 1.2(3) must file, within 10 days of being designated or determined to be an insider of the second issuer, the insider reports that a reporting insider of the second issuer would have been required to file under Part 3 and Part 4 for all transactions involving securities of the second issuer or related financial instruments involving securities of the second issuer, that occurred in the previous six months or for such shorter period that the individual was a CEO, CFO, COO or director of the first issuer.

PART 4 SUPPLEMENTAL INSIDER REPORTING REQUIREMENT

4.1 **Other agreements, arrangements or understandings**

(1) If a reporting insider of a reporting issuer enters into, materially amends, or terminates an agreement, arrangement or understanding described in subsection (2), the reporting insider must, within five days of this event, file an insider report in respect of the reporting issuer in accordance with section 4.3.

(2) An agreement, arrangement or understanding must be reported under subsection (1) in an insider report in respect of a reporting issuer if

(a) the agreement, arrangement or understanding has the effect of altering, directly or indirectly, the reporting insider's economic exposure to the reporting issuer;

(b) the agreement, arrangement or understanding involves, directly or indirectly, a security of the reporting issuer or a related financial instrument involving a security of the reporting issuer; and

(c) the reporting insider is not otherwise required to file an insider report in respect of this event under Part 3 or any corresponding provision of Canadian securities legislation.

4.2 **Report of prior agreements, arrangements or understandings** – A reporting insider must, within 10 days of becoming a reporting insider of a reporting issuer, file an insider report in accordance with section 4.3 in respect of the reporting issuer if

(a) the reporting insider, prior to the date the reporting insider most recently became a reporting insider, entered into an agreement, arrangement or understanding in respect of which the reporting insider would have been required to file an insider report under section 4.1 if the agreement, arrangement or understanding had been entered into on or after the date the reporting insider most recently became a reporting insider, and

(b) the agreement, arrangement or understanding remains in effect on or after the date the reporting insider most recently became a reporting insider.

4.3 **Contents of report** – An insider report required to be filed under section 4.1 or 4.2 must disclose the existence and material terms of the agreement, arrangement or understanding.

PART 5 EXEMPTION FOR AUTOMATIC SECURITIES PURCHASE PLANS

5.1 **Interpretation**

(1) In this Part, a reference to a director or officer means a director or officer who is

(a) a director or officer of a reporting issuer and a reporting insider of the reporting issuer, or

(b) a director or officer of a subsidiary of a reporting issuer and a reporting insider of the reporting issuer.

(2) In this Part, a reference to a security of a reporting issuer includes a related financial instrument involving a security of the reporting issuer.

(3) In this Part, a disposition or transfer of securities acquired under an automatic securities purchase plan is a specified disposition of securities if

(a) the disposition or transfer is incidental to the operation of the automatic securities purchase plan and does not involve a discrete investment decision by the director or officer; or

(b) the disposition or transfer is made to satisfy a tax withholding obligation arising from the distribution of securities under the automatic securities purchase plan and either

(i) the director or officer has elected that the tax withholding obligation will be satisfied through a disposition of securities, has communicated this election to the reporting issuer or the plan administrator at least 30 days before the disposition and this election is irrevocable as of the 30th day before the disposition; or

(ii) the director or officer has not communicated an election to the reporting issuer or the plan administrator and, in accordance with the terms of the plan, the reporting issuer or the plan administrator is required to sell securities automatically to satisfy the tax withholding obligation.

5.2 **Reporting exemption**

(1) The insider reporting requirement does not apply to a director or officer for an acquisition or disposition of securities described in subsection (2) if the director or officer complies with the alternative reporting requirement in section 5.4.

(2) The exemption in subsection (1) applies to

(a) an acquisition of securities of the reporting issuer under an automatic securities purchase plan, other than an acquisition of securities under a lump-sum provision of the plan; or

(b) a specified disposition of securities of the reporting issuer under an automatic securities purchase plan.

5.3 **Acquisition of options or similar securities -** The exemption in section 5.2 does not apply to an acquisition of options or similar securities granted to a director or officer.

5.4 **Alternative reporting requirement**

(1) A director or officer is exempt under section 5.2 from the insider reporting requirement if the insider files an insider report within the time period described in subsection (2) disclosing, on a transaction-by-transaction basis or in acceptable summary form, each acquisition and each specified disposition of a security under an automatic securities purchase plan that has not previously been disclosed by or on behalf of the director or officer.

(2) The deadline for filing the insider report under subsection (1) is,

(a) in the case of any securities acquired under the automatic securities purchase plan that have been disposed of or transferred, other than securities that have been disposed of or transferred as part of a specified disposition of securities, within five days of the disposition or transfer; and

(b) in the case of any securities acquired under the automatic securities purchase plan during a calendar year that have not been disposed of or transferred, and any securities that have been disposed of or transferred as part of a specified disposition of securities, on or before March 31 of the next calendar year.

(3) Subsection (1) does not apply to a director or officer if, at the time the insider report described in subsection (1) is due,

(a) the director or officer is not a reporting insider; or

(b) the director or officer is exempt from the insider reporting requirement.

PART 6 EXEMPTION FOR CERTAIN ISSUER GRANTS

6.1 **Interpretation**

(1) In this Part, a reference to a director or officer means a director or officer who is

(a) a director or officer of a reporting issuer and a reporting insider of the reporting issuer, or

(b) a director or officer of a subsidiary of a reporting issuer and a reporting insider of the reporting issuer.

(2) In this Part, a reference to a security of a reporting issuer includes a related financial instrument involving a security of the reporting issuer.

(3) In this Part, a disposition or transfer of a security acquired under a compensation arrangement is a specified disposition of a security if

(a) the disposition or transfer is incidental to the operation of the compensation arrangement and does not involve a discrete investment decision by the director or officer; or

(b) the disposition or transfer is made to satisfy a tax withholding obligation arising from the distribution of a security under the compensation arrangement and either

(i) the director or officer has elected that the tax withholding obligation will be satisfied through a disposition of securities, has communicated this election to the reporting issuer or the administrator of the compensation arrangement at least 30 days before the disposition and this election is irrevocable as of the 30th day before the disposition; or

(ii) the director or officer has not communicated an election to the reporting issuer or the administrator of the compensation arrangement and, in accordance with the terms of the arrangement, the reporting issuer or the administrator is required to sell securities automatically to satisfy the tax withholding obligation.

6.2 **Reporting exemption –** The insider reporting requirement does not apply to a director or officer for the acquisition of a security of the reporting issuer, or a specified disposition of a security of the reporting issuer, under a compensation arrangement established by the reporting issuer or by a subsidiary of the reporting issuer, if

(a) the reporting issuer has previously disclosed the existence and material terms of the compensation arrangement in an information circular or other public document filed on SEDAR;

(b) in the case of an acquisition of securities, the reporting issuer has previously filed in respect of the acquisition an issuer grant report on SEDI in accordance with section 6.3; and

(c) the director or officer complies with the alternative reporting requirement in section 6.4.

6.3 **Issuer grant report** – An issuer grant report filed under this Part in respect of a compensation arrangement must include

(a) the date the option or other security was issued or granted;

(b) the number of options or other securities issued or granted to each director or officer;

(c) the price at which the option or other security was issued or granted and the exercise price;

(d) the number and type of securities issuable on the exercise of the option or other security; and

(e) any other material terms that have not been previously disclosed or filed in a public filing on SEDAR.

6.4 **Alternative reporting requirement**

(1) A director or officer is exempt under section 6.2 from the insider reporting requirement if the insider files an insider report within the time period described in subsection (2) disclosing, on a transaction-by-transaction basis or in acceptable summary form, each acquisition and each specified disposition of a security under a compensation arrangement that has not previously been disclosed by or on behalf of the director or officer.

