The Ontario Securities Commission

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January 16, 2004

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The Ontario Securities Commission Administers the
Securities Act of Ontario (R.S.O. 1990, c.S.5) and the
Commodity Futures Act of Ontario (R.S.O. 1990, c.C.20)

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Chapter 1

Notices / News Releases

1.1 Notices

1.1.1 Current Proceedings Before The Ontario Securities Commission

JANUARY 16, 2004

CURRENT PROCEEDINGS

BEFORE

ONTARIO SECURITIES COMMISSION

- -

Unless otherwise indicated in the date column, all hearings will take place at the following location:

The Harry S. Bray Hearing Room
Ontario Securities Commission
Cadillac Fairview Tower
Suite 1700, Box 55
20 Queen Street West
Toronto, Ontario
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THE COMMISSIONERS

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Paul M. Moore, Q.C., Vice-Chair	—	PMM
Paul K. Bates	—	PKB
Robert W. Davis, FCA	—	RWD
Harold P. Hands	—	HPH
Robert W. Korthals	—	RWK
Mary Theresa McLeod	—	MTM
H. Lorne Morphy, Q.C.	—	HLM
Robert L. Shirriff, Q.C.	—	RLS
Suresh Thakrar	—	ST
Wendell S. Wigle, Q. C.	—	WSW

SCHEDULED OSC HEARINGS

DATE: TBA

Ricardo Molinari, Ashley Cooper, Thomas Stevenson, Marshall Sone, Fred Elliott, Elliott Management Inc. and Amber Coast Resort Corporation

s. 127

E. Cole in attendance for Staff

Panel: TBA

January 19, 21, 23, 26 to 29 and February 3 to 6, 2004

10:00 a.m.

Patrick Fraser Kenyon Pierrepont Lett, Milehouse Investment Management Limited, Pierrepont Trading Inc., BMO Nesbitt Burns Inc.*, John Steven Hawkyard+ and John Craig Dunn

s. 127

K. Manarin in attendance for Staff

Panel: HLM/MTM/ST

* BMO settled Sept. 23/02
\+ April 29, 2003

February 23, 2004
2:30pm – 5 pm

February 24, 2004
10am – 4pm

February 25, 2004
10am – 2 pm

February 26, 27 and March 1, 2004
10am – 4pm

March 2, 2004
2:30pm – 5pm

March 3, 2004
10am – 2 pm

March 8 & 9
10am – 4pm

March 10, 2004
10am – 2 pm

ATI Technologies Inc., Kwok Yuen Ho, Betty Ho, JoAnne Chang, David Stone, Mary de La Torre, Alan Rae and Sally Daub

s. 127

M. Britton in attendance for Staff

Panel: PMM/MTM/PKB

May 2004 **Gregory Hyrniw and Walter Hyrniw**

s. 127

Y. Chisholm in attendance for Staff

Panel: TBA

ADJOURNED SINE DIE

Buckingham Securities Corporation, Lloyd Bruce, David Bromberg, Harold Seidel, Rampart Securities Inc., W.D. Latimer Co. Limited, Canaccord Capital Corporation, BMO Nesbitt Burns Inc., Bear, Stearns & Co. Inc., Dundee Securities Corporation, Caldwell Securities Limited and B2B Trust

Global Privacy Management Trust and Robert Cranston

Philip Services Corporation

Robert Walter Harris

Andrew Keith Lech

S. B. McLaughlin

Livent Inc., Garth H. Drabinsky, Myron I. Gottlieb, Gordon Eckstein, Robert Topol

1.1.2 Notice of Minister of Finance Approval of Amendments to National Instrument 81-102 Mutual Funds and National Instrument 81-101 Mutual Fund Prospectus Disclosure

NOTICE OF MINISTER OF FINANCE APPROVAL OF AMENDMENTS TO

NATIONAL INSTRUMENT 81-102 MUTUAL FUNDS AND COMPANION POLICY 81-102CP

AND TO

NATIONAL INSTRUMENT 81-101 MUTUAL FUND PROSPECTUS DISCLOSURE
AND
FORM 81-101F1 CONTENTS OF SIMPLIFIED PROSPECTUS
AND
FORM 81-101F2 CONTENTS OF ANNUAL INFORMATION FORM

On December 9, 2003, the Minister of Finance approved amendments (the "Amendments") to:

1. National Instrument 81-101 Mutual Fund Prospectus Disclosure (NI 81-101),

2. Form 81-101F1 Contents of Simplified Prospectus (Form 81-101F1),

3. Form 81-101F2 Contents of Annual Information Form (Form 81-101F2),

4. National Instrument 81-102 Mutual Funds (NI 81-102), and

5. Companion Policy 81-102CP (81-102CP).

The substance and purpose of the Amendments is to remove the limitation in NI 81-102 which restricts a mutual fund's investment in other mutual funds to no more than 10% of net assets. The Amendments provide a regulatory framework to permit mutual funds to invest in other mutual funds without limitation, subject however to compliance with certain conditions and prospectus disclosure requirements specific to fund of fund structures. The Amendments also make a number of miscellaneous "housekeeping" amendments to the existing mutual fund rules.

The Amendments were previously published in draft form in the Bulletin on July 19, 2002 at (2002) 25 OSCB 4705. Further to comments received, minor changes were made to the draft Amendments. The Amendments were adopted by the Commission on May 13, 2003 and were published in final form on October 10, 2003 at (2003) 26 OSCB 6837. A corrected version of the Amendments to 81-102CP was subsequently published in the Bulletin on October 17, 2003 at (2003) 26 OSCB 6921.

The Amendments came into force on December 31, 2003 and will be published in the Ontario Gazette on January 17, 2004.

The Amendments are published in Chapter 5 of the Bulletin.

1.1.3 CSA Staff Notice 11-305 Withdrawal of CSA Staff Notice 42-301 and 52-302

CANADIAN SECURITIES ADMINISTRATORS

STAFF NOTICE 11-305

WITHDRAWAL OF CSA STAFF NOTICE 42-301 AND 52-302

Staff of the members of the CSA has determined that the following Notices are no longer required and therefore will be withdrawn in all CSA jurisdictions, effective March 30, 2004. Dual reporting issuers should refer to National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency*.

CSAN 42-301	Dual Reporting of Financial Information
CSAN 52-302	Dual Reporting of Financial Information

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January 16, 2004.

1.1.4 Notice of Request for Comment - Proposed Multilateral Policy 58-201 Effective Corporate Governance and Proposed Multilateral Instrument 58-101 Disclosure of Corporate Governance Practices, Form 58-101F1 and Form 58-101F2

NOTICE OF REQUEST FOR COMMENT

PROPOSED MULTILATERAL POLICY 58-201 EFFECTIVE CORPORATE GOVERNANCE

AND

PROPOSED MULTILATERAL INSTRUMENT 58-101 DISCLOSURE OF CORPORATE GOVERNANCE PRACTICES, FORM 58-101F1 AND FORM 58-101F2

Request for Public Comment

The Commission is publishing for a 90-day comment period the following materials in today's Bulletin:

- proposed Multilateral Policy 58-201 *Effective Corporate Governance*, and
- proposed Multilateral Instrument 58-101 *Disclosure of Corporate Governance Practices*, Form 58-101F1 and Form 58-101F2.

The materials are published in Chapter 6 of the Bulletin. We request comments on the proposed materials by **April 15, 2004.**

1.1.5 Notice of Commission Approval - National Instrument 52-108 Auditor Oversight, Multilateral Instrument 52-109 Certification of Disclosure in Issuers' Annual and Interim Filings and Multilateral Instrument 52-110 Audit Committees

NOTICE OF COMMISSION APPROVAL

NATIONAL INSTRUMENT 52-108
AUDITOR OVERSIGHT,
MULTILATERAL INSTRUMENT 52-109
CERTIFICATION OF DISCLOSURE IN ISSUERS' ANNUAL AND INTERIM FILINGS
AND MULTILATERAL INSTRUMENT 52-110
AUDIT COMMITTEES

The Commission is publishing the following materials in Chapter 5 of today's Bulletin:

Auditor Oversight

- National Instrument 52-108 *Auditor Oversight* (the "Auditor Oversight Instrument")

Certification of Annual and Interim Filings

- Multilateral Instrument 52-109 *Certification Of Disclosure In Issuers' Annual and Interim Filings*, Form 52-109F1, Form 52-109FT1, Form 52-109F2 and Form 52-109FT2 (collectively, the "Certification Instrument")

- Companion Policy 52-109CP *Certification Of Disclosure In Issuers' Annual and Interim Filings* (the "Certification Policy")

Audit Committees

- Multilateral Instrument 52-110 *Audit Committees,* Form 52-110F1 and Form 52-110F2 (collectively, the "Audit Committee Instrument")

- Companion Policy 52-110CP *Audit Committees* (the "Audit Committee Policy")

The materials were previously published for comment on June 27, 2003 at (2003) 26 OSCB 4945.

On November 26, 2003, the Commission made the Certification Instrument as a rule under the *Securities Act* (Ontario) (the "Act") and adopted the Certification Policy as a policy. On January 6, 2004, the Commission made the Auditor Oversight Instrument as a rule under the Act. On January 14, 2004, the Commission made the Audit Committee Instrument as a rule under the Act and adopted the Audit Committee Policy as a policy.

The Auditor Oversight Instrument, the Certification Instrument and the Audit Committee Instrument were delivered to the Minister of Finance of January 14, 2003. If the Minister does not approve or reject the instruments or return them to the Commission for further consideration, each instrument will come into force on March 30, 2004.

1.1.6 Notice of Republication of OSC Staff Notice 31-711

NOTICE OF REPUBLICATION OF ONTARIO SECURITIES COMMISSION STAFF NOTICE 31-711

Ontario Securities Commission Staff Notice 31-711 (27 OSCB 344) (the **Notice**) contained an error and has been reprinted in this Bulletin.

1.1.7 Notice of Commission Approval – Amendment to IDA By-law 1 - Definition of "Approved Person" Added

THE INVESTMENT DEALERS ASSOCIATION OF CANADA (IDA)

AMENDMENTS TO BY-LAW 1 - DEFINITION OF "APPROVED PERSON" ADDED

NOTICE OF COMMISSION APPROVAL

Amendment to the IDA By-law 1 has been approved by the Ontario Securities Commission. In addition, the Alberta Securities Commission did not disapprove and the British Columbia Securities Commission did not object to these amendments. The amendment adds "approved person" to the definitions contained in By-Law 1.

1.1.8 OSC Staff Notice 51-713 – Report on Staff's Review of MD&A

ONTARIO SECURITIES COMMISSION STAFF NOTICE 51-713 – *REPORT ON STAFF'S REVIEW OF MD&A*

The corporate collapses that have occurred around the world in recent years have highlighted the need for improved disclosure and transparency. In particular, attention worldwide has focused on the importance of greater transparency in disclosure of financial information, including both the financial statements and … Management's Discussion and Analysis ….[1]

MD&A is a narrative explanation, through the eyes of management, of how your company performed during the period covered by the financial statements, and of your company's financial condition and future prospects. MD&A complements and supplements your financial statements, but does not form part of your financial statements.

Your objective when preparing the MD&A should be to improve your company's overall financial disclosure by giving a balanced discussion of your company's results of operations and financial condition including, without limitation, such considerations as liquidity and capital resources – openly reporting bad news as well as good news. Your MD&A should

- *help current and prospective investors understand what the financial statements show and do not show;*
- *discuss material information that may not be fully reflected in the financial statements, such as contingent liabilities, defaults under debt, off-balance sheet financing arrangements, or other contractual obligations;*
- *discuss important trends and risks that have affected the financial statements, and trends and risks that are reasonably likely to affect them in the future; and*
- *provide information about the quality, and potential variability, of your company's earnings and cash flow, to assist investors in determining if past performance is indicative of future performance.*[2]

I. Purpose

On March 5, 2003, the Canadian Securities Administrators (the **CSA**) announced it had launched a review to assess how well publicly-traded companies comply with their management's discussion and analysis (**MD&A**) disclosure obligations. Under this initiative, a number of CSA jurisdictions reviewed a sample of the MD&A of companies in their local jurisdictions.

In April 2003, the British Columbia Securities Commission published a special edition of its Continuous Disclosure Update to provide MD&A guidance for junior resource and non-resource sector companies. On October 30, 2003, the Quebec Securities Commission (the **QSC**) published a report on Phase I of a program to review the continuous disclosure of major Quebec issuers. Included in the QSC program was a review of MD&A. The Alberta Securities Commission (the **ASC**) reviewed MD&A filed with the ASC as part of their review of issuers' continuous disclosure. The ASC expects to release their *2003 Report on the Review of Financial Statements, MD&A and Other Continuous Disclosure* in early 2004.

Concurrent with the reviews in other jurisdictions, staff of the Ontario Securities Commission (the **OSC**) reviewed the MD&A of forty-seven companies, primarily with head offices in Ontario. This staff notice reports our findings and comments arising from these reviews.

II. Executive Summary

We have a number of general observations about how companies prepare their MD&A. We found that some companies:

- omit information that may be material to investors;
- disclose an excessive amount of immaterial information;
- disclose good news but not bad news;
- tend not to have a forward-looking orientation to their MD&A; and
- lack adequate internal policies and procedures for preparing, reviewing and approving their MD&A.

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1 Technical Committee, the International Organization of Securities Commissions, *General Principles Regarding Disclosure of Management's Discussion and Analysis of Financial Condition and Results of Operations* (2003).

2 Section 1(a), proposed Form 51-102F1 *Management's Discussion & Analysis*.

In Part IV, we discuss our views with respect to each of these observations.

Of the forty-seven companies reviewed, thirty-four (72%) filed their MD&A with one or more of the deficiencies set out in the following table. Of these thirty-four companies, three restated and refiled their MD&A and have been recorded on the Refilings and Errors list maintained on the OSC's website (*http:www.osc.gov.on.ca*). The remaining thirty-one companies committed to make prospective improvements to their MD&A.