(2) The deadline for filing the insider report under subsection (1) is

(a) in the case of any security acquired under the compensation arrangement that has been disposed of or transferred, other than a security that has been disposed of or transferred as part of a specified disposition of a security, within five days of the disposition or transfer; and

(b) in the case of any security acquired under the compensation arrangement during a calendar year that has not been disposed of or transferred, and any security that has been disposed of or transferred as part of a specified disposition of a security, on or before March 31 of the next calendar year.

(3) Subsection (1) does not apply to a director or officer if, at the time the insider report described in subsection (1) is due,

(a) the director or officer is not a reporting insider; or

(b) the director or officer is exempt from the insider reporting requirement.

PART 7 EXEMPTIONS FOR NORMAL COURSE ISSUER BIDS AND PUBLICLY DISCLOSED TRANSACTIONS

7.1 **Reporting exemption for normal course issuer bids** – The insider reporting requirement does not apply to an issuer for an acquisition of a security of its own issue by the issuer under a normal course issuer bid if the issuer complies with the alternative reporting requirement in section 7.2.

7.2 **Reporting requirement** – An issuer who relies on the exemption in section 7.1 must file an insider report disclosing each acquisition of securities by it under a normal course issuer bid within 10 days of the end of the month in which the acquisition occurred.

7.3 **General exemption for other transactions that have been otherwise disclosed** – The insider reporting requirement does not apply to an issuer in connection with a transaction, other than a normal course issuer bid, involving a security of its own issue if the existence and material terms of the transaction have been generally disclosed in a public filing on SEDAR.

PART 8 EXEMPTION FOR CERTAIN ISSUER EVENTS

8.1 **Reporting exemption** – The insider reporting requirement in respect of a reporting issuer does not apply to a reporting insider whose beneficial ownership of, or control or direction over, whether direct or indirect, a security of the reporting issuer changes as a result of an issuer event of the reporting issuer.

8.2 **Reporting requirement** – A reporting insider who relies on the exemption in section 8.1 in respect of a reporting issuer must file an insider report, disclosing all changes in beneficial ownership of, or control or direction over, whether direct or indirect, a security of the reporting issuer as a result of an issuer event if those changes have not previously been reported by or on behalf of the insider, within the time required by securities legislation for the insider to report any other subsequent change in beneficial ownership of, or control or direction over, whether direct or indirect, a security of the reporting issuer.

PART 9 GENERAL EXEMPTIONS

9.1 **Reporting exemption (mutual funds)** – The insider reporting requirement does not apply to an insider of an issuer that is a mutual fund.

9.2 **Reporting exemption (non-reporting insiders)** – The insider reporting requirement does not apply to an insider of an issuer if the insider is not a reporting insider of that issuer.

9.3 **Reporting exemption (certain insiders of investment issuers)** – The insider reporting requirement does not apply to a director or officer of a significant shareholder, or a director or officer of a subsidiary of a significant shareholder, in respect of securities of an investment issuer or a related financial instrument involving a security of the investment issuer if the director or officer

(a) does not in the ordinary course receive or have access to information as to material facts or material changes concerning the investment issuer before the material facts or material changes are generally disclosed; and

(b) is not a reporting insider of the investment issuer in any capacity other than as a director or officer of the significant shareholder or a subsidiary of the significant shareholder.

9.4 **Reporting exemption (nil report)** – The insider reporting requirement does not apply to a reporting insider if the reporting insider

(a) does not have any beneficial ownership of, or control or direction over, whether direct or indirect, a security of the issuer;

(b) does not have any interest in, or right or obligation associated with, a related financial instrument involving a security of the issuer;

(c) has not entered into any agreement, arrangement or understanding as described in section 4.1; and

(d) is not a significant shareholder based on post-conversion beneficial ownership.

9.5 **Reporting exemption (corporate group**) – The insider reporting requirement does not apply to a reporting insider if

(a) the reporting insider is a subsidiary or other affiliate of another reporting insider (the affiliated reporting insider); and

(b) the affiliated reporting insider has filed an insider report in respect of the reporting issuer that discloses substantially the same information as would be contained in an insider report filed by the reporting insider, including details of the reporting insider's

(i) beneficial ownership of, or control or direction over, whether direct or indirect, securities of the reporting issuer; and

(ii) interest in, or right or obligation associated with, any related financial instrument involving a security of the reporting issuer.

9.6 **Reporting exemption (executor and co-executor)** – The insider reporting requirement does not apply to a reporting insider for a security of an issuer beneficially owned or controlled, directly or indirectly, by an estate if

(a) the reporting insider is an executor, administrator or other person or company who is a representative of the estate (referred to in this section as an executor of the estate), or a director or officer of an executor of the estate;

(b) the reporting insider is subject to the insider reporting requirement solely because of the reporting insider being an executor or a director or officer of an executor of the estate; and

(c) another executor or director or officer of an executor of the estate has filed an insider report that discloses substantially the same information as would be contained in an insider report filed by the reporting insider for securities of an issuer beneficially owned or controlled, directly or indirectly, by the estate.

9.7 **Exempt persons and transactions** – The insider reporting requirement does not apply to

(a) an agreement, arrangement or understanding which does not involve, directly or indirectly,

(i) a security of the reporting issuer;

(ii) a related financial instrument involving a security of the reporting issuer; or

(iii) any other derivative in respect of which the underlying security, interest, benchmark or formula is or includes as a material component a security of the reporting issuer or a related financial instrument involving a security of the reporting issuer;

(b) a transfer, pledge or encumbrance of a security by a reporting insider for the purpose of giving collateral for a debt made in good faith so long as there is no limitation on the recourse available against the insider for any amount payable under such debt;

(c) the receipt by a reporting insider of a transfer, pledge or encumbrance of a security of an issuer if the security is transferred, pledged or encumbered as collateral for a debt under a written agreement and in the ordinary course of business of the insider;

(d) a reporting insider, other than a reporting insider that is an individual, that enters into, materially amends or terminates an agreement, arrangement or understanding which is in the nature of a credit derivative;

(e) a reporting insider who did not know and, in the exercise of reasonable diligence, could not have known of the alteration to economic exposure described in section 4.1;

(f) the acquisition or disposition of a security, or an interest in a security, of an investment fund, provided that securities of the reporting issuer do not form a material component of the investment fund's market value; or

(g) the acquisition or disposition of a security, or an interest in a security, of an issuer that holds directly or indirectly securities of the reporting issuer, if

(i) the reporting insider is not a control person of the issuer; and

(ii) the reporting insider does not have or share investment control over the securities of the reporting issuer.

PART 10 DISCRETIONARY EXEMPTIONS

10.1 **Exemptions from this Instrument**

(1) The regulator or 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 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 11 EFFECTIVE DATE AND TRANSITION

11.1 **Effective Date**

(1) Except in Ontario, this Instrument comes into force on April 30, 2010.

(2) In Ontario, this Instrument comes into force on the later of the following:

(a) April 30, 2010; and

(b) the day on which subsection 1(8) and sections 9 and 10 of Schedule Z.5 to Bill 151, *Budget Measures Act, 2006 (No. 2)* are proclaimed in force.

11.2 **Transition**

(1) Despite sections 3.3 and 3.4, a reporting insider may file an insider report required by either of those sections within 10 days of a change described in those sections if the change relates to a transaction that occurred on or before October 31, 2010.

(2) Despite section 4.1, a reporting insider may file an insider report required under that section within 10 days of an event described in that section if the event relates to a transaction that occurred on or before October 31, 2010.

(3) Despite paragraph 5.4(2)(a), a reporting insider may file an insider report required under that paragraph within 10 days of a disposition or transfer described in that paragraph if the disposition or transfer occurred on or before October 31, 2010.

(4) Despite paragraph 6.4(2)(a), a reporting insider may file an insider report required under that paragraph within 10 days of a disposition or transfer described in that paragraph if the disposition or transfer occurred on or before October 31, 2010.

APPENDIX E

COMPANION POLICY 55-104CP
INSIDER REPORTING REQUIREMENTS AND EXEMPTIONS

PART 1 INTRODUCTION AND DEFINITIONS

1.1 Introduction and Purpose

(1) National Instrument 55-104 *Insider Reporting Requirements and Exemptions* (the Instrument) sets out the principal insider reporting requirements and exemptions for insiders of reporting issuers.[1]

(2) The purpose of this Policy is to help you understand how the Canadian Securities Administrators (the CSA or we) interpret or apply certain provisions of the Instrument.

1.2 Background to the Instrument

(1) The Instrument consolidates the principal insider reporting requirements and most exemptions in one location. This will make it easier for issuers and insiders to locate and understand their obligations and will help promote timely and effective compliance.

(2) The focus of the Instrument is on the substantive legal insider reporting requirements rather than the procedural requirements relating to the filing of insider reports. Issuers and insiders should review National Instrument 55-102 *System for Electronic Disclosure by Insiders (SEDI)* (NI 55-102) in order to determine their obligations for the filing of insider reports.

(3) Although the Instrument sets out the principal insider reporting requirements and exemptions for issuers and insiders in Canada, a number of other CSA instruments also contain exemptions from the insider reporting requirements, including

(a) National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102);

(b) National Instrument 62-103 *The Early Warning System and Related Take-Over Bid and Insider Reporting Issues* (NI 62-103);

(c) National Instrument 71-101 *The Multijurisdictional Disclosure System* (NI 71-101); and

(d) National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers* (NI 71-102).

We have not included the insider reporting exemptions from these instruments in the Instrument because we think these exemptions are better situated within the context of these other instruments. Issuers and insiders therefore may wish to review these instruments in determining whether any additional exemptions from the insider reporting requirements are available.

1.3 Policy Rationale for Insider Reporting in Canada

(1) The insider reporting requirements serve a number of functions. These include deterring improper insider trading based on material undisclosed information and increasing market efficiency by providing investors with information concerning the trading activities of insiders of an issuer, and, by inference, the insiders' views of their issuer's prospects.

(2) Insider reporting also helps prevent illegal or otherwise improper activities involving stock options and similar equity-based instruments, including stock option backdating, option repricing, and the opportunistic timing of option grants (spring-loading or bullet-dodging). This is because the requirement for timely disclosure of option grants and public scrutiny of such disclosure will generally limit opportunities for issuers and insiders to engage in improper dating practices.

(3) Insiders should interpret the insider reporting requirements in the Instrument with these policy rationales in mind and comply with the requirements in a manner that gives priority to substance over form.

---

[1] In Ontario, the principal insider reporting requirements are set out in Part XXI of the *Securities Act* (Ontario) (the Ontario Act). See Part 2 of this Policy.

1.4 Definitions used in the Instrument

(1) **General** – The Instrument provides definitions of many terms that are defined in the securities legislation of some local jurisdictions but not others. A term used in the Instrument and defined in the securities statute of a local jurisdiction has the meaning given to it in the local securities statute unless: (a) the definition in that statute is restricted to a specific portion of the statute that does not govern insider reporting; or (b) the context otherwise requires.

This means that, in the jurisdictions specifically excluded from the definition, the definition in the local securities statute applies. However, in the jurisdictions not specifically excluded from the definition, the definition in the Instrument applies.

The provincial and territorial regulatory authorities consider the meanings given to these terms in securities legislation to be substantially similar to the definitions set out in the Instrument.

(2) **Directors and Officers** – Where the Instrument uses the term "directors" or "officers", insiders of an issuer that is not a corporation must refer to the definitions in securities legislation of "director" and "officer". The definitions of "director" and "officer" typically include persons acting in capacities similar to those of a director or an officer of a company or individuals who perform similar functions. Corporate and non-corporate issuers and their insiders must determine, in light of the particular circumstances, which individuals or persons are acting in such capacities for the purposes of complying with the Instrument.

Similarly, the terms "CEO", "CFO" and "COO" include the individuals that have the responsibilities normally associated with these positions or act in a similar capacity. This determination is to be made irrespective of an individual's corporate title or whether that individual is employed directly or acts pursuant to an agreement or understanding.

(3) **Economic Interest** – The term "economic interest" in a security is a core component of the definition of "related financial instrument" which is part of the primary insider reporting requirement in Part 3 of the Instrument. We intend the term to have broad application and to refer to the economic attributes ordinarily associated in common law with beneficial ownership of a security, including

- the potential for gain in the nature of interest, dividends or other forms of distributions or reinvestments of income on the security;
- the potential for gain in the nature of a capital gain realized on a disposition of the security, to the extent that the proceeds of disposition exceed the tax cost (that is, gains associated with an appreciation in the security's value); and
- the potential for loss in the nature of a capital loss on a disposition of the security, to the extent that the proceeds of disposition are less than the tax cost (that is, losses associated with a fall in the security's value).

For example, a reporting insider who owns securities of his or her reporting issuer could reduce or eliminate the risk associated with a fall in the value of the securities while retaining ownership of the securities by entering into a derivative transaction such as an equity swap. The equity swap would represent a "related financial instrument" since, among other things, the agreement would affect the reporting insider's economic interest in a security of the reporting issuer.

(4) **Economic Exposure** – The term "economic exposure" is used in Part 4 of the Instrument and is part of the supplemental insider reporting requirement. The term generally refers to the link between a person's economic or financial interests and the economic or financial interests of the reporting issuer of which the person is an insider.

For example, an insider with a substantial proportion of his or her personal wealth invested in securities of his or her reporting issuer will be highly exposed to changes in the fortunes of the reporting issuer. By contrast, an insider who does not hold securities of a reporting issuer (and does not participate in a compensation arrangement involving securities of the reporting issuer) will generally be exposed only to the extent of their salary and any other compensation arrangements provided by the issuer that do not involve securities of the reporting issuer.

All other things being equal, if an insider changes his or her ownership interest in a reporting issuer (either directly, through a purchase or sale of securities of the reporting issuer, or indirectly, through a derivative transaction involving securities of the reporting issuer), the insider will generally be changing his or her economic exposure to the reporting issuer. Similarly, if an insider enters into a hedging transaction that has the effect of reducing the sensitivity of the insider to changes in the reporting issuer's share price or performance, the insider will generally be changing his or her economic exposure to the reporting issuer.

(5) **Major Subsidiary** – The definition of "major subsidiary" is a key element of the definition of "reporting insider". The determination of whether a subsidiary is a major subsidiary will generally require a backward-looking determination based on the issuer's most recent financial statements.

If an issuer acquires a subsidiary or undertakes a reorganization, with the result that a subsidiary will come within the definition of major subsidiary once the issuer next files its financial statements, the subsidiary will not be a major subsidiary until such filing, and directors and the CEO, CFO and COO of the subsidiary will not be reporting insiders until such filing.

Although not required to do so, insiders may choose to file insider reports upon completion of the acquisition or reorganization rather than wait for the issuer to file its next set of financial statements. Similarly, if a subsidiary ceases to be a major subsidiary because of an acquisition or other reorganization by the parent issuer, but the subsidiary continues to be a major subsidiary based on information contained within the issuer's most recently filed financial statements, the issuer or reporting insiders may wish to consider applying for an exemption from the insider reporting requirement as the reporting obligation will continue until the issuer next files its financials statements.

(6) **Related Financial Instrument** – Historically, there has been some uncertainty as to whether, as a matter of law, certain derivative instruments involving securities are themselves securities. This uncertainty has resulted in questions as to whether a reporting obligation existed or how insiders should report a derivative instrument. The Instrument resolves this uncertainty by including derivative instruments in the definition of "related financial instrument". Under the Instrument, it is not necessary to determine whether a particular derivative instrument is a security or a related financial instrument since the insider reporting requirement in Part 3 of the Instrument applies to both securities and related financial instruments.