Table 1

Area of Deficiency	Type of Deficiency	Number of Companies	Percentage of Total
Results of Operations and Financial Condition	Failure to quantify explanations of material variances or failure to analyze material variances.	21	45%
	Failure to disclose and analyze key value drivers.	8	17%
	Failure to analyze reportable segments.	6	13%
	Failure to analyze known trends that have had or that the company reasonably expects will have a favourable or unfavourable effect.	3	6%
	Failure to disclose and analyze items with a material impact in the fourth quarter.	1	2%
Risks and Uncertainties	Failure to disclose and analyze risks.	8	17%
	Failure to adequately analyze identified risks.	13	28%
Liquidity and Capital Resources	Failure to analyze liquidity, generally.	12	26%
	Failure to disclose and analyze breach of debt covenants.	1	2%
	Failure to disclose and analyze certain off-balance sheet arrangements.	1	2%
Selected Quarterly Financial Information	Failure to disclose and analyze selected quarterly financial information.	13	28%
Interim MD&A	Failure to comply with interim MD&A requirements.	9	19%

In Part V, we discuss each of these MD&A requirements, provide examples of how companies fail to meet these requirements, and provide our views on how companies should meet these requirements.

III. Objective and Scope

Our main objective was to assess compliance with the MD&A requirements of Ontario Securities Commission Rule 51-501 *AIF and MD&A* (**Rule 51-501**). Rule 51-501 generally requires Ontario reporting issuers above certain size thresholds to file annual MD&A following the form requirements of Form 44-101F2 *MD&A* (**Form 44-101F2**), and interim MD&A following the requirements of section 4.2 of Rule 51-501.

We expect these size thresholds will be eliminated in 2004, and all Canadian reporting issuers will have to file their MD&A following the adoption of proposed National Instrument 51-102 *Continuous Disclosure Obligations* (**NI 51-102**). Proposed Form 51-102F1 *Management's Discussion & Analysis* (**Form 51-102F1**) sets out new MD&A form requirements. The new form will require additional disclosure above the form requirements of Form 44-101F2 but we believe the existing requirements will otherwise remain largely unchanged. All of the deficiencies against the Rule 51-501 requirements identified in this staff notice would also be deficiencies under NI 51-102.

Our review focused on annual and interim MD&A. To do this, we conducted reviews of the full continuous disclosure records of all selected issuers. Though other comments were raised, we limit our discussion in this staff notice to MD&A issues. Although the observations in this notice are based on a review of the MD&A filed as part of continuous disclosure, they are equally applicable to the MD&A included in prospectuses.

This staff notice is not intended to be an exhaustive summary of all our concerns regarding MD&A. We emphasize that companies will not necessarily comply with the MD&A requirements of Ontario securities law solely by following the guidance set out in this staff notice.

Companies may want to review the results of the MD&A reviews in other CSA jurisdictions, as well as the publications of other organizations like the Canadian Institute of Chartered Accountants (the **CICA**), the International Organization of Securities Commissions, and the U.S. Securities and Exchange Commission.[3]

IV. General Observations

The following is a number of general observations we found in our reviews. We believe these observations emphasize principles that all companies should follow when preparing their MD&A. Specific deficiencies against the requirements of Rule 51-501 often reflect the failure to apply one or more of these underlying principles.

1. Materiality

Instruction (4) of Form 44-101F2 generally describes materiality in an MD&A as follows:

> Materiality is a matter of judgement in particular circumstances and should generally be determined in relation to an item's significance to investors, analysts and other users of information. An item of information, or an aggregate of items, is considered material if it is probable that its omission or misstatement would influence or change an investment decision with respect to the issuer's securities.

Section 1(f) of Form 51-102F1 generally describes materiality in an MD&A as follows:

> Would a reasonable investor's decision whether or not to buy, sell or hold securities in your company likely be influenced or changed if the information in question was omitted or misstated? If so, the information is likely material.

We believe that these are objective tests. It is not sufficient for management to determine that it believes that certain information is immaterial, based solely on its own impressions and instincts. Management should determine materiality by asking whether a reasonable investor would believe in the circumstances that certain information was material.

We found that some companies omit information from their MD&A even when there may be some uncertainty as to whether the information would influence a reasonable investor's decision. Since omitting material information required to be disclosed under Rule 51-501 is a violation of Ontario securities law, we believe management should err on the side of caution when deciding what information is material. We are not suggesting that companies should disclose everything and allow readers to decide whether the disclosure is material but rather that management should exercise its judgement with a bent to caution.

This last point is important because we also found that some companies disclose an excessive amount of immaterial information. These companies tend to provide boilerplate explanations, provide explanations of immaterial changes, or simply repeat variances that can be easily calculated from the financial statements without any analysis. Companies should avoid disclosing information that users do not need or that does not provide insight into the company's past or future performance. Omitting repetitive and boilerplate information will permit companies to focus their MD&A on analyzing the material information that is most useful to investors.

2. Balance

We found that companies tend to disclose good news and avoid discussing bad news. Companies should provide a balanced picture of their operations and financial conditions in their MD&A. By disclosing an excessive amount of positive information while failing to disclose negative information, companies create an overly optimistic and misleading picture of the company. Similarly, disclosing an excessive amount of negative information may create an overly pessimistic picture.

3. Forward-Looking Orientation

We found that companies tend to focus on past variances in financial statement line items without considering future consequences. As set out in the Instructions of Form 44-101F2 and section 1(g) of Form 51-102F1, one important principle of the MD&A requirements is that disclosure should be forward looking. The discussion of historical results is more useful when it addresses items that are reasonably expected to have a material impact on future operations. A forward-looking orientation is also important in disclosing trends, risks, and other matters.

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[3] *See e.g.*, Canadian Institute of Charterted Accountants, *Management's Discussion and Analysis, Guidance on Preparation and Disclosure* (2002); Commission Guidance Regarding Management's Discussion and Analysis of Financial Condition and Results of Operations, Exchange Act Release Nos. 33-8350, 34-48960, 68 Fed. Reg. 75,056 (December 29, 2003); U.S. Securities and Exchange Commission, *Summary by the Division of Corporation Finance of Significant Issues Addressed in the Review of the Periodic Reports of the Fortune 500 Companies* (2003); Management's Discussion and Analysis of Financial Condition and Results of Operations, Exchange Act Release Nos. 33-6835, 34-26,831, 54 Fed. Reg. 22,427 (May 24, 1989).

4. Adequate Internal Policies and Procedures

We found many companies do not have adequate systems for preparing, reviewing, and approving their MD&A. A company's MD&A should be prepared by individuals with a detailed knowledge of the company's operations as well as a strategic view of the company as a whole. Senior management, the board of directors and the audit committee should review the MD&A. Senior management should perform a comprehensive review to ensure that the disclosure meets the letter and spirit of the MD&A requirements. Companies may also seek input from professional advisors who have specialized knowledge of evolving regulatory requirements.

The goal of these procedures should be to improve the overall quality of the MD&A and not just to meet the minimum requirements. These procedures should be integrated with the company's overall financial reporting process. Companies should specifically consider whether to incorporate these policies and procedures into their corporate disclosure policies.

V. Specific Areas of Non-Compliance

The examples below are hypothetical and have been included only to emphasize some of our concerns.

1. Results of Operation and Financial Condition

Twenty-four companies had one or more of the following deficiencies in their MD&A disclosure of results of operations or financial condition.

a. Material Variances

Section 1(1) of Form 44-101F2 requires companies to analyze their results of operations and financial condition in the most recently completed financial year, including a comparison against the previously completed financial year and an explanation of why these changes occurred. Companies should describe and quantify explanations of material variances.[4] Twenty-one companies failed to meet this requirement. These companies either qualitatively explained a material variance without quantifying the impact of that explanation or completely failed to provide any analysis of a material variance.

Example 1

> The company's year-to-year net sales increased X% to $X because sales of Product A and Product B increased. Both retail sales of Product A, and wholesale sales of Product A, increased because of an increase in unit sales of Product A due to a new marketing program. The annual increase in retail sales of Product A was partially offset by a decrease in fourth-quarter unit sales due to bad weather. Sales of Product B decreased marginally.

The company identifies a number of explanations for the increase in net sales but does not quantify any of these explanations. Without quantifying these explanations, investors would not be able to measure the relative impact of each explanation, understand and analyze the overall change in sales, or form an expectation of future results. The company should quantify the increases in retail and wholesale sales of Product A, and the decreases in fourth-quarter retail unit sales of Product A and sales of Product B. The company should also describe how the new marketing program increased unit sales of Product A, quantify the increase in unit sales due to the new marketing program, and quantify the cost of the new marketing program.

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[4] In most cases, we believe an explanation should be quantified in financial terms by stating the financial impact of the explanation on the material variance of the financial statement line item. For example, if a company explains an increase in overall sales by an increase in sales to two major customers, the company should quantify this explanation by comparing dollar sales to these two customers in each period. Furthermore, if the increase in sales to either of these two major customers is itself material, the company should further explain this increase. Thus, if sales increased $40, sales to Customer A increased $20, sales to Customer B increased $10, and the increase in sales to Customer A is material but the increase in sales to Customer B is not, the company should further explain the increase in sales to Customer A. The company could further explain that sales to Customer A of Product A increased $10, and of Product B increased $10.

Alternatively, we believe an explanation may be quantified in non-financial terms. For example, if a company explains an increase in sales by an increase in its customer base, the company should quantify this explanation by comparing the average number of customers in each period.

We believe that companies should also identify and analyze known trends with respect to each explanation. For example, if sales to specific customers or if the average number of customers has been steadily increasing from prior periods and management expects this trend to continue, the company should say so. Alternatively, if the increase in sales to specific customers is an anomaly and is not expected to continue, the company should say so.

b. Key Value Drivers

Section 4(3) of Form 44-101F2 requires companies to discuss the extent to which any changes in net sales or revenues are attributable to changes in selling prices, to changes in the volume or quantity of goods or services being sold, or to the introduction of new products or services. Companies should disclose their key value drivers and analyze any impact of changes in these key drivers on net sales or revenues. Eight companies failed to disclose and analyze key value drivers.

Example 2

> The company operates divisions in two industries: retailing and telecommunications. Revenue of the company increased X% to $X because sales of the retail division increased X% to $X and revenue of telecommunications division increased X% to $X. The company acquired the telecommunications division in the prior year. The increase in revenue in the telecommunications division is the result of this division generating revenue for a full year.

The company identifies a number of explanations for the increase in overall revenue. The company also quantifies these explanations but fails to identify and analyze the key drivers of net sales and revenue in the retail and telecommunications divisions. The company should identify and analyze the key value drivers in both divisions. For example, the key value drivers in the retail division might include same store sales, gross margins, and market share; and the key value drivers in the telecommunications division might include competitive landscape, customer churn rate, and regulatory environment.

c. Segments

Subsection 1(1)(b) of Form 44-101F2 requires companies to include an analysis and comparison of each reportable segment, as well as the company as a whole, if necessary to understand the analysis and comparison of the company's results of operations. Six companies failed to analyze material information about a reportable segment. Some of these companies had no disclosure in their MD&A, while others provided minimal disclosure that did not give readers a complete picture of how various segments contributed to the results or position of the overall company.

Example 3

> The company has two reportable segments: Canada and the United States. Overall earnings before interest, taxes, depreciation and amortization (**EBITDA**) increased X% to $X.[5] The company expects EBITDA to increase next year due to expected volume increases in both reportable segments.

The company does not discuss each reportable segment's impact on EBITDA. The company should disclose EBITDA and explain the expected EBITDA increase, including the expected volume increases, for each of its reportable segments. This holds whether the company's reportable segments are based on geographic areas of operations, or on other factors relating to operations or management structure.

d. Trends

Section 4(2) of Form 44-101F2 requires companies to describe any known trends that have had or that they reasonably expect will have a favourable or unfavourable effect on results of operations and financial condition. Three companies failed to identify and adequately analyze these trends.

Example 4

> The company has two divisions. Overall revenue decreased X% to $X. Division A revenue decreased $X and Division B revenue decreased $X. Revenue in both divisions is expected to improve next year.

The company does not explain why it expects revenue to improve next year. Given the decrease in revenue of both divisions, this expectation appears to be a reversal of a known trend. The company fails to describe and analyze this known trend. The company should identify and analyze the downward trend in revenue of each division, and explain why it expects revenue to improve in future periods despite this year's declines.

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[5] As set out in Revised CSA Staff Notice 52-306 *Non-GAAP Financial Measures* (**CSA Staff Notice 52-306**), we are concerned about the use of financial measures, like EBITDA, that are not prescribed by Generally Accepted Accounting Principles (**GAAP**). Nevertheless, we acknowledge that discussion of non-GAAP financial measures in the MD&A may be a useful means of providing additional information to investors, so long as the disclosure of these measures in the MD&A is consistent with the expectations set out in CSA Staff Notice 52-306. Once a company decides to disclose a non-GAAP financial measure like EBITDA in its MD&A, the company should disclose the financial measure for each reportable segment.

e. Fourth Quarter

Section 1(2) of Form 44-101F2 requires companies to describe and quantify any events or items that have had a material impact on the issuer's results of operations or financial condition for the fourth quarter of their most recently completed financial year. Companies are not required to produce separate interim MD&A for the fourth quarter. When events or items that have had a material impact occur in the fourth quarter, the analysis required by this section may be the only disclosure investors receive. Accordingly, companies must include this disclosure in their annual MD&A. One company failed to disclose and analyze an item with a material impact in the fourth quarter.

2. Risks and Uncertainties

Twenty-one companies had inadequate disclosure of risks and uncertainties.

Section 1(3) of Form 44-101F2 requires companies to disclose information on risks and uncertainties necessary to understand their financial condition, changes in financial condition and results of operations. Section 1(4) of Form 44-101F2 requires companies to analyze material risks, events, and uncertainties that could cause reported financial information to not necessarily be indicative of future operating results or of future financial position, including a qualitative and quantitative discussion of factors that could have an effect in the future but that have not had an effect in the past, and that have had an effect in the past but are not expected to have an effect in the future. Section 5.2 of proposed Form 51-102F2 *Annual Information Form* will require disclosure of general risk factors in the annual information form (the **AIF**) but we believe Form 51-102F1 will also require MD&A disclosure of risks and uncertainties necessary to make the MD&A complete and understandable. Companies will still be required to identify and analyze risks and uncertainties as discussed in this staff notice but this disclosure may be in the AIF, in the MD&A, or in both.

Eight companies failed to disclose any risks at all while thirteen failed to adequately analyze identified risks. Several of the latter simply disclosed a list of risks with no analysis. Some of these companies expressed the view that they only needed to disclose unusual business risks. We believe that companies are required to disclose all material risks and uncertainties that are reasonably expected to have a material impact on the company's financial condition, changes in financial condition, and results of operations.

Example 5

> The company is a retailer. The retail industry is exposed to a wide range of risks that are reasonably expected to have a material impact on future operations. These risks include: occupancy risk, credit risk, foreign exchange exposure, bad debts exposure, interest rate risk, inventory in-stock and flow of goods risk, buying and pricing risk, and competitive risk. The company's competitors provide substantial disclosure of these risks in their MD&A.
>
> The company does not identify any of these risks in its MD&A. The company believes that all retailers have similar risks, that these risks are known and understood by investors, are not considered unusual risks, and do not need to be disclosed in its MD&A.

The company should describe all material risks. The company should also explain how each risk has affected results of operations and financial condition in the past or how each risk is expected to affect future results of operations and financial condition. The company should also quantify, if possible, the past and expected future impact of each risk to facilitate the analysis of each risk's relative impact. Finally, the company should disclose any steps it has taken, or plans to take, to mitigate the impact of any risk.

3. Liquidity and Capital Resources

Fourteen companies had inadequate disclosure of liquidity and capital resources.

a. Generally

Subsection 3(1)(a) of Form 44-101F2 requires companies to discuss their ability to generate adequate amounts of cash and cash equivalents. Subsection 3(1)(b) requires companies to identify any known trends or expected fluctuations in their liquidity and if a short- or long-term deficiency is identified, to indicate the course of action that has been taken or is proposed to be taken to remedy the deficiency. This disclosure is required for all companies but is particularly important for companies with negative cash flow from operations (as defined in the Handbook of the CICA), with material declines in cash flow from operations, or with positive cash flow from operations only because of favourable working capital variances. Twelve companies failed to disclose and analyze potential liquidity problems.

Example 6

The company had $X of liquid investments, net of bank indebtedness. Cash of $X was deployed in operating activities. Cash of $X was deployed in capital expenditures. Cash of $X was raised from a private placement. The company's future obligations include a capital lease of $X and an amount due to shareholders of $X

The company's disclosure on liquidity mostly repeats information that investors could easily calculate themselves from the financial statements. The company should describe whether it expects negative cash flow from operations in the coming year and, if so, how it intends to finance its operations. The company also fails to discuss how it intends to reverse its negative cash flow from operations.

Example 7

The company's non-cash working capital increased $X. This was the result of a decrease in accounts receivable of $X and an increase in trade payables $X, offset by an increase in inventory $X. The increase in non-cash working capital, offset by losses from operations, resulted in net positive cash flow from operations of $X.

The company would have negative cash flow from operations if not for a favourable variance in non-cash working capital yet the company's disclosure of non-cash working capital merely repeats information that investors could easily calculate themselves from the financial statements. The company should analyze the changes in each of its non-cash working capital accounts. For example, the company should explain why accounts receivable decreased, accounts payable increased, and inventory increased. If accounts receivable decreased because collections improved, the company should say so. If trade payables increased because the company has more overdue payables at year end, the company should say so. If ending inventory was higher because of a decline in fourth-quarter sales, the company should say so.

b. Debt Covenants

Subsection 3(1)(f) of Form 44-101F2 requires companies to disclose information concerning any default on any debt covenants and the method or anticipated method of curing the default. Companies should also discuss the nature and duration of any waiver received from creditors with respect to the breach. One company failed to disclose and analyze a breach of a debt covenant.

c. Off-Balance Sheet Arrangements

Subsection 3(1)(a) of Form 44-101F2 requires companies to discuss their ability to generate adequate amounts of cash and cash equivalents. Companies should disclose and analyze information about certain off-balance sheet arrangements, like pension obligations, minimum payments on operating leases, and encumbered assets, if these arrangements will likely have a material impact on the company's future liquidity. One company failed to disclose and analyze a material off-balance sheet arrangement. More detailed disclosure of off-balance sheet arrangements will be required under Item 1.8 of Form 51-102F1.

Example 8

The company funds a defined benefit pension plan for the benefit of its employees. The present value of expected future pension obligations (not necessarily the pension liability on the balance sheet) exceeds the value of plan assets. The difference is material and the company did not discuss or analyze the difference in its MD&A.

The company should identify the difference between pension obligations and plan assets and explain how and when the difference will be addressed in future periods. For example, if the company expects to fund the difference out of operating profits or expects that the difference will be addressed through return on plan assets, it should say so. It should also discuss the risk and uncertainty associated with this item as required by sections 1(3) and (4) of Form 44-101F2.

4. Other Deficiencies

a. Selected Quarterly Finaical Information

Section 2(1) of Form 44-101F2 requires companies to disclose selected quarterly financial information for each of the past eight quarters. Selected quarterly financial information must be disclosed in the MD&A, notwithstanding that this information is also disclosed in the AIF. Thirteen companies failed to disclose this information in their MD&A. To the extent that a material trend can be identified in the selected quarterly information, companies should also identify and analyze the trend. Section 1.5 of Form 51-102F1 will require disclosure of selected quarterly financial information in the MD&A but NI 51-102 will not generally require this disclosure in the AIF.

b. Interim MD&A

Companies that are required to file annual MD&A under Rule 51-501 are also required to file interim MD&A that complies with section 4.2 of Rule 51-501. Companies should update the analysis of their financial condition in the annual MD&A for the most recently completed financial year and analyze their results from operations and cash flows for the most recently completed interim period.[6] We also encourage companies to provide an update in their interim MD&A of their annual MD&A disclosure of known trends, and risks and uncertainties, as recommended by section 2.3 of Companion Policy 51-501CP *To Ontario Securities Commission Rule 51-501 AIF and MD&A*. Nine companies had deficient interim MD&A disclosure. The deficiencies were similar to the annual MD&A deficiencies discussed above.

VI. Conclusion

We will continue to review MD&A as part of our continuous disclosure review program, focusing in particular on the new requirements of NI 51-102. These include disclosure of:

- certain off-balance sheet arrangements;
- transactions with related parties;
- tabular presentation of contractual obligations;
- for companies that are not venture issuers (as defined in NI 51-102), analysis of critical accounting estimates; and
- for venture issuers without significant revenues, additional matters.

We may also raise comments about:

- proposed transactions, including the impact of major acquisitions;
- changes in accounting policies including initial adoption;
- the impact of reversals of prior period accounting treatments (for example, material sales of previously written-off inventory);
- financial instruments;
- the use of pro-forma or non-GAAP financial information;
- the issuance of stock options or other securities that dilute shareholders' equity; and
- the impact of income taxes.

Proposed Multilateral Instrument 52-109 *Certification of Disclosure in Companies' Annual and Interim Filings* (**MI 52-109**) is scheduled to become effective on March 30, 2004. MI 52-109 will require reporting issuers, other than investment funds, to file separate annual and interim certificates signed by their chief executive officers and chief financial officers, or persons who perform similar functions.

Each certificate will state, among other things, that the certifying officer has reviewed the annual and interim filings (which include the MD&A), that the annual and interim filings do not contain misrepresentations, and that the filings fairly present the financial condition of the issuer. We believe that meaningful MD&A will be an important element of how an issuer achieves this fair presentation.

We believe that the MD&A requirements are clear. Nevertheless, our review suggests that many companies are not meeting these requirements. Though in this review we often accepted commitments to make prospective changes, it is increasingly likely that we will ask companies to restate and refile their MD&A if they fail to meet the MD&A requirements. We will provide further guidance as appropriate.

Questions may be referred to:

Michael Tang
Legal Counsel, Corporate Finance
Ontario Securities Commission
e-mail: mtang@osc.gov.on.ca
416-593-2330

[6] Interim MD&A was also reviewed in Ontario Securities Commission Staff Notice 52-713 *Report on Staff's Review of Interim Financial Statements and Interim Management's Discussion and Analysis – February 2002*.

Ritu Kalra
Senior Accountant, Corporate Finance
Ontario Securities Commission
e-mail: rkalra@osc.gov.on.ca
416-593-8063

January 16, 2004.

1.1.9 OSC Staff Notice 31-711 Ontario Securities Commission Rule 31-502 – Proficiency Requirements for Registrants and Ontario Securities Commission Rule 31-505 – Conditions of Registration

ONTARIO SECURITIES COMMISSION STAFF NOTICE 31-711

ONTARIO SECURITIES COMMISSION RULE 31-502 – *PROFICIENCY REQUIREMENTS FOR REGISTRANTS* AND ONTARIO SECURITIES COMMISSION RULE 31-505 – *CONDITIONS OF REGISTRATION*

Background

On November 5, 2003, amendments to Rule 31-502 - *Proficiency Requirements for Registrants* and Rule 31-505 – *Conditions of Registration* (the "Rule") came into force. The Rule amendments implemented several changes to the compliance and governance structures of dealers and advisers.

Clarification

In respect of advisers registered under the Securities Act (Ontario), the Rule introduced two new categories of compliance personnel: the Ultimately Responsible Person (the "URP") and the Chief Compliance Officer (the "CCO"). Registered advisers must designate qualified individuals and advise the Ontario Securities Commission (the "Commission") of those individuals by January 31, 2004. Staff of the Commission has received several inquiries regarding these new designations. By clarifying the intent and implementation of the Rule, this notice should reduce the number of enquiries.

Who may be an URP?

The URP must be an executive officer who is a member of the senior management of the adviser and satisfies the criteria set out in paragraph 1.3(2)(b) of the Rule. It is expected that an URP's non-compliance duties would require the officer to be in regular contact with the board of directors of the adviser. Reference should be made to paragraph 1.3(2)(f) of the Rule which requires the URP to have the right to directly access the board of directors or partnership. If this right is not truly enforceable, then the officer should not be designated as the URP by the adviser.

Who are registered partners and registered officers?

The terms "registered partner" and "registered officer" are not defined in the Rule and are not intended to exclude non-advising executive officers that would be categorized as "non-registered individuals" in National Instrument 33-109 and would have been approved as non-advising officers of the adviser by the Commission. Accordingly, non-advising executive officers may be designated as URPs if they satisfy the criteria outlined in paragraph 1.3(2)(b) of the Rule. If an URP also satisfies the compliance related proficiency requirements for a CCO, which are prescribed at subsection 3.1(2) of Commission Rule 31-502, then that individual may also be designated as the CCO for that adviser.

Who may not be an URP?

Officers holding the title of vice-president cannot be designated as the URP unless they truly serve a function which is similar to the president, chief executive officer, chief financial officer, secretary, general counsel, or general manager. An officer cannot be considered to be holding an office which is analogous to an enumerated position, if officers with that enumerated title exist within the registrant. For example, a "vice-president, finance" cannot be considered to be analogous to a chief financial officer and designated as an URP for an adviser if that adviser already has a chief financial officer.

For further information, contact:

David M. Gilkes
Manager, Registrant Regulation
Capital Markets Branch
416-593-8104
registration@osc.gov.on.ca

January 9, 2004.

1.1.10 Notice of Commission Approval - Amendments to IDA By-law 3 – Entrance, Annual, and Other Fees

THE INVESTMENT DEALERS ASSOCIATION (IDA)

AMENDMENTS TO BY-LAW 3 – ENTRANCE, ANNUAL, AND OTHER FEES

NOTICE OF COMMISSION APPROVAL

Amendments to the IDA By-law 3 have been approved by the Ontario Securities Commission. In addition, the Alberta Securities Commission did not disapprove and the British Columbia Securities Commission did not object to these amendments. The amendments add paragraph 3.13 and amend existing paragraph 3.10(b).

1.1.11 Notice of Commission Approval – Amendment to IDA Policy 6, Part III – Continuing Education Program

THE INVESTMENT DEALERS ASSOCIATION OF CANADA (IDA)

AMENDMENTS TO POLICY 6, PART III – CONTINUING EDUCATION PROGRAM

NOTICE OF COMMISSION APPROVAL

Amendments to IDA Policy 6, Part III have been approved by the Ontario Securities Commission. In addition, the Alberta Securities Commission did not disapprove and the British Columbia Securities Commission did not object to these amendments. A copy and description of these amendments was published on October 31, 2003 at (2003) 26 OSCB 7219.

1.3 News Releases

1.3.1 Hearing Scheduled in the Matter of Patrick Fraser Kenyon Pierrepont Lett, Milehouse Investment Management Limited, Pierrepont Trading Inc., BMO Nesbitt Burns Inc., John Steven Hawkyard and John Craig Dunn

FOR IMMEDIATE RELEASE
January 12, 2004

HEARING SCHEDULED IN THE MATTER OF PATRICK FRASER KENYON PIERREPONT LETT, MILEHOUSE INVESTMENT MANAGEMENT LIMITED, PIERREPONT TRADING INC., BMO NESBITT BURNS INC., JOHN STEVEN HAWKYARD AND JOHN CRAIG DUNN

TORONTO – The hearing in this matter is scheduled to commence on Monday, January 19, 2004 at 10:00 a.m., at the offices of the Commission, in the Large Hearing Room, 17th Floor, 20 Queen Street West, Toronto.

The hearing will continue on the following dates: January 21, 23, 26, 27, 28 and 29; and February 3, 4, 5 and 6, 2004.

A copy of the Amended Statement of Allegations is available at **www.osc.gov.ca**.

For Media Inquiries: Eric Pelletier
Manager, Media Relations
416-595-8913

For Investor Inquiries: OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.3.2 Regulators Propose Corporate Governance Rules for Issuers

FOR IMMEDIATE RELEASE
January 16, 2004

REGULATORS PROPOSE CORPORATE GOVERNANCE RULES FOR ISSUERS

TORONTO – The Ontario Securities Commission (OSC) published proposals today that describe best corporate governance practices and require issuers to make disclosures relating to these best practices. The proposals are being considered as well by securities regulators in Saskatchewan, Alberta, Manitoba, Nova Scotia, Newfoundland and Labrador, New Brunswick, Prince Edward Island, the Yukon Territory, the Northwest Territories and Nunavut.

"The proposed policy describes best corporate governance practices that have evolved through legislative and regulatory reforms and through initiatives of other capital market participants" said OSC Chair David Brown. "Our proposals provide greater transparency for the marketplace regarding the nature and adequacy of issuers' corporate governance practices."

The best practices include measures related to the composition of the board, its mandate and its committees; director education and assessment; as well as codes of business conduct and ethics.

"We propose to require issuers to disclose the corporate governance practices they adopt," added Mr. Brown. "However, because we appreciate that many smaller issuers may have less formal procedures in place to ensure effective corporate governance, our proposal provides for lesser disclosure for venture issuers."

In order to avoid regulatory duplication and overlap, the TSX intends to revoke its corporate governance guidelines and related disclosure requirements when the proposals become effective.