To the extent the following derivative instruments do not, as a matter of law, constitute securities, they will generally be related financial instruments:

- a forward contract, futures contract, stock purchase contract or similar contract involving securities of the insider's reporting issuer;
- options issued by an issuer other than the insider's reporting issuer;
- stock-based compensation instruments, including phantom stock units, deferred share units (DSUs), restricted share awards (RSAs), performance share units (PSUs), stock appreciation rights (SARs) and similar instruments;
- a debt instrument or evidence of deposit issued by a bank or other financial institution for which part or all of the amount payable is determined by reference to the price, value or level of a security of the insider's reporting issuer (a linked note); and
- most other agreements, arrangements or understandings that were previously subject to an insider reporting requirement under former Multilateral Instrument 55-103 *Insider Reporting for Certain Derivative Transactions (Equity Monetization)* (MI 55-103).

(7) **Reporting insider** – We developed the term "reporting insider" specifically for the purposes of the insider reporting requirements and exemptions in the Instrument. It allows us to focus the insider reporting requirement on a core group of persons and companies who in some cases are not "insiders" as defined in securities legislation. There are additional obligations and prohibitions on 'insiders' as defined in our Acts, such as the important prohibition on illegal insider trading. The concept of reporting insider is discussed in section 3.1 of this Policy.

1.5 References to the term "day" in the Instrument – References in the Instrument to the term "day" mean calendar day (as opposed to business day). This is consistent with how we use this term elsewhere in securities legislation and the statutory interpretation of the term "day" in each of the CSA jurisdictions.

1.6 Persons and companies designated or determined to be insiders – Section 1.2 of the Instrument designates or determines certain persons and companies to be insiders of a reporting issuer. The Instrument uses the terms "designate" and "determine" since these are the terms used in securities legislation in different jurisdictions. The designation or determination is for the purposes of the insider reporting requirements in the Instrument only. However, in many cases, persons and companies designated or determined to be insiders will also be insiders in another capacity. For example, section 1.2 designates or determines officers and directors of a management company that provides significant management or administrative services to a reporting issuer to be insiders of that reporting issuer. These individuals may also be officers and directors of the reporting issuer under the extended definitions of "officer" and "director" which typically include persons acting in capacities similar to those of a director or an officer or

individuals who perform similar functions. The purpose of designating or determining these individuals to be insiders is to clarify these individuals' insider reporting obligations and to avoid uncertainty.

PART 2 APPLICATION

2.1 **Application in Ontario** – In Ontario, the insider reporting requirements are set out in Part XXI of the Ontario Act. For this reason, sections 3.2 and 3.3 of the Instrument do not apply in Ontario. However, the insider reporting requirements set out in the Instrument and in Part XXI of the Ontario Act are substantially harmonized. Accordingly, in this Policy, we omit separate references to the requirements of the Ontario Act except where it is necessary to highlight a difference between the requirements of the Instrument and the Ontario Act.

PART 3 PRIMARY INSIDER REPORTING REQUIREMENT

3.1 Concept of reporting insider

(1) **General** – Subsection 1.1(1) of the Instrument contains the definition of "reporting insider". The definition represents a principles-based approach to determining which insiders should file insider reports and enumerates a list of insiders whom we think generally satisfy both of the following criteria:

(i) the insider in the ordinary course receives or has access to information as to material facts or material changes concerning the reporting issuer before the material facts or material changes are generally disclosed; and

(ii) the insider directly or indirectly, exercises, or has the ability to exercise, significant power or influence over the business, operations, capital or development of the reporting issuer.

In addition to enumerating a list of insiders, the definition also includes, in paragraph (i), a "basket" provision that explicitly states these two criteria. The basket provision articulates the fundamental principle that an insider who satisfies the criteria of routine access to material undisclosed information concerning a reporting issuer and significant influence over the reporting issuer should file insider reports.

(2) **Interpreting the basket criteria** – The CSA consider that insiders who come within the enumerated list of positions in the definition of reporting insider will generally satisfy the criteria of routine access to material undisclosed information and significant influence over the reporting issuer. We recognize that this may not always be the case for certain positions in the definition and have therefore included an exemption in section 9.3 of the Instrument for directors and officers of significant shareholders based on lack of routine access to material undisclosed information.

If an insider does not fall within any of the enumerated positions, the insider should consider whether the insider has access to material undisclosed information and has influence over the reporting issuer that is reasonably commensurate with that of one or more of the enumerated positions. If the insider satisfies both of these criteria, the insider will fall within the basket provision of the reporting insider definition.

(3) **Meaning of significant power or influence** – In determining whether an insider satisfies the significant influence criterion, the insider should consider whether the insider exercises, or has the ability to exercise, significant influence over the business, operations, capital or development of the issuer that is reasonably comparable to that exercised by one or more of the enumerated positions in the definition.

Certain positions or relationships with the issuer may give rise to reporting insider status in the case of certain issuers but not others, depending on the importance of the position or relationship to the business, operations, capital or development of the particular issuer. Similarly, the importance of a position or relationship to an issuer may change over time. For example, the directors and the CEO, CFO and COO of a 20 per cent subsidiary (i.e. not a "major subsidiary", as defined in the Instrument) who are not reporting insiders for any other reason may be reporting insiders prior to and during a significant business acquisition or reorganization, or a market moving announcement.

(4) **Exercise of reasonable judgment** – The determination of whether an insider is a reporting insider based on the criteria in the basket provision will generally be a question of reasonable judgment. The CSA expect insiders to make reasonable determinations after careful consideration of all relevant facts but recognize that a reasonable determination may not always be a correct determination. The CSA recommend that insiders consult with their issuers when making this determination since confirming that the insider's conclusion is consistent with the issuer's view may help establish that a determination was reasonable. Insiders may also wish to seek professional advice or consider the reporting status of individuals in similar positions with the issuer or other similarly situated issuers.

3.2 Meaning of beneficial ownership

(1) **General** – The term "beneficial ownership" is not defined in securities legislation. Accordingly, beneficial ownership must be determined in accordance with the ordinary principles of property and trust law of a local jurisdiction. In Québec, due to the fact that the concept of beneficial ownership does not exist in civil law, the meaning of beneficial ownership has the meaning ascribed to it in section 1.4 of Regulation 14-501Q. The concept of beneficial ownership in Québec legislation is often used in conjunction with the concept of control and direction, which allows for a similar interpretation of the concept of common law beneficial ownership in most jurisdictions.

(2) **Deemed beneficial ownership** – Although securities legislation does not define beneficial ownership, securities legislation in certain jurisdictions may deem a person to beneficially own securities in certain circumstances. For example, in some jurisdictions, a person is deemed to beneficially own securities that are beneficially owned by a company controlled by that person or by an affiliate of such company.

(3) **Post-conversion beneficial ownership** – Under the Instrument, a person has "post-conversion beneficial ownership" of a security, including an unissued security, if the person is the beneficial owner of a security convertible into the security within 60 days. For example, a person who owns special warrants convertible at any time and without payment of additional consideration into common shares will be considered to have post-conversion beneficial ownership of the underlying common shares. Under the Instrument, a person who has post-conversion beneficial ownership of securities may in certain circumstances be designated or determined to be an insider and may be a reporting insider. For example, if a person owns 9.9% of an issuer's common shares and then acquires special warrants convertible into an additional 5% of the issuer's common shares, the person will be designated or determined to be an insider under section 1.2 of the Instrument and will be a reporting insider under subsection 1.1(1) of the Instrument.

The concept of post-conversion beneficial ownership of the underlying securities into which securities are convertible within 60 days is consistent with similar provisions for determining beneficial ownership of securities for the purposes of the early warning requirements in section 1.8 of Multilateral Instrument 62-104 *Take-Over Bids and Issuer Bids* and in Ontario, subsection 90(1) of the Ontario Act.