The commissions request comment by April 15, 2003, on proposed Multilateral Policy 58-201 *Effective Corporate Governance* and proposed Multilateral Instrument 58-101 *Disclosure of Corporate Governance Practices*.

For Media Inquiries: Eric Pelletier
Manager, Media Relations
Ontario Securities Commission
416-595-8913

For Investor Inquiries: OSC Contact Centre
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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 SMK Speedy International Inc. - MRRS Decision

Headnote

Rule 61-501 - going private transactions - payments to be to a 1.7% shareholder under terms of consulting agreement made for reasons other than to increase the value of the consideration paid to the shareholder under proposed going private transaction - amount payable under consulting agreement represents approximately 4.3% of total consideration payable to shareholder - payments not conditional on support of transaction and reasonably consistent with customary industry practice - shareholder permitted to vote his holding of common shares as part of minority vote required in connection with going private transaction.

Applicable Ontario Rules

Rule 61-501 - Insider Bids, Issuer Bids, Going Private Transactions and Related Party Transactions, ss. 4.7, 4.8 and 9.1.

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO AND QUEBEC

AND

IN THE MATTER OF
THE MUTUAL RELIANCE REVIEW SYSTEM
FOR EXEMPTIVE RELIEF APPLICATIONS

AND

IN THE MATTER OF
SMK SPEEDY INTERNATIONAL INC.

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of the Provinces of Ontario and Québec (the "Jurisdictions") has received an application (the "Application") from SMK Speedy International Inc. (the "Filer") for a decision under Ontario Securities Commission Rule 61-501 – *Insider Bids, Issuer Bids, Going Private Transactions and Related Party Transactions* ("Rule 61-501") and Policy Q-27 of the Commission des valeurs mobilières du Québec (collectively, the "Legislation") that Bryan H. Held ("Mr. Held") be permitted to vote his holdings of common shares of the Filer (the "Common Shares") and eligible stock options ("SMK Eligible Options") as part of the minority vote required in connection with the proposed going private transaction to be accomplished by way of a plan of arrangement (the "Arrangement") involving the Filer, 2036407 Ontario Inc. ("Acquisitionco") and 578098 Alberta Ltd. ("Minute Muffler"), notwithstanding the consulting agreement (the "Consulting Agreement") pursuant to which Held will receive cash payments for providing consulting services after completion of the Arrangement;

AND WHEREAS under the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the Ontario Securities Commission is the principal regulator for this application;

AND WHEREAS, unless otherwise defined, the terms herein have the meaning set out in *National Instrument 14-101 Definitions* or in *Québec Commission Notice 14-101*;

AND WHEREAS the Filer has represented to the Decision Makers that:

1. The Filer is incorporated under the *Business Corporations Act* (Ontario).

2. The Filer is a reporting issuer or the equivalent in all the provinces and territories of Canada and is not currently in default of the securities legislation in such jurisdictions.

3. The Filer is a leading automobile service specialist with 123 stores in Canada and six stores in the Republic of Korea**.** The Filer operates pursuant to a licensing agreement and specializes in "no appointment, while-you-wait service" in respect of brakes, exhaust, oil changes, maintenance, road handling, steering systems and tires for all makes of cars and light trucks.

4. The head office of the Filer is located at 365 Bloor Street East, Suite 1100, Toronto, Ontario, M4W 3M7.

5. The authorized capital of the Filer consists of an unlimited number of Common Shares, of which 13,907,775 Common Shares were outstanding (fully diluted to include all in-the-money SMK Eligible Options) as of the date hereof, and an unlimited number of non-voting preferred shares, none of which are outstanding as of the date hereof.

6. The Common Shares are listed on the Toronto Stock Exchange under the symbol "SMK".

7. As of the date hereof, The Goldfarb Corporation holds 6,736,275 Common Shares, representing approximately 48.4% of the outstanding securities of the Filer entitled to vote at the shareholders' meeting (the "Meeting") to be held on January 5, 2004 to approve the Arrangement.

8. Pursuant to a support agreement among The Goldfarb Corporation, Acquisitionco and Minute Muffler dated December 2, 2003, which the parties thereto negotiated at arm's length, The Goldfarb Corporation agreed, subject to certain conditions, to vote the 6,736,275 Common Shares held by it for approval of the Arrangement at the Meeting.

9. The Arrangement constitutes a "going private transaction" under the Legislation and consequently is subject to the formal valuation and minority approval requirements of the Legislation.

10. The Arrangement is exempt from the valuation requirements in respect of "going private transactions" under the Legislation.

11. Mr. Held is currently the President and Chief Executive Officer of the Filer and has been a director of the Filer since 1999.

12. As of December 5, 2003, Mr. Held owned 54,000 Common Shares and 180,000 SMK Eligible Options that may be acquired under the Arrangement. As such, as of December 5, 2003, Mr. Held owned 234,000 securities of the Filer entitled to vote in respect of the Arrangement at the Meeting, or approximately 1.7% of the aggregate outstanding securities of the Filer eligible to vote at the Meeting.

13. Upon completion of the Arrangement, Mr. Held proposes to enter into the Consulting Agreement with Minute Muffler and a wholly-owned subsidiary of Minute Muffler to be formed by the amalgamation of the Filer and Acquisitionco ("Amalco").

14. The principal purpose of the Consulting Agreement is for Mr. Held to assist in the transition of the business of Amalco following the Arrangement. Mr. Held has been an integral part of the Filer's business and has substantial and valuable experience and expertise in the automobile service industry.

15. Pursuant to the terms of the Consulting Agreement, Mr. Held will be paid $500 per hour of consulting services provided. The Consulting Agreement limits the number of hours of consulting services per month to a maximum of 80 and provides for payment to Mr. Held of a minimum monthly retainer of $30,000. The Consulting Agreement will expire on the earlier of six months following its execution or ten days after either Mr. Held or Amalco deliver to the other party written notice of the termination of the Consulting Agreement. If terminated by Amalco, Mr. Held is entitled to receive the lesser of $120,000 and the product of $30,000 multiplied by the number of months remaining in the term of the Consulting Agreement.

16. Mr. Held is an interested party within the meaning of the Legislation because he will receive payments under the Consulting Agreement that will not be offered to any other holder of Common Shares.

17. Pursuant to the terms of the Consulting Agreement, the maximum amount of compensation that Mr. Held is eligible to receive is $240,000. In the event that the Arrangement does not proceed, Mr. Held is to continue to receive from the Filer an annual salary of $300,000 and benefits valued at approximately $60,000 per annum. As such, under the Consulting Agreement, Mr. Held will receive, at most, $60,000 more than he would otherwise receive from the Filer during the first six months of 2004, such amount representing approximately 4.3% of the total consideration that Mr. Held will receive from Acquisitionco in consideration for the acquisition of the Common Shares and SMK Eligible Options of the Filer held by him.

18. The compensation to be provided to Mr. Held pursuant to the Consulting Agreement is reasonable in light of the services to be rendered to Amalco by Mr. Held and is consistent with current market conditions.

19. The Consulting Agreement has been negotiated by Minute Muffler and Mr. Held at arm's length and is made on commercially reasonable terms and is reasonably consistent with customary industry practice.

20. The Consulting Agreement is not conditional upon Mr. Held supporting the Arrangement in any manner.

21. The Consulting Agreement is being made for valid business purposes unrelated to Mr. Held's securityholdings in the Filer and not for the purpose of providing Mr. Held with greater consideration for his securityholdings than the consideration to be paid to other security holders of the Filer for their securities of the Filer under the Arrangement.

AND WHEREAS under the System, this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the "Decision");

AND WHEREAS each of the Decision Makers is satisfied that the test contained in the Legislation of the

Jurisdictions that provides the Decision Maker with the jurisdiction to make the Decision has been met;

THE DECISION of the Decision Makers pursuant to the Legislation is that Mr. Held shall be permitted to vote his holding of Common Shares and Eligible Stock Options as part of the minority vote required in connection with the Arrangement, provided that the Filer complies with the other applicable provisions of the Legislation.

December 30, 2003.

"John Hughes"

2.1.2 Shell Canada Limited - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Application

– issuer exempt from certain disclosure requirements of NI 51-101 subject to conditions, including the condition to provide a modified statement of reserves data and other information relating to its oil and gas activities containing the information contemplated by, and consistent with, US Disclosure Requirements and US Disclosure Practices.

– issuer exempt from requirement of NI 51-101 that reserves evaluator be independent from issuer, subject to conditions.

Applicable National Instrument

National Instrument 51-101 Standards of Disclosure for Oil and Gas Activities – s. 2.1, s. 3.2, s. 4.2(1)(a)(ii) and (iii), s. 4.2(1)(b) and (c), s. 5.3, s. 5.8(a), s. 5.15(a), s. 5.15(b)(i), s. 5.15(b)(iv) and s. 8.1(1).

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN, MANITOBA, ONTARIO, QUEBEC, NOVA SCOTIA, NEWFOUNDLAND AND LABRADOR, YUKON, NORTHWEST TERRITORIES AND NUNAVUT

AND

IN THE MATTER OF
THE MUTUAL RELIANCE REVIEW SYSTEM FOR EXEMPTIVE RELIEF APPLICATIONS

AND

IN THE MATTER OF
SHELL CANADA LIMITED

MRRS DECISION DOCUMENT

1. WHEREAS the local securities regulatory authority or regulator (the Decision Maker) in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, Nova Scotia, Newfoundland and Labrador, Yukon, Northwest Territories and Nunavut (the Jurisdictions) has received an application from Shell Canada Limited (the Filer) for a decision under the securities legislation of the Jurisdictions (the Legislation) that the Filer be exempted from the following requirements contained in the Legislation:

   1.1 to disclose information concerning oil and gas activities in accordance with sections 2.1, 4.2(1)(a)(ii) and (iii), 4.2(1)(b) and (c), 5.3, 5.8(a), 5.15(a), 5.15(b)(i) and 5.15(b)(iv) of National Instrument 51-101 *Standards of*

Disclosure for Oil and Gas Activities (NI 51-101) (collectively, the Canadian Disclosure Requirements);

1.2 that the qualified reserves evaluator(s) appointed under section 3.2 of NI 51-101 be independent of the Filer (the Independent Evaluator Requirement); and

1.3 in Québec, to comply with National Policy Statement No. 2-B *Guide for Engineers and Geologists Submitting Oil and Gas Reports to Canadian Provincial Securities Administrators* (NP 2-B) until such time as NI 51-101 is implemented in Québec;

2. AND WHEREAS under the Mutual Reliance Review System for Exemptive Relief applications (the System) the Alberta Securities Commission is the principal regulator for this application;

3. AND WHEREAS, unless otherwise defined, the terms herein have the meaning set out in National Instrument 14-101 *Definitions* or Appendix 1 of Companion Policy 51-101CP;

4. AND WHEREAS the Filer has represented to the Decision Makers that:

4.1 the Filer's head office is in Calgary, Alberta;

4.2 the Filer is an oil and gas issuer that produced an average of more than 100,000 BOEs of oil and gas (converted in the ratio 6 Mcf of gas to 1 bbl of oil) per day in its most recent financial year;

4.3 the Filer is a reporting issuer or equivalent in each of the Jurisdictions;

4.4 the Filer's common shares are listed on the Toronto Stock Exchange;

4.5 a significant portion of the Filer's securities are held, or its beneficial security holders are located, outside of Canada;

4.6 the Filer is an SEC registrant by virtue of its common shares being held by greater than 300 persons resident in the United States and files a report on Form 40-F on an annual basis with the SEC;

4.7 Royal Dutch Petroleum Company, a Netherlands company, and The "Shell" Transport and Trading Company, plc, an English company (together, the Parent Companies), indirectly hold approximately 78% of the common shares and 100% of the preference shares of the Filer;

4.8 each of the Parent Companies has securities listed on the New York Stock Exchange and is subject to SEC reporting requirements;

4.9 the Form 20-F, filed annually by each of the Parent Companies, presents reserves disclosure for its worldwide operations (including the operations of the Filer) in accordance with requirements under US securities legislation (US Disclosure Requirements);

4.10 for the purpose of this consolidated reporting by the Parent Companies, the Filer must also prepare reserves disclosure in accordance with US Disclosure Requirements, which are different disclosure requirements than under the Legislation, and the Filer includes this supplemental disclosure in its annual information form and Form 40-F;

4.11 the Filer's peer group primarily consists of integrated petroleum issuers that report their reserves estimates in accordance with US Disclosure Requirements and accordingly the Filer believes that reporting its reserves disclosure in accordance with US Disclosure Requirements would improve the comparability of its disclosure to their disclosure and would provide clear and consistent disclosure for market participants;

4.12 disclosure concerning oil and gas activities routinely provided by issuers in the US (US Disclosure Practices) differs from the Canadian Disclosure Requirements;

4.13 compliance in Canada with Canadian Disclosure Requirements, and conformity with US Disclosure Requirements and US Disclosure Practices for the purposes of the consolidated reporting by the Parent Companies, would require that the Filer either

4.13.1 prepare two separate versions of much of its public disclosure with respect to its oil and gas activities; or

4.13.2 file, to the extent that the SEC permits, information that differs from the US Disclosure Requirements and accompany that information with a warning addressed to the US investor;

exposing the Filer to increased costs, resulting in information that could confuse investors and other market participants, and possibly disadvantaging the Filer in competing for investment capital in the US;

4.14 the Filer believes that its internally-generated reserves data are as reliable as independently-

generated reserves data for the following reasons:

4.14.1 the Filer has qualified reserves evaluators within the meaning of NI 51-101; and

4.14.2 the Filer has established reserves evaluation processes that are at least as rigorous as would be the case were it to rely upon independent reserves evaluators or auditors; and

4.15 the Filer has established processes and related procedures that enable it to estimate its reserves and related future net revenue in accordance with the COGE Handbook (other than with respect to independence) modified to the extent necessary to reflect the definitions and standards under US Disclosure Requirements;

5. AND WHEREAS under the System, this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the Decision);

6. AND WHEREAS each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the Decision has been met;

7. THE DECISION of the Decision Makers under the Legislation is that:

7.1 the Filer is exempt from the Canadian Disclosure Requirements for so long as:

7.1.1 **Annual Filings –** the Filer files with the securities regulatory authorities the following not later than the date on which it is required by the Legislation to file audited financial statements for its most recent financial year:

7.1.1.1 a modified statement of reserves data and other information relating to its oil and gas activities containing the information contemplated by, and consistent with, US Disclosure Requirements and US Disclosure Practices, and for this purpose, US Disclosure Requirements or US Disclosure Practices include:

(i) the information required by the FASB Standard;

(ii) the information required by SEC Industry Guide 2 *Disclosure of Oil and Gas Operations*, as amended from time to time; and

(iii) any other information concerning matters addressed in Form 51-101F1 that is required by FASB or by the SEC;

7.1.1.2 a modified report of qualified reserves evaluators in a form acceptable to the regulator; and

7.1.1.3 except in British Columbia, a modified report of management and directors on reserves data and other information in a form acceptable to the regulator;

7.1.2 **Use of COGE Handbook –** the Filer's estimates of reserves and related future net revenue (or, where applicable, related standardized measure of discounted future net cash flows (the standardized measure)) are prepared or audited in accordance with the standards of the COGE Handbook modified to the extent necessary to reflect the terminology and standards of the US Disclosure Requirements;

7.1.3 **Consistent Disclosure –** subject to changes in US Disclosure Requirements or US Disclosure Practices, the Filer is consistent in its application of standards relating to oil and gas information and its disclosure of such information, within and between reporting periods;

7.1.4 **Non-Conventional Oil and Gas Activities** –

7.1.4.1 the Filer may present information about its non-conventional oil and gas activities applying the FASB Standard despite any indication to the contrary in the FASB Standard;

7.1.4.2 the Filer may present information about its non-conventional oil and gas activities in a form that is consistent with US Disclosure Practices;

7.1.5 **Disclosure of this Decision and Effect** – the Filer

7.1.5.1 at least annually, files on SEDAR (either as a separate document or in its annual information form) a statement:

(i) of the Filer's reliance on this Decision;

(ii) that explains generally the nature of the information that the Filer has disclosed or intends to disclose in the year in reliance on this Decision and that identifies the standards and the source of the standards being applied (if not otherwise readily apparent); and

(iii) to the effect that the information that the Filer has disclosed or intends to disclose in the year in reliance on this Decision may differ from the corresponding information prepared in accordance with NI 51-101 standards (if that is the case), and explains the difference (if any); and

7.1.5.2 includes, reasonably proximate to all other written disclosure that the Filer makes in reliance on this Decision, a statement:

(i) of the Filer's reliance on this Decision;

(ii) that explains generally the nature of the information being disclosed and identifies the standards and the source of the standards being applied (if it is not otherwise readily apparent);

(iii) that the information disclosed may differ from the corresponding information prepared in accordance with NI 51-101 standards; and

(iv) that reiterates or incorporates by reference the disclosure referred to in paragraph 7.1.5.1(iii);

7.1.6 **Voluntary extra disclosure –**if the Filer makes public disclosure of a type contemplated in NI 51-101 or Form 51-101F1, but not required by US Disclosure Requirements, and

7.1.6.1 if the disclosure is of a nature and subject matter referred to in Part 5 of NI 51-101 (other than in a provision included in the definition of Canadian Disclosure Requirements), and if there are no US Disclosure Requirements specific to that type of disclosure, the disclosure is made in compliance with Part 5 of NI 51-101;

7.1.6.2 if the disclosure includes estimates that are in substance estimates of reserves or related future net revenue in categories not required under US Disclosure Requirements,

(i) the disclosure

(A) applies the relevant categories set out in the COGE Handbook; or

(B) sets out the categories being used in enough detail to make them understandable to a reader, identifies the source of those categories, states that those categories differ from the categories set out in the COGE Handbook (if that is the case) and either explains any differences (if any) or incorporates by reference disclosure referred to in paragraph 7.1.5.1(iii) if that disclosure explains the differences;

(ii) if the disclosure includes an estimate of future net

revenue or standardized measure, it also includes the corresponding estimate of reserves (although disclosure of an estimate of reserves would not have to be accompanied by a corresponding estimate of future net revenue or standardized measure);

(iii) if the disclosure includes an estimate of reserves for a category other than proved reserves (or proved oil and gas reserve quantities), it also includes an estimate of proved reserves (or proved oil and gas reserve quantities) based on the same price and cost assumptions with the price assumptions disclosed;

(iv) unless the extra disclosure is made involuntarily (as contemplated in section 8.4(b) of Companion Policy 51-101CP), the Filer includes disclosure of the same type in subsequent annual filings for so long as the information is material; and

(v) for the purpose of paragraph 7.1.6.2 (iv), if the triggering disclosure was an estimate for a particular property, unless that property is highly material to the Filer, its subsequent annual disclosure of that type of estimate also includes aggregate estimates for the Filer and by country (or, if appropriate and not misleading, by foreign geographic area), not only estimates for that property, for so long as the information is material;

7.2 the Filer is exempt from the Independent Evaluator Requirement for so long as:

7.2.1 **Internal Procedures** – the Filer maintains internal procedures that will permit preparation of the modified report of qualified reserves evaluators, and preparation of the modified report of management and directors on reserves data and other information;

7.2.2 **Explanatory and Cautionary Disclosure** – the Filer discloses

7.2.2.1 at least annually, the Filer's reasons for considering the reliability of internally-generated reserves data to be not materially less than would be afforded by strict adherence to the requirements of NI 51-101, including a discussion of:

(i) factors supporting the involvement of independent qualified evaluators or auditors and why such factors are not considered compelling in the case of the Filer; and

(ii) the manner in which the Filer's internally-generated reserves data are determined, reviewed and approved, its relevant disclosure control procedures and the related role, responsibilities and composition of responsible management, the board of directors of the Filer and (if applicable) the reserves committee of the board of directors of the Filer; and

7.2.2.2 in each document that discloses any information derived from internally-generated reserves data and reasonably proximate to that disclosure, the fact that no independent qualified reserves evaluator or auditor was involved in the preparation of the reserves data; and

7.2.3 **Disclosure of Conflicting Independent Reports** – the Filer discloses and updates its public

disclosure if, despite this Decision, it obtains a final report on reserves data from an independent qualified reserves evaluator or auditor that contains information that is materially different from the Filer's public disclosure record in respect of such reserves data;

7.3 the Filer is exempt from the prospectus and annual information form requirements of the Legislation that require a Filer to disclose information in a prospectus or annual information form in accordance with NI 51-101, but only to the extent that the Filer relies on and complies with this Decision; and

7.4 in Québec, until NI 51-101 comes into force in Québec, the Filer is exempt from the requirements of NP 2-B and may satisfy requirements under the Legislation of Québec that refer to NP 2-B by complying with the requirements of NI 51-101 as varied by this Decision.

8. This Decision, as it relates to either the Canadian Disclosure Requirements or the Independent Evaluator Requirement, will terminate in a Jurisdiction one year after the effective date in that Jurisdiction of any substantive amendment to the Canadian Disclosure Requirements or the Independent Evaluator Requirement, respectively, unless the Decision Maker otherwise agrees in writing.

January 5, 2004.

"Glenda A. Campbell" "Stephen R. Murison"

2.1.3 Suncor Energy Inc. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Application –issuer exempt from certain disclosure requirements of NI 51-101 subject to conditions, including the condition to provide a modified statement of reserves data and other information relating to its oil and gas activities containing the information contemplated by, and consistent with, US Disclosure Requirements and US Disclosure Practices.

Applicable Alberta Statutory Provision(s)

National Instrument 51-101 Standards of Disclosure for Oil and Gas Activities – s. 2.1, s. 4.2(1)(a)(ii) and (iii), s. 4.2(1)(b) and (c), s. 5.3, s. 5.8(a), s. 5.15(a), s. 5.15(b)(i), s. 5.15(b)(iv) and s. 8.1(1).

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ALBERTA, BRITISH COLUMBIA, SASKATCHEWAN, MANITOBA, ONTARIO, QUEBEC, NOVA SCOTIA, NEWFOUNDLAND AND LABRADOR, YUKON, NORTHWEST TERRITORIES AND NUNAVUT

AND

IN THE MATTER OF
THE MUTUAL RELIANCE REVIEW SYSTEM FOR EXEMPTIVE RELIEF APPLICATIONS

AND

IN THE MATTER OF
SUNCOR ENERGY INC.

MRRS DECISION DOCUMENT

1. WHEREAS the local securities regulatory authority or regulator (the Decision Maker) in each of Alberta, British Columbia, Saskatchewan, Manitoba, Ontario, Québec, Nova Scotia, Newfoundland and Labrador, Yukon, Northwest Territories and Nunavut (the Jurisdictions) has received an application from Suncor Energy Inc. (the Filer) for a decision under the securities legislation of the Jurisdictions (the Legislation) that the Filer be exempted from the following requirements contained in the Legislation:

1.1 to disclose information concerning oil and gas activities in accordance with sections 2.1, 4.2(1)(a)(ii) and (iii), 4.2(1)(b) and (c), 5.3, 5.8(a), 5.15(a), 5.15(b)(i) and 5.15(b)(iv) of National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities* (NI 51-101) (collectively, the Canadian Disclosure Requirements); and

1.2 in Québec, to comply with National Policy Statement No. 2-B *Guide for Engineers and Geologists Submitting Oil and Gas Reports to Canadian Provincial Securities Administrators* (NP

2-B) until such time as NI 51-101 is implemented in Québec;

2. AND WHEREAS under the Mutual Reliance Review System for Exemptive Relief applications (the System), the Alberta Securities Commission is the principal regulator for this application;

3. AND WHEREAS, unless otherwise defined, the terms herein have the meaning set out in National Instrument 14-101 *Definitions*, Québec Commission Notice 14-101 or Appendix 1 of Companion Policy 51-101CP;

4. AND WHEREAS the Filer has represented to the Decision Makers that:

4.1 the Filer's head office is in Calgary, Alberta;

4.2 the Filer is a reporting issuer or equivalent in each of the Jurisdictions;

4.3 the Filer currently has registered securities under the 1934 Act;

4.4 the Filer's common shares are listed on both the Toronto Stock Exchange and the New York Stock Exchange;

4.5 the Filer is active in capital markets outside Canada where it competes for capital with foreign issuers;

4.6 the Filer believes that a significant portion of its securities are held, or its security holders are located, outside Canada;

4.7 the Filer understands that, for purposes of making an investment decision or providing investment analysis or advice, a significant portion of its investors, lenders and investment analysts in both Canada and the US routinely compare the Filer to US and international oil and gas issuers, and accordingly comparability of its disclosure to their disclosure is of primary relevance to market participants;

4.8 the Filer is subject to different disclosure requirements related to its oil and gas activities under US securities legislation (US Disclosure Requirements) than under the Legislation;

4.9 disclosure concerning oil and gas activities routinely provided by issuers in the US (US Disclosure Practices) differs from the Canadian Disclosure Requirements;

4.10 compliance in Canada with Canadian Disclosure Requirements, and conformity in the US with US Disclosure Requirements and US Disclosure Practices, would require that the Filer either

4.10.1 prepare two separate versions of much of its public disclosure with respect to its oil and gas activities, or

4.10.2 file, to the extent that the SEC permits, information that differs from the US Disclosure Requirements and accompany that information with a warning addressed to the US investor;

exposing the Filer to increased costs, resulting in information that could confuse investors and other market participants, and possibly disadvantaging the Filer in competing for investment capital in the US;

5. AND WHEREAS under the System, this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the Decision);

6. AND WHEREAS each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the Decision has been met;

7. THE DECISION of the Decision Makers under the Legislation is that:

7.1 The Filer is exempt from the Canadian Disclosure Requirements for so long as:

7.1.1 **Annual Filings** – the Filer files with the securities regulatory authorities the following not later than the date on which it is required by the Legislation to file audited financial statements for its most recent financial year:

7.1.1.1 a modified statement of reserves data and other information relating to its oil and gas activities containing the information contemplated by, and consistent with, US Disclosure Requirements and US Disclosure Practices, and for this purpose, US Disclosure Requirements or US Disclosure Practices include:

(i) the information required by the FASB Standard,

(ii) the information required by SEC Industry Guide 2 *Disclosure of Oil and Gas Operations*, as amended from time to time, and

(iii) any other information concerning matters addressed in Form 51-

101F1 that is required by FASB or by the SEC,

7.1.1.2 a modified report of independent qualified reserves evaluators in a form acceptable to the regulator; and

7.1.1.3 except in British Columbia, a modified report of management and directors on reserves data and other information in a form acceptable to the regulator;

7.1.2 **Use of COGE Handbook** – the Filer's estimates of reserves and related future net revenue (or, where applicable, related standardized measure of discounted future net cash flows (the standardized measure)) are prepared or audited in accordance with the standards of the COGE Handbook modified to the extent necessary to reflect the terminology and standards of the US Disclosure Requirements;

7.1.3 **Consistent Disclosure** – subject to changes in US Disclosure Requirements or US Disclosure Practices, the Filer is consistent in its application of standards relating to oil and gas information and its disclosure of such information, within and between reporting periods;

7.1.4 **Non-Conventional Oil and Gas Activities** –

7.1.4.1 the Filer may present information about its non-conventional oil and gas activities applying the FASB Standard despite any indication to the contrary in the FASB Standard

7.1.4.2 the Filer may present information about its non-conventional oil and gas activities in a form that is consistent with US Disclosure Practices;

7.1.5 **Disclosure of this Decision and Effect** – the Filer

7.1.5.1 at least annually, files on SEDAR (either as a separate document or in its annual information form) a statement:

(i) of the Filer's reliance on this Decision,

(ii) that explains generally the nature of the information that the Filer has disclosed or intends to disclose in the year in reliance on this Decision and identifies the standards and the source of the standards being applied (if not otherwise readily apparent), and

(iii) to the effect that the information that the Filer has disclosed, or intends to disclose in the year, in reliance on this Decision may differ from the corresponding information prepared in accordance with NI 51-101 standards (if that is the case), and explains the difference (if any); and

7.1.5.2 includes, reasonably proximate to all other written disclosure that the Filer makes in reliance on this Decision, a statement:

(i) of the Filer's reliance on this Decision,

(ii) that explains generally the nature of the information being disclosed and identifies the standards and the source of the standards being applied (if it is not otherwise readily apparent),

(iii) that the information disclosed may differ from the corresponding information prepared in accordance with NI 51-101 standards, and

(iv) that reiterates or incorporates by reference the disclosure referred to in paragraph 7.1.5.1(iii);

7.1.6 **Voluntary extra disclosure** –if the Filer makes public disclosure of a type contemplated in NI 51-101 or Form