(4) **Beneficial ownership of securities held in a trust –** Under common law trust law, legal ownership is commonly distinguished from beneficial ownership. A trustee is generally considered to be the legal owner of the trust property; a beneficiary, the beneficial owner. Under the Québec civil law, a trust is governed by the Québec Civil Code.

A reporting insider who has a beneficial interest in securities held in a trust may have or share beneficial ownership of the securities for insider reporting purposes, depending on the particular facts of the arrangement and upon the governing law of the trust, whether common law or civil law. We will generally consider a person to have or share beneficial ownership of securities held in a trust if the person has or shares

(a) a beneficial interest in the securities held in the trust and has or shares voting or investment power over the securities held in the trust; or

(b) legal ownership of the securities held in the trust and has or shares voting or investment power over the securities held in the trust.

(5) **Disclaimers of beneficial ownership** – The CSA generally will not regard a purported disclaimer of a beneficial interest in, or beneficial ownership of, securities as being effective for the purposes of determining beneficial ownership under securities legislation unless such disclaimer is irrevocable and has been generally disclosed to the public.

(6) **When ownership passes** – Securities legislation of certain local jurisdictions provides that ownership is deemed to pass at the time an offer to sell is accepted by the purchaser or the purchaser's agent or an offer to buy is accepted by the vendor or the vendor's agent. The CSA is of the view that, for the purposes of the insider reporting requirement beneficial ownership passes at the same time.

3.3 Meaning of control or direction

(1) The term "control or direction" is not defined in Canadian securities legislation except in Québec, where the *Securities Act* (Québec), in sections 90, 91 and 92, defines the concept of control and deems situations where a person has control over securities. For purposes of the Instrument, a person will generally have control or direction over securities if the person, directly or indirectly, through any contract, arrangement, understanding or relationship or otherwise has or shares

(a) voting power, which includes the power to vote, or to direct the voting of, such securities and/or

(b) investment power, which includes the power to acquire or dispose, or to direct the acquisition or disposition of such securities.

(2) A reporting insider may have or share control or direction over securities through a power of attorney, a grant of limited trading authority, or a management agreement. This would also include a situation where a reporting insider acts as a trustee for an estate (or in Québec as a liquidator) or other trust in which securities of the reporting insider's issuer are included within the assets of the trust. This may also be the case if a spouse (or any other person related to the reporting insider) owns the securities or acts as trustee, but the reporting insider has or shares control or direction over the securities held in trust. In addition, this may be the case where the reporting insider is an officer or director of another issuer that owns securities of the reporting insider's issuer and the reporting insider is able to influence the investment or voting decisions of the issuer.

PART 4 SUPPLEMENTAL INSIDER REPORTING REQUIREMENT

4.1 Supplemental insider reporting requirement

(1) Part 4 of the Instrument contains the supplemental insider reporting requirement. The supplemental insider reporting requirement is consistent with the predecessor insider reporting requirement for derivatives that previously existed in some jurisdictions under former MI 55-103. However, because Part 3 of the Instrument requires insiders, as part of the primary insider reporting requirement, to file insider reports about transactions involving "related financial instruments", most transactions that were previously subject to a reporting requirement under former MI 55-103 will be subject to the primary insider reporting requirement under Part 3 of the Instrument.

(2) If a reporting insider enters into an equity monetization transaction or other derivative-based transaction that falls outside of the primary insider reporting requirement in Part 3 of the Instrument, the reporting insider must report the transaction under Part 4. For example, certain types of monetization transactions may be found to alter an insider's "economic exposure" to the insider's issuer but not alter the insider's "economic interest in a security". If a reporting insider enters into, materially amends or terminates this type of transaction, the insider must report the transaction under Part 4.

4.2 Insider reporting of equity monetization transactions

(1) **What are equity monetization transactions?** There are a variety of sophisticated derivative-based strategies that permit investors to dispose of, in economic terms, an equity position in a public company without attracting certain tax and non-tax consequences associated with a conventional disposition of such position. These strategies, which are sometimes referred to as "equity monetization" strategies, allow an investor to receive a cash amount similar to proceeds of disposition, and transfer part or all of the economic risk and/or return associated with securities of an issuer, without actually transferring ownership of or control over such securities. (The term "monetization" generally refers to the conversion of an asset (such as securities) into cash.)

(2) **What are the concerns with equity monetization transactions?** Where a reporting insider enters into a monetization transaction, and does not disclose the existence or material terms of that transaction, there is potential for harm to investors and the integrity of the insider reporting regime because

- an insider in possession of material undisclosed information, although prohibited from trading in securities of the issuer, may be able to profit improperly from such information by entering into derivative-based transactions that mimic trades in securities of the reporting issuer;
- market efficiency will be impaired since the market is deprived of important information relating to the market activities of the insider; and
- since the insider's publicly reported holdings no longer reflect the insider's true economic position in the issuer, the public reporting of such holdings (e.g., in an insider report or a proxy circular) may in fact materially mislead investors.

If a reporting insider enters into a transaction which satisfies one or more of the policy rationales for insider reporting, but for technical reasons it may be argued that the transaction falls outside of the primary insider reporting requirement in Part 3 of the Instrument, the insider will be required to file an insider report under Part 4 unless an exemption is available. In this way, the market can make its own determination as to the significance, if any, of the transaction in question.

PART 5 AUTOMATIC SECURITIES PURCHASE PLANS

5.1 Automatic Securities Purchase Plans

(1) Section 5.1 of the Instrument contains an interpretation provision that applies to Part 5. Because of this provision, directors and officers of a reporting issuer and of a major subsidiary of a reporting issuer can use the exemption in this Part for both acquisitions and specified dispositions of securities and related financial instruments under an automatic securities purchase plan (ASPP).

(2) The exemption does not apply to securities acquired under a cash payment option of a dividend or interest reinvestment plan or a lump-sum provision of a share purchase plan.

(3) The exemption does not apply to an "automatic securities disposition plan" (sometimes referred to as a "pre-arranged structured sales plan") (an ASDP) established between a reporting insider and a broker, since an ASDP is designed to facilitate dispositions not acquisitions. However, if a reporting insider can demonstrate that an ASDP is genuinely an automatic plan and that the insider cannot make discrete investment decisions through the plan, we may consider granting exemptive relief on an application basis to permit the insider to file reports on an annual basis.

(4) The exemption is not available for a grant of options or similar securities to reporting insiders, since, in many cases, the reporting insider will be able to make an investment decision in respect of the grant. If an insider is an executive officer or a director of the reporting issuer or a major subsidiary, the insider may be participating in the decision to grant the options or other securities. Even if the insider does not participate in the decision, we think information about options or similar securities granted to this group of insiders is important to the market and the insider should disclose this information in a timely manner.

5.2 Specified Dispositions of Securities

(1) Paragraph 5.1(3)(a) of the Instrument provides that a disposition or transfer of securities is a specified disposition if, among other things, it does not involve a "discrete investment decision" by the director or officer. The term "discrete investment decision" generally refers to the exercise of discretion involved in a specific decision to purchase, hold or sell a security. The purchase of a security as a result of the application of a pre-determined, mechanical formula does not generally represent a discrete investment decision (other than the initial decision to enter into the plan). For example, for an individual who holds stock options in a reporting issuer, the decision to exercise the stock options will generally represent a discrete investment decision. If the individual is a reporting insider, we think the individual should report this information in a timely fashion, since this decision may convey information that other market participants may consider relevant to their own investing decisions.