51-101F1, but not required by US Disclosure Requirements, and:

7.1.6.1 if the disclosure is of a nature and subject matter referred to in Part 5 of NI 51-101 (other than in a provision included in the definition of Canadian Disclosure Requirements), and if there are no US Disclosure Requirements specific to that type of disclosure, the disclosure is made in compliance with Part 5 of NI 51-101,

7.1.6.2 if the disclosure includes estimates that are in substance estimates of reserves or related future net revenue in categories not required under US Disclosure Requirements,

(i) the disclosure

(A) applies the relevant categories set out in the COGE Handbook, or

(B) sets out the categories being used in enough detail to make them understandable to a reader, identifies the source of those categories, states that those categories differ from the categories set out in the COGE Handbook (if that is the case) and either explains any differences (if any), or incorporates by reference disclosure referred to in paragraph 7.1.5.1(iii) if that disclosure explains the differences,

(ii) if the disclosure includes an estimate of future net revenue or standardized measure, it also includes the corresponding estimate of reserves (although disclosure of an estimate of reserves would not have to be accompanied by a corresponding estimate of future net revenue or standardized measure),

(iii) if the disclosure includes an estimate of reserves for a category other than proved reserves (or proved oil and gas reserve quantities), it also includes an estimate of proved reserves (or proved oil and gas reserve quantities) based on the same price and cost assumptions with the price assumptions disclosed,

(iv) unless the extra disclosure is made involuntarily (as contemplated in section 8.4(b) of Companion Policy 51-101CP), the Filer includes disclosure of the same type in subsequent annual filings for so long as the information is material, and

(v) for the purpose of paragraph 7.1.6.2(iv), if the triggering disclosure was an estimate for a particular property, unless that property is highly material to the Filer, its subsequent annual disclosure of that type of estimate also includes aggregate estimates for the Filer and by country (or, if appropriate and not misleading, by foreign geographic area), not only estimates for that property, for so long as the information is material;

7.2 the Filer is exempt from the prospectus and annual information form requirements of the Legislation that require a Filer to disclose information in a prospectus or annual information form in accordance with NI 51-101, but only to the extent that the Filer relies on and complies with this Decision; and

7.3 in Québec, until NI 51-101 comes into force in Québec, the Filer is exempt from the requirements of NP 2-B and may satisfy requirements under the Legislation of Québec that refer to NP 2-B by complying with the requirements of NI 51-101 as varied by this Decision.

8. This Decision, as it relates to the Canadian Disclosure Requirements will terminate in a Jurisdiction one year after the effective date in that Jurisdiction of any substantive amendment to the Canadian Disclosure Requirements unless the Decision Maker otherwise agrees in writing.

December 22, 2003.

"Glenda A. Campbell" "Stephen R. Murison"

2.1.4 Credit Suisse First Boston - ss. 6.1(1) of MI 31-102 and s. 6.1 of OSC Rule 13-502

Headnote

International dealer exempted from the electronic funds transfer requirement pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 National Registration Database and activity fee contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 Fees waived in respect of this discretionary relief, subject to certain conditions.

Rules Cited

Multilateral Instrument 31-102 National Registration Database (2003) 26 O.S.C.B. 926, s. 6.1.
Ontario Securities Commission Rule 13-502 Fees (2003) 26 O.S.C.B. 867, ss. 4.1 and 6.1.

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, CHAPTER S.5, AS AMENDED

AND

IN THE MATTER OF
CREDIT SUISSE FIRST BOSTON

DECISION
(Subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* and section 6.1 of Rule 13-502 *Fees*)

UPON the Director having received the application of Credit Suisse First Boston (the Applicant) for an order pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* (MI 31-102) granting the Applicant relief from the electronic funds transfer requirement contemplated under MI 31-102 and for relief from the activity fee requirement contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 *Fees* (Rule 13-502) in respect of this discretionary relief;

AND UPON considering the application and the recommendation of the staff of the Ontario Securities Commission (the Commission);

AND UPON the Applicant having represented to the Director as follows:

1. The Applicant is incorporated under the laws of Canton Zurich in the State of Switzerland. The Applicant is not a reporting issuer. The Applicant is registered under the Act as an international dealer. The head office of the Applicant is located in Zurich, Switzerland.

2. MI 31-102 requires that all registrants in Canada enrol with CDS Inc. (CDS) and use the national registration database (NRD) to complete certain registration filings. As part of the enrolment process, registrants are required to open an

account with a member of the Canadian Payments Association from which fees may be paid with respect to NRD by electronic pre-authorized debit (electronic funds transfer or, the EFT Requirement).

3. The Applicant has encountered difficulties in setting up a Canadian based bank account for purposes of fulfilling the EFT Requirement.

4. The Applicant confirms that it is not registered in another category to which the EFT Requirement applies and that Ontario is the only jurisdiction in which it is registered.

5. Staff of the Canadian Securities Administrators has indicated that, with respect to applications from international dealers and international advisers (or applicants in equivalent categories of registration) for relief from the EFT Requirement, it is prepared to recommend waiving the fee normally required to accompany applications for discretionary relief (the Application Fee).

6. For Ontario registrants, the requirement for payment of the Application Fee is set out in section 4.1 of Rule 13-502.

AND UPON the Director being satisfied that to do so would not be prejudicial to the public interest;

IT IS THE DECISION of the Director, pursuant to subsection 6.1(1) of MI 31-102 that the Applicant is granted relief from the EFT Requirement for so long as the Applicant:

A. makes acceptable alternative arrangements with CDS for the payment of NRD fees;

B. pays its participation fee under the Act to the Commission by cheque, draft, money order or other acceptable means at the time of filing its application for annual renewal, which shall be no later than the first day of December in each year;

C. pays any applicable activity fees, or other fees that the Act requires it to pay to the Commission, by cheque, draft, money order or other acceptable means at the appropriate time; and

D. is not registered in any Jurisdiction in another category to which the EFT Requirement applies;

PROVIDED THAT the Applicant submits a similar application in any other Canadian jurisdiction where it becomes registered as an international dealer or international adviser or in an equivalent registration category;

AND IT IS THE FURTHER DECISION of the Director, pursuant to section 6.1 of Rule 13-502, that the Application Fee will be waived in respect of the application for this Decision.

December 30, 2003.

“David M. Gilkes”

2.1.5 Legg Mason Wood Walker, Incorporated - ss. 6.1(1) of MI 31-102 and s. 6.1 of OSC Rule 13-502

Headnote

International dealer exempted from the electronic funds transfer requirement pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 National Registration Database and activity fee contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 Fees waived in respect of this discretionary relief, subject to certain conditions.

Rules Cited

Multilateral Instrument 31-102 National Registration Database (2003) 26 O.S.C.B. 926, s. 6.1.
Ontario Securities Commission Rule 13-502 Fees (2003) 26 O.S.C.B. 867, ss. 4.1 and 6.1.

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, CHAPTER S.5, AS AMENDED

AND

IN THE MATTER OF
LEGG MASON WOOD WALKER, INCORPORATED

DECISION
(Subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* and section 6.1 of Rule 13-502 *Fees*)

UPON the Director having received the application of Legg Mason Wood Walker, Incorporated (the Applicant) for an order pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* (MI 31-102) granting the Applicant relief from the electronic funds transfer requirement contemplated under MI 31-102 and for relief from the activity fee requirement contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 *Fees* (Rule 13-502) in respect of this discretionary relief;

AND UPON considering the application and the recommendation of the staff of the Ontario Securities Commission (the Commission);

AND UPON the Applicant having represented to the Director as follows:

1. The Applicant is incorporated under the laws of the State of Maryland in the United States of America. The Applicant is not a reporting issuer. The Applicant is registered under the Act as an international dealer. The head office of the Applicant is located in Baltimore, Maryland.

2. MI 31-102 requires that all registrants in Canada enrol with CDS Inc. (CDS) and use the national registration database (NRD) to complete certain registration filings. As part of the enrolment process, registrants are required to open an account with a member of the Canadian Payments Association from which fees may be paid with respect to NRD by electronic pre-authorized debit (electronic funds transfer or, the EFT Requirement).

3. The Applicant has encountered difficulties in setting up a Canadian based bank account for purposes of fulfilling the EFT Requirement.

4. The Applicant confirms that it is not registered in another category to which the EFT Requirement applies and that Ontario is the only jurisdiction in which it is registered.

5. Staff of the Canadian Securities Administrators has indicated that, with respect to applications from international dealers and international advisers (or applicants in equivalent categories of registration) for relief from the EFT Requirement, it is prepared to recommend waiving the fee normally required to accompany applications for discretionary relief (the Application Fee).

6. For Ontario registrants, the requirement for payment of the Application Fee is set out in section 4.1 of Rule 13-502.

AND UPON the Director being satisfied that to do so would not be prejudicial to the public interest;

IT IS THE DECISION of the Director, pursuant to subsection 6.1(1) of MI 31-102 that the Applicant is granted relief from the EFT Requirement for so long as the Applicant:

A. makes acceptable alternative arrangements with CDS for the payment of NRD fees;

B. pays its participation fee under the Act to the Commission by cheque, draft, money order or other acceptable means at the time of filing its application for annual renewal, which shall be no later than the first day of December in each year;

C. pays any applicable activity fees, or other fees that the Act requires it to pay to the Commission, by cheque, draft, money order or other acceptable means at the appropriate time; and

D. is not registered in any Jurisdiction in another category to which the EFT Requirement applies;

PROVIDED THAT the Applicant submits a similar application in any other Canadian jurisdiction where it becomes registered as an international dealer or international adviser or in an equivalent registration category;

AND IT IS THE FURTHER DECISION of the Director, pursuant to section 6.1 of Rule 13-502, that the Application Fee will be waived in respect of the application for this Decision.

December 30, 2003.

"David M. Gilkes"

2.1.6 Dundee Real Estate Investment Trust - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – fund filed prospectus that contained audited financial statements for underlying business – fund itself had not completed financial year – fund unable to use prospectus as a "current AIF" under Multilateral Instrument 45-102 – fund exempt from "current AIF" requirement, subject to conditions.

Applicable Ontario Statutory Provisions

Securities Act, R.S.O. 1990 c. S.5, as am.

Applicable Ontario Rules

Multilateral Instrument 45-102 Resale of Securities (2001) 24 OSCB 7029, sections. 1.1, 4.1.

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN,
ONTARIO, NOVA SCOTIA AND
NEWFOUNDLAND AND LABRADOR

AND

IN THE MATTER OF
THE MUTUAL RELIANCE REVIEW SYSTEM
FOR EXEMPTIVE RELIEF APPLICATIONS

AND

IN THE MATTER OF
DUNDEE REAL ESTATE INVESTMENT TRUST

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Saskatchewan, Ontario, Nova Scotia and Newfoundland and Labrador (the "Jurisdictions") has received an application from Dundee Real Estate Investment Trust (the "Filer") for a decision under the securities legislation of the Jurisdictions (the "Legislation") that the requirement contained in the Legislation to have a "current AIF" (a "Current AIF") as defined in Multilateral Instrument 45-102 – Resale of Securities ("MI 45-102") filed on SEDAR to be a "qualifying issuer" ("Qualifying Issuer") under MI 45-102 shall not apply to the Filer;

AND WHEREAS under the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the Ontario Securities Commission has agreed to act as the principal regulator for this application;

AND WHEREAS, unless otherwise defined, the terms herein have the meaning set out in National Instrument 14-101 – Definitions;

AND WHEREAS the Filer has represented to the Decision Makers that:

1. the Filer is an unincorporated, open-ended real estate investment trust governed by the laws of the Province of Ontario which was formed on May 9, 2003;

2. the Filer is authorized to issue an unlimited number of units of two classes: REIT Units and Special REIT Units. The REIT Units are divided into and issuable in two series: REIT Units, Series A and REIT Units, Series B;

3. Dundee Realty Corporation ("DRC") is a corporation existing under the laws of the Province of Ontario with its head office located in Toronto, Ontario;

4. in connection with a plan of arrangement (the "Arrangement") involving the Filer, DRC and its shareholders, which became effective on June 30, 2003 (the "Effective Date"), the Filer acquired substantially all of the commercial revenue-producing properties (the "Properties") and a joint interest in the property management business of DRC (collectively, the "Division");

5. in connection with the preparation of the information circular provided to the shareholders of DRC in connection with the Arrangement, the Filer prepared audited financial statements of the Division (the "Divisional Statements") as at December 31, 2002 and 2001 and for each of the years ended December 31, 2002, 2001 and 2000, an audited balance sheet of the Filer as at May 9, 2003, an unaudited pro forma condensed consolidated balance sheet of the Filer as at December 31, 2002 and a pro forma condensed consolidated statement of income of the Filer for the year then ended;

6. on or shortly prior to the Effective Date, the Filer became a reporting issuer or the equivalent to a reporting issuer in each of the Jurisdictions where such a concept exists in accordance with applicable law or pursuant to orders granted by certain securities regulatory authorities and the REIT Units, Series A, are listed for trading on The Toronto Stock Exchange, having commenced trading on July 2, 2003;

7. in connection with the issuance of $56,420,000 of REIT Units, Series A, the Filer filed a long-form prospectus (the "Prospectus") which included the Divisional Statements, the audited combined financial statements of the Division as at June 30, 2003, the audited balance sheet of the Filer as at June 30, 2003 and certain pro forma financial statements of the Filer;

8. sections 2.5 and 2.6 of MI 45-102 provide for a four month restricted period for securities issued by way of private placement by Qualifying Issuers. The Filer meets each of the criteria within the definition of a Qualifying Issuer in MI 45-102 except that the Filer does not have a current AIF filed on SEDAR.

9. MI 45-102 defines a current AIF to include a long form prospectus which has been filed in any jurisdiction that includes audited financial statements for the ssuer's most recent financial year. The Filer's Prospectus does not satisfy this requirement. However, the Prospectus does include audited financial statements for the Division's most recently completed financial year, which provides equivalent information to potential investors as if such statements had been those of the Filer.

AND WHEREAS under the System, this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the "Decision");

AND WHEREAS each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Makers with the jurisdiction to make the Decision has been met;

THE DECISION of the Decision Makers under the Legislation is that the requirement under the Legislation to have a Current AIF filed on SEDAR in order to be a Qualifying Issuer shall not apply to the Filer provided that:

(a) the Filer files a notice on SEDAR advising that it has filed the Prospectus as an alternative form of annual information form and identifying the SEDAR project number under which the Prospectus was filed;

(b) the Filer files a Form 45-102F2 on or before the tenth day after the distribution date of any securities certifying that it is a Qualifying Issuer except for the requirement that it have a Current AIF; and

(c) this Decision expires 140 days after the Filer's financial year ending December 31, 2003.