(2) The definition of "specified disposition of securities" contemplates, among other things, a disposition made to satisfy a tax withholding obligation arising from the acquisition of securities under an ASPP in certain circumstances. Under some types of ASPPs, an issuer or plan administrator may sell, on behalf of a plan participant, a portion of the securities that would otherwise be distributed to the plan participant in order to satisfy a tax withholding obligation. In such plans, the participant typically may elect either to provide the issuer or the plan administrator with a cheque to cover this liability or to direct the issuer or plan administrator to sell a sufficient number of the securities that would otherwise be distributed to cover this liability. In many cases, for reasons of convenience, a plan participant will simply direct the issuer or the plan administrator to sell a portion of the securities.

Although we think that the election as to how a tax withholding obligation will be funded contains an element of a discrete investment decision, we are satisfied that, where the election occurs sufficiently in advance of the actual disposition of securities, it is acceptable for a report of a disposition made to satisfy a tax withholding obligation to be made on an annual basis. Accordingly, a disposition made to satisfy a tax withholding obligation will be a specified disposition of securities if it meets the criteria contained in paragraph 5.1(3)(b) of the Instrument.

5.3 Alternative Reporting Requirements – If securities acquired under an ASPP are disposed of or transferred, other than through a specified disposition of securities, and the insider has not previously disclosed the acquisition of these securities, the insider report should disclose, for each acquisition of securities which the insider is now disposing of or transferring, information about the date of acquisition of the securities, the number of securities acquired and the acquisition price of such securities. The report should also disclose, for each disposition or transfer, information about each disposition or transfer of securities.

5.4 Exemption from the Alternative Reporting Requirement – The rationale underlying the alternative reporting requirement is the need for reporting insiders to periodically update their publicly disclosed holdings to ensure that their publicly disclosed holdings convey an accurate picture of their holdings. If an individual has ceased to be subject to the insider reporting requirements at the time the alternative report becomes due, the market generally would not benefit

from the information in the alternative report. Accordingly, we provided an exemption in subsection 5.4(3) of the Instrument in these circumstances.

5.5 Design and Administration of Plans

(1) Part 5 of the Instrument provides a limited exemption from the insider reporting requirement only in circumstances in which an insider, by virtue of participation in an ASPP, is not making discrete investment decisions for acquisitions under such plan. Accordingly, if it is intended that insiders of an issuer rely on this exemption for a particular plan of an issuer, the issuer should design and administer the plan in a manner that is consistent with this limitation.

(2) To fit within the definition of an ASPP, the plan must set out a written formula or criteria for establishing the timing of the acquisitions, the number of securities that the insider can acquire and the price payable. If a plan participant is able to exercise discretion in relation to these matters either in the capacity of a recipient of the securities or through participating in the decision-making process of the issuer making the grant, he or she may be able to make a discrete investment decision in respect of the grant or acquisition. We think a reporting insider in these circumstances should disclose information about the grant within the normal timeframe and not on a deferred basis.

PART 6 ISSUER GRANT REPORTS

6.1 Overview

(1) Section 6.1 of the Instrument contains an interpretation provision that applies to Part 6. Because of this provision, directors and officers of a reporting issuer or a major subsidiary of a reporting issuer who are reporting insiders of the reporting issuer can use the exemption in this Part for grants of securities and related financial instruments.

(2) A reporting insider who intends to rely on the exemption in Part 6 for a grant of stock options or similar securities must first confirm that the issuer has made the public disclosure required by section 6.3 of the Instrument. If the issuer has not made the required disclosure within the required time, the reporting insider must report the grant within the required time and in accordance with the normal reporting requirements under Part 3 of the Instrument.

6.2 Policy rationale for the issuer grant report exemption

(1) The issuer grant report exemption reduces the regulatory burden on insiders that is associated with insider reporting of stock options and similar instruments since it allows an issuer to make a single filing on SEDI. This filing provides the market with timely information about the existence and material terms of the grant, making it unnecessary for each of the affected reporting insiders to file an insider report about the grant within the ordinary time periods.

(2) The concept of an issuer grant report is generally similar to the concept of an issuer event report in that the decision to make the grant originates with the issuer. Accordingly, at the time of the grant, the issuer will generally be in a better position than the reporting insiders who are the recipients of the grant to communicate information about the grant to the market in a timely manner.

(3) There is no obligation for an issuer to file an issuer grant report for a grant of stock options or similar instruments. An issuer may choose to do so to assist its reporting insiders with their reporting obligations and to communicate material information about its compensation practices to the market in a timely manner.

(4) If an issuer chooses not to file an issuer grant report, the issuer should take all reasonable steps to notify reporting insiders of their grants in a timely manner to allow reporting insiders to comply with their reporting obligations.

(5) The concept of an issuer grant report is different from the issuer event report that an issuer is required to make under Part 2 of NI 55-102 in that an issuer is not required to file an issuer grant report.

6.3 Format of an issuer grant report – There is no required format for an issuer grant report. However, an issuer grant report must include the information required by section 6.3 of the Instrument.

PART 7 EXEMPTIONS FOR NORMAL COURSE ISSUER BIDS AND PUBLICLY DISCLOSED TRANSACTIONS

7.1 Introduction – Under securities legislation, a reporting issuer may become an insider of itself in certain circumstances and therefore subject to an insider reporting requirement in relation to transactions involving its own securities. Under the definition of “insider” in securities legislation, a reporting issuer becomes an insider of itself if it “has purchased, redeemed or otherwise acquired a security of its own issue, for so long as it continues to hold that security”. In certain jurisdictions, a reporting issuer may also become an insider of itself if it acquires and holds securities of its own issue through an affiliate, because in certain jurisdictions a person is deemed to beneficially own securities beneficially

owned by affiliates. Where a reporting issuer is an insider of itself, the reporting issuer will also be a reporting insider under the Instrument.

7.2 General exemption for transactions that have been generally disclosed –Section 7.3 of the Instrument provides that the insider reporting requirement does not apply to an issuer in connection with a transaction, other than a normal course issuer bid, involving securities of its own issue if the existence and material terms of the transaction have been generally disclosed in a public filing made on SEDAR. Because of this exemption and the exemption for normal course issuer bids in section 7.1, a reporting issuer that is an insider of itself will not generally need to file insider reports under Part 3 or Part 4 provided the issuer complies with the alternative reporting requirement in section 7.2 of the Instrument.

PART 8 EXEMPTION FOR CERTAIN ISSUER EVENTS

8.1 [Intentionally left blank]

PART 9 EXEMPTIONS

9.1 Scope of exemptions – The exemptions under the Instrument are only exemptions from the insider reporting requirements contained in the Instrument and are not exemptions or defences from the provisions in Canadian securities legislation imposing liability for improper insider trading.

9.2 Reporting Exemption – The definition of "reporting insider" includes certain enumerated persons or companies that generally satisfy the criteria contained in subsection (i) of the definition of reporting insider, namely, routine access to material undisclosed information and significant power or influence over the reporting issuer. Although there is no general exemption for the enumerated persons or companies based on lack of routine access to material undisclosed information or lack of power or influence, we will consider applications for exemptive relief where the issuer or reporting insider can demonstrate that the reporting insider does not satisfy these criteria. This might include, for example, a situation where a foreign subsidiary may appoint a locally resident individual as a director to meet residency requirements under applicable corporate legislation, but remove the individual's powers and liabilities through a unanimous shareholder declaration.

9.3 Reporting Exemption (certain directors and officers of insider issuers) – The reference to "material facts or material changes concerning the investment issuer" in section 9.3 of the Instrument is intended to include information that originates at the insider issuer level but which concerns or is otherwise relevant to the investment issuer. For example, in the case of an issuer that has a subsidiary investment issuer, a decision at the parent issuer level that the subsidiary investment issuer will commence or discontinue a line of business would generally represent a "material fact or material change concerning the investment issuer". Similarly, a decision at the parent issuer level that the parent issuer will seek to sell its holding in the subsidiary investment issuer would also generally represent a "material fact or material change concerning the investment issuer." Accordingly, a director or officer of the parent issuer who routinely had access to such information concerning the investment issuer would not be entitled to rely on the exemption for trades in securities of the investment issuer.