January 12, 2004.

"Kelly Gorman"

Chapter 4

Cease Trading Orders

4.1.1 Temporary, Extending & Rescinding Cease Trading Orders

Company Name	Date of Temporary Order	Date of Hearing	Date of Extending Order	Date of Lapse/Revoke
AC Energy Inc.	30 Dec 03	09 Jan 04	09 Jan 04	
Saturn (Solutions) Inc.	30 Dec 03	09 Jan 04	09 Jan 04	

4.2.1 Management & Insider Cease Trading Orders

Company Name	Date of Order or Temporary Order	Date of Hearing	Date of Extending Order	Date of Lapse/ Expire	Date of Issuer Temporary Order
Atlas Cold Storage Income Trust	02 Dec 03	15 Dec 03	15 Dec 03		
Richtree Inc.	23 Dec 03	05 Jan 04	05 Jan 04		

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Chapter 5

Rules and Policies

5.1.1 National Instrument 81-102 Mutual Funds Amendment Instrument

NATIONAL INSTRUMENT 81-102
MUTUAL FUNDS AMENDMENT INSTRUMENT

1. National Instrument 81-102 Mutual Funds is amended by this Instrument.

2. Section 1.1 is amended

(a) by repealing the definition of "approved credit rating" and substituting the following:

""approved credit rating" means, for a security or instrument, a rating at or above one of the following rating categories issued by an approved credit rating organization for that security or instrument or a category that replaces one of the following rating categories if

(a) there has been no announcement by the approved credit rating organization of which the mutual fund or its manager is or reasonably should be aware that the rating of the security or instrument to which the approved credit rating was given may be down-graded to a rating category that would not be an approved credit rating, and

(b) no approved credit rating organization has rated the security or instrument in a rating category that is not an approved credit rating:

Approved Credit Rating Organization	Commercial Paper/ Short Term Debt	Long Term Debt
Dominion Bond Rating Service Limited	R-1 (low)	A
Fitch Ratings	F1	A
Moody's Investors Service	P-1	A2
Standard & Poor's	A-1(Low)	A”;

(b) by repealing the definition of "approved credit rating organization" and substituting the following:

""approved credit rating organization" means Dominion Bond Rating Service Limited, Fitch Ratings, Moody's Investors Service, Standard & Poor's and any of their respective successors;”;

(c) by repealing the definition of "guaranteed mortgage" and substituting the following:

""guaranteed mortgage" means a mortgage fully and unconditionally guaranteed, or insured, by the government of Canada, by the government of a jurisdiction or by an agency of any of those governments or by a corporation approved by the Office of the Superintendent of Financial Institutions to offer its services to the public in Canada as an insurer of mortgages;”;

(d) by repealing the definition of “mutual fund conflict of interest investment restrictions” and substituting the following:

""mutual fund conflict of interest investment restrictions” means the provisions of securities legislation that

(a) prohibit a mutual fund from knowingly making or holding an investment in any person or company in which the mutual fund, alone or together with one or more related mutual funds, is a substantial securityholder, as defined in securities legislation,

(b) prohibit a mutual fund from knowingly making or holding an investment in an issuer in which any person or company who is a substantial securityholder of the mutual fund, its management company or distribution company, has a significant interest, as defined in securities legislation,

(c) prohibit a portfolio adviser from knowingly causing any investment portfolio managed by it to invest in, or prohibit a mutual fund from investing in, any issuer in which a responsible person or an associate of a responsible person, as defined in securities legislation, is an officer or director unless the specific fact is disclosed to the client and the written consent of the client to the investment is obtained before the purchase, or

(d) prohibit the portfolio adviser from subscribing to or buying securities on behalf of a mutual fund, where his or her own interest might distort his or her judgment, unless the specific fact is disclosed to the client and the written consent of the client to the investment is obtained before the subscription or purchase;";

(e) by repealing paragraph (e) of the definition of "permitted gold certificate" and substituting the following:

"(e) if not purchased from a bank listed in Schedule I, II or III of the *Bank Act (Canada)*, fully insured against loss and bankruptcy by an insurance company licensed under the laws of Canada or a jurisdiction;";

(f) by adding the following after the definition of "restricted security":

""RSP clone fund" means a mutual fund that has adopted fundamental investment objectives to link its performance to the performance of another mutual fund whose securities constitute foreign property for registered plans and to ensure that the securities of the mutual fund will not constitute foreign property under the ITA;"; and

(g) in the definition of "synthetic cash"

(i) by striking out "or" at the end of paragraph (a);

(ii) by inserting "or" at the end of (b); and

(iii) by adding the following after paragraph (b):

"(c) a long position in securities of an issuer and a short position in a standardized future of which the underlying interest is securities of that issuer, if the ratio between the value of the securities of that issuer and the position in the standardized future is such that, for any change in the value of one, a change of similar magnitude occurs in the value of the other;".

3. Section 2.1 is amended

(a) by repealing subsection (2) and substituting the following:

"(2) Subsection (1) does not apply to a purchase of a government security, a security issued by a clearing corporation, a security issued by a mutual fund to which this Instrument and National Instrument 81-101 apply, or an index participation unit that is a security of a mutual fund.";

(b) by repealing subsection (5) and substituting the following:

"(5) Despite subsection (1), an index mutual fund, the name of which includes the word "index", may, in order to satisfy its fundamental investment objectives, purchase a security, enter into a specified derivatives transaction or purchase index participation units if its simplified prospectus contains the disclosure referred to in subsection (5) of Item 6 and subsection (5) of Item 9 of Part B of Form 81-101F1 Contents of Simplified Prospectus.";

and

(c) by repealing subsections (6) and (7).

4. Section 2.2 is amended by adding the following after subsection (1):

"(1.1) Subsection (1) does not apply to the purchase of a security issued by a mutual fund to which this Instrument and National Instrument 81-101 apply, or an index participation unit that is a security of a mutual fund.".

5. Section 2.5 is repealed and the following is substituted:

"2.5 Investments in Other Mutual Funds

(1) For the purposes of this section, a mutual fund is considered to be holding a security of another mutual fund if

(a) it holds securities issued by the other mutual fund, or

(b) it is maintaining a position in a specified derivative for which the underlying interest is a security of the other mutual fund.

(2) A mutual fund shall not purchase or hold a security of another mutual fund unless,

(a) the other mutual fund is subject to this Instrument and National Instrument 81-101,

(b) at the time of the purchase of that security, the other mutual fund holds no more than 10% of the market value of its net assets in securities of other mutual funds,

(c) the securities of the mutual fund and the securities of the other mutual fund are qualified for distribution in the local jurisdiction,

(d) no management fees or incentive fees are payable by the mutual fund that, to a reasonable person, would duplicate a fee payable by the other mutual fund for the same service,

(e) no sales fees or redemption fees are payable by the mutual fund in relation to its purchases or redemptions of the securities of the other mutual fund if the other mutual fund is managed by the manager or an affiliate or associate of the manager of the mutual fund, and

(f) no sales fees or redemption fees are payable by the mutual fund in relation to its purchases or redemptions of securities of the other mutual fund that, to a reasonable person, would duplicate a fee payable by an investor in the mutual fund.

(3) Paragraphs (2)(a) and (c) do not apply if the security

(a) is an index participation unit issued by a mutual fund, or

(b) is issued by another mutual fund established with the approval of the government of a foreign jurisdiction and the only means by which the foreign jurisdiction permits investment in the securities of issuers of that foreign jurisdiction is through that type of mutual fund.

(4) Paragraph (2)(b) does not apply if the other mutual fund

(a) is a RSP clone fund, or

(b) in accordance with this section purchases or holds securities

(i) of a money market fund, or

(ii) that are index participation units issued by a mutual fund.

(5) Paragraph (2)(f) does not apply to brokerage fees incurred for the purchase or sale of an index participation unit issued by a mutual fund.

(6) A mutual fund that holds securities of another mutual fund that is managed by the same manager or an affiliate or associate of the manager

(a) shall not vote any of those securities, and

(b) may, if the manager so chooses, arrange for all of the securities it holds of the other mutual fund to be voted by the beneficial holders of securities of the mutual fund.

(7) The mutual fund conflict of interest investment restrictions and the mutual fund conflict of interest reporting requirements do not apply to a mutual fund which purchases or holds securities of another mutual fund if the purchase or holding is made in accordance with this section.".

6. Section 2.17 is amended by adding the following after subsection (2):

"(3) Paragraph (1)(b) does not apply if each simplified prospectus of the mutual fund since its inception contains the disclosure referred to in paragraph (1)(a).".

7. Subsection 5.1(a) is repealed and the following is substituted:

"(a) the basis of the calculation of a fee or expense that is charged to the mutual fund or directly to its securityholders by the mutual fund or its manager in connection with the holding of securities of the mutual fund is changed in a way that could result in an increase in charges to the mutual fund or to its securityholders;

(a.1) a fee or expense, to be charged to the mutual fund or directly to its securityholders by the mutual fund or its manager in connection with the holding of securities of the mutual fund that could result in an increase in charges to the mutual fund or to its securityholders, is introduced;".

8. Section 6.2 is amended by repealing item 1 and substituting the following:

"1. A bank listed in Schedule I, II or III of the *Bank Act* (Canada).".

9. Section 9.1 is amended

(a) by repealing subsections (1) and (2) and substituting the following:

"(1) Each purchase order for securities of a mutual fund received by a participating dealer at a location that is not its principal office shall, on the day the order is received, be sent by same day or next day courier, same day or next day priority post, telephone or electronic means, without charge to the person or company placing the order or to the mutual fund, to the principal office of the participating dealer or a person or company providing services to the participating dealer.

(2) Each purchase order for securities of a mutual fund received by a participating dealer at its principal office, a person or company providing services to the participating dealer, or by the principal distributor of the mutual fund at a location that is not an order receipt office of the mutual fund shall, on the day the order is received, be sent by same day or next day courier, same day or next day priority post, telephone or electronic means, without charge to the person or company placing the order or to the mutual fund, to an order receipt office of the mutual fund."; and

(b) by repealing subsection (4) and substituting the following:

"(4) A participating dealer, a principal distributor or a person or company providing services to the participating dealer or principal distributor, that sends purchase orders electronically may

(a) specify a time on a business day by which a purchase order must be received in order that it be sent electronically on that business day; and

(b) despite subsections (1) and (2), send electronically on the next business day a purchase order received after the time specified under paragraph (a).".

10. Subsection 9.4(1) is repealed and the following is substituted:

"(1) A principal distributor, a participating dealer, or a person or company providing services to the principal distributor or participating dealer shall forward any cash received for payment of the issue price of securities of a mutual fund to an order receipt office of the mutual fund so that the cash arrives at the order receipt office as soon as practicable and in any event no later than the third business day after the pricing date.".

11. Section 10.2 is amended

(a) by repealing subsections (1) and (2) and substituting the following:

"(1) Each redemption order for securities of a mutual fund received by a participating dealer at a location that is not its principal office shall, on the day the order is received, be sent by same day or next day courier, same day or next day priority post, telephone or electronic means, without charge to the

relevant securityholder or to the mutual fund, to the principal office of the participating dealer or a person or company providing services to the participating dealer.

(2) Each redemption order for securities of a mutual fund received by a participating dealer at its principal office, by the principal distributor of the mutual fund at a location that is not an order receipt office of the mutual fund, or a person or company providing services to the participating dealer or principal distributor shall, on the day the order is received, be sent by same day or next day courier, same day or next day priority post, telephone or electronic means, without charge to the relevant securityholder or to the mutual fund, to an order receipt office of the mutual fund."; and

(b) by repealing subsection (4) and substituting the following:

"(4) A participating dealer, a principal distributor, or a person or company providing services to the participating dealer or principal distributor, that sends redemption orders electronically may

(a) specify a time on a business day by which a redemption order must be received in order that it be sent electronically on that business day; and

(b) despite subsections (1) and (2), send electronically on the next business day a redemption order received after the time specified under paragraph (a).".

12. Section 11.3 is repealed and the following is substituted:

"11.3 Trust Accounts – A principal distributor or participating dealer, or a person or company providing services to the principal distributor or participating dealer, that deposits cash into a trust account in accordance with section 11.1 or 11.2 shall

(a) advise, in writing, the financial institution with which the account is opened at the time of the opening of the account and annually thereafter, that

(i) the account is established for the purpose of holding client funds in trust,

(ii) the account is to be labelled by the financial institution as a "trust account",

(iii) the account is not to be accessed by any person other than authorized representatives of the principal distributor or participating dealer or of a person or company providing services to the principal distributor or participating dealer, and

(iv) the cash in the trust account may not be used to cover shortfalls in any accounts of the principal distributor or participating dealer, or of a person or company providing services to the principal distributor or participating dealer,

(b) ensure that the trust account bears interest at rates equivalent to comparable accounts of the financial institution; and

(c) ensure that any charges against the trust account are not paid or reimbursed out of the trust account.".

13. Subsection 11.4(1) is repealed and the following is substituted:

"(1) Sections 11.1 and 11.2 do not apply to members of the Investment Dealers Association of Canada.".

14. Subsection 12.1(4) is repealed and the following is substituted:

"(4) Subsection (3) does not apply to members of the Investment Dealers Association of Canada.".

15. Section 13.1 is amended by adding the following after subsection (1):

"(1.1) A mutual fund that holds securities of other mutual funds must have dates for the calculation of net asset value that are compatible with those of the other mutual funds.".

16. The following is added after section 19.2:

"19.3 Revocation of exemptions

(1) A mutual fund that has obtained an exemption or waiver from, or approval under, National Policy Statement No. 39 or this Instrument before December 31, 2003, that relates to a mutual fund investing in other mutual funds, may no longer rely on the exemption, waiver or approval as of December 31, 2004;

(2) In British Columbia, subsection (1) does not apply.".

17. This Instrument comes into force on December 31, 2003.

COMPANION POLICY 81-102CP
MUTUAL FUNDS AMENDMENT INSTRUMENT

1. Companion Policy 81-102CP is amended by this Instrument.

2. Section 3.4 is repealed and the following is substituted:

"3.4 Investment in Other Mutual Funds

Paragraph 2.5(2)(c) of the Instrument provides that a mutual fund may not invest in another mutual fund unless the securities of both mutual funds are qualified for distribution in the local jurisdiction. This requirement does not however preclude an investment by a mutual fund in an unqualified class or series of another mutual fund, provided this class or series is referable to the same portfolio of assets of a class or series that is qualified in the local jurisdiction."