9.4 Exemption for a pledge where there is no limitation on recourse – The exemption in paragraph 9.7(b) of the Instrument is limited to pledges of securities in which there is no limitation on recourse since a limitation on recourse may effectively allow the borrower to "put" the securities to the lender to satisfy the debt. The limitation on recourse may effectively represent a transfer of the risk that the securities may fall in value from the insider to the lender. In these circumstances, the transaction should be transparent to the market.

A loan secured by a pledge of securities may contain a term limiting recourse against the borrower to the pledged securities (a legal limitation on recourse). Similarly, a loan secured by a pledge of securities may be structured as a limited recourse loan if the loan is made to a limited liability entity (such as a holding corporation) owned or controlled by the insider (a structural limitation on recourse). If there is a limitation on recourse as against the insider either legally or structurally, the exemption would not be available.

9.5. Exemption for certain investment funds – The exemption in paragraph 9.7(f) of the Instrument is limited to situations where securities of the reporting issuer do not form a material component of the investment fund's market value. In determining materiality, similar considerations to those involved in the concepts of material fact and material change would apply.

PART 10 CONTRAVENTION OF INSIDER REPORTING REQUIREMENTS

10.1 Contravention of insider reporting requirements

(1) It is an offence to fail to file an insider report in accordance with the filing deadlines prescribed by the Instrument or to

submit information in an insider report that, in a material respect and at the time and in the light of the circumstances in which it is submitted, is misleading or untrue.

(2) A failure to file an insider report in a timely manner or the filing of an insider report that contains information that is materially misleading may result in one or more of the following

- the imposition of a late filing fee;
- the reporting insider being identified as a late filer on a public database of late filers maintained by certain securities regulators;
- the issuance of a cease trade order that prohibits the reporting insider from directly or indirectly trading in or acquiring securities or related financial instruments of the applicable reporting issuer or any reporting issuer until the failure to file is corrected or a specified period of time has elapsed; or
- in appropriate circumstances, enforcement proceedings.

(3) Members of the CSA may also consider information relating to wilful or repeated non-compliance by directors and executive officers of a reporting issuer with their insider reporting obligations in the context of a prospectus review or continuous disclosure review, since this may raise questions relating to the integrity of the insiders and the adequacy of the issuer's policies and procedures relating to insider reporting and insider trading.

PART 11 INSIDER TRADING

11.1 Non-reporting insiders – Insiders who are not reporting insiders are still subject to the provisions in Canadian securities legislation prohibiting improper insider trading.

11.2 Written disclosure policies – National Policy 51-201 *Disclosure Standards* outlines detailed best practices for issuers for disclosure and information containment and provides interpretative guidance of insider trading laws. We recommend that issuers adopt written disclosure policies to assist directors, officers, employees and other representatives in discharging timely disclosure obligations. Written disclosure policies also should provide guidance on how to maintain the confidentiality of corporate information and to prevent improper trading based on inside information. Adopting the CSA best practices may assist issuers to ensure that they take all reasonable steps to contain inside information.

11.3 Insider Lists – Reporting issuers may also wish to consider preparing and periodically updating a list of the persons working for them or their affiliates who have access to material facts or material changes concerning the reporting issuer before those facts or changes are generally disclosed. This type of list may allow reporting issuers to control the flow of undisclosed information. The CSA may request additional information from time to time, including asking the reporting issuer to prepare and provide a list of insiders and reporting insiders, in the context of an insider reporting review.

APPENDIX F

CONSEQUENTIAL AMENDMENTS

AMENDING INSTRUMENT FOR MULTILATERAL INSTRUMENT 11-102 *PASSPORT SYSTEM*

1. Multilateral Instrument 11-102 Passport System is amended by this Instrument.

2. Appendix D is amended by:

a. deleting all of the rows that refer to MI 55-103 Insider Reporting for Certain Derivative Transactions (Equity Monetization);

b. inserting the following two rows (see non-shaded rows below) immediately under the row containing the words "System for electronic disclosure by insiders (SEDI)***"; and***

Provision	BC	AB	SK	MB	Que	NS	NB	PEI	NL	YK	NWT	Nun	ON
Insider reporting requirements	NI 55-104 (except as noted below)												NI 55-104 (except as noted below)
Primary insider reporting requirement	Part 3 of NI 55-104												s. 107

c. deleting all of the rows under the subheading "Insider Reporting***" and substituting the following new row (see non-shaded rows below) immediately under that subheading.***

Provision	BC	AB	SK	MB	Que	NS	NB	PEI	NL	YK	NWT	Nun	ON
Insider Reporting													
Insider reporting requirements	s. 87	s. 182	s. 116	s. 109	s. 89.3	s. 113	s. 135	s. 1 of Local Rule 55-501	s. 108	s. 1 of Local Rule 55-501	s. 2 of Local Rule 55-501	s.1 of Local Rule 55-501	s. 107

3. Except in Ontario, this Instrument comes into force on April 30, 2010. In Ontario, this Instrument comes into force on the later of the following: (a) April 30, 2010; and (b) the day on which subsection 1(8) and sections 9 and 10 of Schedule Z.5 to Bill 151, Budget Measures Act, 2006 (No. 2) are proclaimed in force.

AMENDING INSTRUMENT FOR
NATIONAL INSTRUMENT 14-101 *DEFINITIONS*

1. National Instrument 14-101 Definitions is amended by this Instrument.

2. Subsection 1.1(3) is amended by striking out the definition of "insider reporting requirement***" and substituting the following:***

"insider reporting requirement" means

(a) a requirement to file insider reports under Parts 3 and 4 of National Instrument 55-104 *Insider Reporting Requirements and Exemptions*;

(b) a requirement to file insider reports under any provisions of Canadian securities legislation substantially similar to Parts 3 and 4 of National Instrument 55-104 *Insider Reporting Requirements and Exemptions*; and

(c) a requirement to file an insider profile under National Instrument 55-102 *System for Electronic Disclosure by Insiders (SEDI)*.

3. Except in Ontario, this Instrument comes into force on April 30, 2010. In Ontario, this Instrument comes into force on the later of the following: (a) April 30, 2010; and (b) the day on which subsection 1(8) and sections 9 and 10 of Schedule Z.5 to Bill 151, Budget Measures Act, 2006 (No. 2) are proclaimed in force.

REPEAL OF
NATIONAL INSTRUMENT 55-101 *INSIDER REPORTING EXEMPTIONS*

1. National Instrument 55-101 Insider Reporting Exemptions is repealed.

2. Except in Ontario, this Instrument comes into force on April 30, 2010. In Ontario, this Instrument comes into force on the later of the following: (a) April 30, 2010; and (b) the day on which subsection 1(8) and sections 9 and 10 of Schedule Z.5 to Bill 151, Budget Measures Act, 2006 (No. 2) are proclaimed in force.

REPEAL OF
COMPANION POLICY 55-101CP
TO NATIONAL INSTRUMENT 55-101 INSIDER REPORTING EXEMPTIONS

1. Companion Policy 55-101CP to National Instrument 55-101 Insider Reporting Exemptions is repealed.

2. Except in Ontario, this Instrument comes into force on April 30, 2010. In Ontario, this Instrument comes into force on the later of the following: (a) April 30, 2010; and (b) the day on which subsection 1(8) and sections 9 and 10 of Schedule Z.5 to Bill 151, Budget Measures Act, 2006 (No. 2) are proclaimed in force.

REPEAL OF
MULTILATERAL INSTRUMENT 55-103 *INSIDER REPORTING*
FOR CERTAIN DERIVATIVE TRANSACTIONS (EQUITY MONETIZATION)

1. Multilateral Instrument 55-103 Insider Reporting for Certain Derivative Transactions (Equity Monetization) is repealed.

2. Except in Ontario, this Instrument comes into force on April 30, 2010. In Ontario, this Instrument comes into force on the later of the following: (a) April 30, 2010; and (b) the day on which subsection 1(8) and sections 9 and 10 of Schedule Z.5 to Bill 151, Budget Measures Act, 2006 (No. 2) are proclaimed in force.

REPEAL OF
COMPANION POLICY 55-103CP *TO*
MULTILATERAL INSTRUMENT 55-103 INSIDER REPORTING
FOR CERTAIN DERIVATIVE TRANSACTIONS (EQUITY MONETIZATION)

1. Companion Policy 55-103CP to Multilateral Instrument 55-103 Insider Reporting for Certain Derivative Transactions (Equity Monetization) is repealed.

2. Except in Ontario, this Instrument comes into force on April 30, 2010. In Ontario, this Instrument comes into force on the later of the following: (a) April 30, 2010; and (b) the day on which subsection 1(8) and sections 9 and 10 of Schedule Z.5 to Bill 151, Budget Measures Act, 2006 (No. 2) are proclaimed in force.

AMENDMENT INSTRUMENT FOR
NATIONAL INSTRUMENT 62-103
THE EARLY WARNING SYSTEM AND RELATED TAKE-OVER BID AND INSIDER REPORTING ISSUES

1. National Instrument 62-103 The Early Warning System and Related Take-Over Bid and Insider Reporting Issues is amended by this Instrument.

2. Subsection 1.1(1) is amended by

(a) after the definition of "news release***" adding the following definition:***

"NI 55-104" means National Instrument 55-104 *Insider Reporting Requirements and Exemptions*;

(b) after the definition of "private mutual fund***" adding the following definition:***

"related financial instrument" has the meaning ascribed to that term in NI 55-104;

(c) after the definition of "securityholding percentage***" adding the following definition:***

"significant change in a related financial instrument position" means, in relation to an entity and a related financial instrument that involves, directly or indirectly, a security of a reporting issuer, any change in the entity's interest in, or rights or obligations associated with, the related financial instrument if the change has a similar economic effect to an increase or decrease in the entity's securityholding percentage in a class of voting or equity securities of the reporting issuer by 2.5 percent or more;

3. Section 9.1 is amended by

(a) in subsection (1),

(i) striking out "Subject to subsections (3) and (4),***" and substituting "***Subject to subsections (3), (3.1) and (4),***"; and***

(ii) after paragraph (a) adding the following paragraph:

(a.1) the report referred to in paragraph (a) discloses, in addition to any other required disclosure,

(i) the eligible institutional investor's interest in any related financial instrument involving a security of the reporting issuer that is not otherwise reflected in the current securityholding percentage of the eligible institutional investor; and

(ii) the material terms of the related financial instrument;

(b) after subsection (3) adding the following subsection:

(3.1) Despite subsection (1), an eligible institutional investor that is filing reports under the early warning requirements or Part 4 for a reporting issuer may rely upon the exemption contained in subsection (1) only if the eligible institutional investor treats a significant change in a related financial instrument position as a change in a material fact for the purposes of securities legislation pertaining to the early warning requirements or section 4.6 of this Instrument.

4. Appendix A is amended by

(a) adding the following row immediately under the row that begins with "NEWFOUNDLAND***":***

NORTHWEST TERRITORIES	Paragraph (c) of the definition of "distribution" contained in subsection 1(1) of the *Securities Act* (Northwest Territories)*,*

(b) striking out "Clause 1(b.1)(iii) of the *Securities Act* (Prince Edward Island)***" and substituting "***Subclause (iii) of the definition of "distribution" contained in clause 1(k) of the *Securities Act* (Prince Edward Island)***", and***

(c) adding the following row immediately under the row that begins with "SASKATCHEWAN***":***

YUKON TERRITORY	Paragraph (c) of the definition of "distribution" contained in subsection 1(1) of the *Securities Act* (Yukon Territory)*.*

5. Appendix D is amended by

(a) opposite "NORTHWEST TERRITORIES***", striking out "***Sections 1.8 and 1.9 of MI 62-104***" and substituting "***Section 11 of the *Securities Act* (Northwest Territories) and sections 1.8 and 1.9 of MI 62-104***",***

(b) opposite "PRINCE EDWARD ISLAND***", striking out "***Sections 1.8 and 1.9 of MI 62-104***" and substituting "***Section 11 of the *Securities Act* (Prince Edward Island) and sections 1.8 and 1.9 of MI 62-104***", and***

(c) opposite "YUKON TERRITORY***", striking out "***Sections 1.8 and 1.9 of MI 62-104***" and substituting "***Section 11 of the *Securities Act* (Yukon Territory) and sections 1.8 and 1.9 of MI 62-104***".***

6. Except in Ontario, this Instrument comes into force on April 30, 2010. In Ontario, this Instrument comes into force on the later of the following: (a) April 30, 2010; and (b) the day on which subsection 1(8) and sections 9 and 10 of Schedule Z.5 to Bill 151, Budget Measures Act, 2006 (No. 2) are proclaimed in force.

APPENDIX G

LOCAL AMENDMENTS

Revocation of Certain Regulations

Subject to the approval of the Minister, in view of the fact that the New Instrument contains certain exemptions similar to exemptions currently contained in Ontario Regulation 1015 of the *Securities Act* (Ontario), we intend to recommend that the following regulations be revoked:

Description of Reporting Requirement	Ont. Reg. 1015	New Provision in New Instrument
Exemption based on no holdings	s. 166	s. 9.4
Report of transfer by insider	s. 167	n/a
Reporting exemption (corporate group)	s. 170	s. 9.5
Executor exemption	s. 171	s. 9.6

APPENDIX H

LOCAL INFORMATION

Notice of Commission approval

On January 5, 2010, the Commission approved the New Instrument, the Consequential Amendments and revocation instruments in connection with NI 55-101 and MI 55-103 (collectively, the New Instruments) pursuant to section 143 of the Act. Also on that day, the Commission adopted the New Policy and approved the rescission of 55-101CP and 55-103CP pursuant to section 143.8 of the Act.

The New Instruments have an effective date of April 30, 2010, assuming that the requisite provisions of the *Budget Measures Act, 2006 (No. 2)* are proclaimed in force by then.

Delivery to the Minister

The New Instruments together with related materials were delivered to the Minister of Finance on January 22, 2010. The Minister may approve or reject the New Instruments or return them for further consideration. If the Minister approves the New Instruments or does not take any further action by March 23, 2010, the New Instruments will come into force on the later of April 30, 2010 and the date the requisite provisions of the *Budget Measures Act, 2006 (No. 2)* are proclaimed in force. The New Policy will come into force on the date the New Instruments come into force.

Request for Proclamation of Related Amendments to the *Securities Act* (Ontario)

In connection with the request for approval for the New Instruments, the Commission has also requested that certain amendments made to the *Securities Act* (Ontario) relating to insider reporting be proclaimed into force.

Specifically, the Commission has requested that subsection 1(8) and sections 9 and 10 of Schedule Z.5 to *Bill 151, Budget Measures Act, 2006 (No. 2)* be proclaimed in force.

These amendments will, if proclaimed, result in the following:

- The repeal of subsection 1(8) of the Act;
- The repeal of subsection 1(9) of the Act;
- The amendment to clause 106(2)(a) of the Act described in the Schedule;
- The amendment to clause 106(2)(b) of the Act described in the Schedule;
- The repeal of clause 106(2)(c) of the Act;
- The repeal of section 107 of the Act and the substitution of the new section 107 as described in the Schedule; and
- The repeal of section 108 of the Act.

Ministry of Finance staff have recommended April 30, 2010 as the date on which the requisite provisions of the *Budget Measures Act, 2006 (No. 2)* be proclaimed in force. In which case, the New Instruments would take effect on April 30, 2010.