3. Section 6.3 is amended by renumbering the existing section as subsection (1) and adding the following as subsection (2):

"(2) The CSA are of the view that the requirement of subsection 5.1(a) would not apply in instances where the change to the basis of the calculation is the result of separate individual agreements between the manager of the mutual fund and individual securityholders of the mutual fund, and the resulting increase in charges is payable directly or indirectly by those individual securityholders only."

4. Section 16.2 is amended by adding the following after subsection (2):

"(3) The CSA are of the view that the new provisions of the Instrument relating to mutual funds investing in other mutual funds introduced on December 31, 2003 are not "substantially similar" to those of the Instrument which they replace."

5. Section 16.3 is amended by renumbering the existing section as subsection (1) and adding the following as subsection (2)

"(2) For greater certainty, note that the coming into force of National Instrument 81-102 did not trigger the "sunset" of those waivers and orders. However, the coming into force of section 19.3 of the Instrument will effectively cause those waivers and orders to expire one year after its coming into force."

6. This amendment comes into force on December 31, 2003.

5.1.2 National Instrument 81-101 Mutual Fund Prospectus Disclosure, Form 81-101F1 Contents of Simplified Prospectus and Form 81-101F2 Contents of Annual Information Form - Amendment Instrument

NATIONAL INSTRUMENT 81-101
MUTUAL FUND PROSPECTUS DISCLOSURE,
FORM 81-101F1 CONTENTS OF SIMPLIFIED PROSPECTUS
AND FORM 81-101F2 CONTENTS OF ANNUAL INFORMATION FORM
AMENDMENT INSTRUMENT

1. National Instrument 81-101 Mutual Fund Prospectus Disclosure is amended by this Instrument.

2. Form 81-101F1 Contents of Simplified Prospectus is amended

(a) by adding the following after subsection (4) of Item 5 of Part A:

"(4.1) If a mutual fund holds, in accordance with section 2.5 of National Instrument 81-102 Mutual Funds, securities of another mutual fund that is managed by the same manager or an affiliate or associate of the manager, disclose

(a) that the securities of the other mutual fund held by the mutual fund will not be voted; and

(b) if applicable, that the manager may arrange for the securities of the other mutual fund to be voted by the beneficial holders of the securities of the mutual fund.";

(b) by adding the following after subsection (1) of section 8.1 of Item 8 of Part A:

"(1.1) If the mutual fund holds securities of other mutual funds, disclose that with respect to securities of another mutual fund

(a) there are fees and expenses payable by the other mutual fund in addition to the fees and expenses payable by the mutual fund;

(b) no management fees or incentive fees are payable by the mutual fund that, to a reasonable person, would duplicate a fee payable by the other mutual fund for the same service;

(c) no sales fees or redemption fees are payable by the mutual fund in relation to its purchases or redemptions of the securities of the other mutual fund if the other mutual fund is managed by the manager or an affiliate or associate of the manager of the mutual fund; and

(d) no sales fees or redemption fees are payable by the mutual fund in relation to its purchases or redemptions of securities of the other mutual fund that, to a reasonable person, would duplicate a fee payable by an investor in the mutual fund.";

(c) by adding the following after subsection (4) of Item 4 of Part B:

"(4.1) If a mutual fund holds in accordance with section 2.5 of National Instrument 81-102 Mutual Funds securities of another mutual fund that is managed by the same manager or an affiliate or associate of the manager, disclose that

(a) the securities of the other mutual fund held by the mutual fund shall not be voted; and

(b) if applicable, that the manager may arrange for the securities of the other mutual fund to be voted by the beneficial holders of the securities of the mutual fund.";

(d) in Item 6 of Part B

(i) by repealing paragraphs (5) (c) and (d);

(ii) by repealing subsection (1) of the instructions and substituting the following:

"(1) State the type or types of securities, such as money market instruments, bonds, equity securities or securities of another mutual fund, in which the mutual fund will primarily invest under normal market conditions." ;

(e) in Item 7 of Part B

(i) by adding the following after subsection (1)(b) :

"(c) if the mutual fund may hold other mutual funds,

(i) whether the mutual fund intends to purchase securities of, or enter into specified derivative transactions for which the underlying interest is based on the securities of, other mutual funds;

(ii) whether or not the other mutual funds may be managed by the manager or an affiliate or associate of the manager of the mutual fund;

(iii) what percentage of net assets of the mutual fund is dedicated to the investment in the securities of, or the entering into of specified derivative transactions for which the underlying interest is based on the securities of, other mutual funds; and

(iv) the process or criteria used to select the other mutual funds."; and

(ii) by adding the following after subsection (8):

"(9) For an index mutual fund,

(a) for the 12 month period immediately preceding the date of the simplified prospectus,

(i) indicate whether one or more securities represented more than 10 percent of the permitted index or permitted indices;

(ii) identify that security or those securities; and

(iii) disclose the maximum percentage of the permitted index or permitted indices that the security or securities represented in the 12 month period," and

(b) disclose the maximum percentage of the permitted index or permitted indices that the security or securities referred to in paragraph (a) represented at the most recent date for which that information is available.";

(f) in Item 8 of Part B

(i) by designating the existing paragraph as subsection "(1)"; and

(ii) by adding the following subsections:

"(2) If a mutual fund holds substantially all of its assets directly or indirectly (through the use of specified derivatives) in securities of another mutual fund,

(a) list only the ten largest holdings of the other mutual fund by percentage of net assets of the other mutual fund, as disclosed as at a date within 30 days of the date of the simplified prospectus of the mutual fund;

(b) provide a statement to the effect that the information contained in the list may change due to the ongoing portfolio transactions of the other mutual fund; and

(c) state how more current information may be obtained by investors, if available.

(3) If the mutual fund holds securities of other mutual funds, a statement must be made to the effect that the simplified prospectus and other information about the other mutual funds are available on the internet at www.sedar.com.";

(g) by adding the following after subsection (1) of Item 9 of Part B:

"(1.1) If more than 10% of the securities of a mutual fund are held by a securityholder, including another mutual fund, the mutual fund must disclose

(a) the percentage of securities held by the securityholder as at a date within 30 days of the date of the simplified prospectus of the mutual fund, and

(b) the risks associated with a possible redemption requested by the securityholder.

(1.2) If the mutual fund may hold securities of a foreign mutual fund in accordance with subsection 2.5(3)(b) of National Instrument 81-102 Mutual Funds, disclose the risks associated with that investment."; and

(h) by adding the following after subsection (8) of section 13.1 of Item 13 of Part B:

"(9) If the mutual fund is the result of the reorganization with, or the acquisition of assets from, one or more mutual funds, include in the table only the financial information of the continuing mutual fund.".

3. Form 81-101F2 Contents of Annual Information Form is amended by adding the following after subsection (5) of Item 12:

"(6) If the mutual fund held securities of other mutual funds during the year, provide details on how the manager of the mutual fund exercised its discretion with regard to the voting rights attached to the securities of the other mutual funds when the securityholders of the other mutual funds were called upon to vote.".

4. This Instrument comes into force on December 31, 2003.

5.1.3 Notice of Rule - National Instrument 52-107 Acceptable Accounting Principles, Auditing Standards and Reporting Currency - Amendments to National Policy No. 27 Canadian Generally Accepted Accounting Principle and Amendments of National Policy No. 50 Reservations in an Auditor's Report

NOTICE OF RULE

NATIONAL INSTRUMENT 52-107 *ACCEPTABLE ACCOUNTING PRINCIPLES, AUDITING STANDARDS AND REPORTING CURRENCY*

AMENDMENTS TO NATIONAL POLICY NO. 27 *CANADIAN GENERALLY ACCEPTED ACCOUNTING PRINCIPLE*

AND

AMENDMENTS OF NATIONAL POLICY NO. 50 *RESERVATIONS IN AN AUDITOR'S REPORT*

Introduction

National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency* (the Instrument) is an initiative of the Canadian Securities Administrators (CSA or we). The Instrument establishes a harmonized set of accounting principles and auditing standards that will be acceptable for purposes of preparing and auditing financial statements included in documents filed with securities regulators in Canada. Companion Policy 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency* (the Policy) provides guidance on how we interpret the Instrument.

The Instrument has been implemented or, subject to ministerial approval in certain jurisdictions is expected to be implemented, by each member of the CSA, as a

- rule in each of Alberta, British Columbia, Manitoba, Ontario and Nova Scotia;
- a regulation in Québec and Saskatchewan; and
- a policy in all other jurisdictions represented by the CSA.

We also expect the Policy will be adopted in all jurisdictions.

The British Columbia Securities Commission (the BCSC) intends to publish the Instrument and the Policy once the BCSC has implemented the Instrument, which is subject to obtaining the requisite ministerial approval.

In Ontario, the Instrument has been made. Also, in Ontario, the Policy and the amendments to National Policies 27 and 50 described below have been adopted. The Instrument and other required materials were delivered to the Minister of Finance on January 14, 2004. The Minister may approve or reject the Instrument or return it for further consideration. If the Minster approves them or does not take any further action they will come into force on March 30, 2004.

In Québec, the Instrument is a regulation made under section 331.1 of the Act and must be approved, with or without amendment, by the Minister of Finance. The Instrument will come into force on the date of its publication in the Gazette officielle du Québec or on any later date specified in the regulation. It must also be published in the Bulletin.

Provided all necessary ministerial approvals are obtained, the Instrument will come into force on March 30, 2004. The Policy and the amendments to National Policies 27 and 50 will come into effect at the same time as the Instrument.

Substance and Purpose

The Instrument sets out the accounting principles that issuers (other than investment funds) and registrants may use to prepare their financial statements and the auditing standards that may be applied to audit those financial statements. These same principles and standards apply to financial statements

- included in a prospectus,
- filed in connection with continuous disclosure obligations, or
- otherwise required to be filed with or, in the case or registrants, delivered to a securities regulatory authority.

The Policy states our views on the interpretation and application of the Instrument.

Background

We first published proposed rules relating to acceptable accounting principles and auditing standards when we first published for comment National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102) and National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers* (NI 71-102). We subsequently decided to propose that the rules related to accounting principles and auditing standards be in a separate instrument, which was published for comment on May 16, 2003. The CSA Notice published with the proposed Instrument provides additional background and a summary of comments received when the rules were first published as part of the NI 51-102 and NI 71-102 proposals.

Summary of Written Comments Received by the CSA

After we published the proposed Instrument on May 16, 2003, we received submissions from three commenters. We have considered the comments received and thank all the commenters. The names of all the commenters and a summary of their comments, together with the CSA responses, are contained in Appendix A of this notice.

After considering the comments, and to ensure consistency between the Instrument and other CSA instruments, we have made amendments to the Instrument. However, as these changes are not material, we are not republishing the Instrument for a further comment period.

Summary of Changes to the Instrument

This section describes the noteworthy changes made to the version of the Instrument published for comment on May 16, 2003

The Instrument

Part 1 Definitions

- The definition of *equity security* has been deleted. This term is defined in National Instrument 14-101 *Definitions*.
- The definition of *Canadian GAAP* has been deleted. This term is defined in National Instrument 14-101 *Definitions*. The requirement to apply Canadian GAAP as applicable to public enterprises has been moved into the body of the Instrument.
- We have deleted the definitions of *group scholarship plan, National Instrument 41-102, National Instrument 44-101, National Instrument 44-102 and National Instrument 44-103* as these terms are no longer used in the Instrument.
- We added a definition for *credit support issuer*, *credit supporter* and *public enterprise*.
- We amended the definition of *acquisition statement* to include operating statements for an oil and gas property.

Part 2 Application

- We clarified that the Instrument does not apply to investment funds.
- We have clarified that the Instrument applies to financial statements included in take-over bid circulars filed. These financial statements were already subject to the Instrument as the offeror is required to provide “prospectus-level” disclosure in the circular but the change makes this explicit.
- We have clarified that the Instrument applies to the following: operating statements for an oil and gas property, financial information of an acquired business accounted for by the issuer using the equity method and financial information filed by a credit support issuer.

Part 3 General Rules

- We removed the requirement that an issuer or registrant have a Canadian auditor if their financial statements were prepared using Canadian GAAP and audited using Canadian GAAS.
- We added a section to clarify that when a credit support issuer files or includes in a prospectus financial information derived from its consolidated financial statements the financial statements must:
    - be prepared in accordance with Canadian GAAP,
    - in the case of annual financial statements, be audited in accordance with Canadian GAAS, and

- disclose the reporting currency,
- disclose the measurement currency if it differs from the reporting currency.

Part 6 Requirements for Acquisition Statements

- We added a requirement that Canadian GAAS acquisition statements cannot contain a reservation except for a qualification of opinion on opening inventory balances.
- We clarified that the same options for GAAS, GAAP and reporting currency are available when financial information, as opposed to financial statements, is provided for an investment accounted for using the equity method.

Part 7 Pro Forma Financial Statements

- We added a requirement that, if an issuer or registrant chooses to report under U.S. GAAP and reconciles its financial statements to Canadian GAAP, it will also be required to reconcile its pro forma financial statements reported under U.S. GAAP to Canadian GAAP.

The Policy

Part 1 General

- We reminded issuers and registrants that they may be subject to corporate law or other legal requirements that address matters similar to those addressed by the Instrument and which may impose additional or more onerous requirements.

Part 3 Acceptable Accounting Principles and Auditing Standards

- We indicated that whenever financial information is disclosed to the marketplace, the accounting principles used to prepare the financial information should be disclosed.
- We provided guidance on how to interpret the phrase “same core subject matter”.

Part 4 Auditors and Their Reports

- We indicated that we would normally expect issuers and registrants incorporated or organized under the laws of Canada or a jurisdiction of Canada and any other issuer or registrant that is not a foreign issuer nor a foreign registrant, to engage a Canadian auditor to audit the issuer’s or registrant’s financial statements if those statements are prepared in accordance with Canadian GAAP and will be audited in accordance with Canadian GAAS.
- We provided guidance to non-Canadian auditors auditing financial statements in accordance with Canadian GAAS and prepared by the issuer or registrant in accordance with Canadian GAAP.

Consequential amendments

The requirements in the Instrument conflict with requirements in National Instrument 44-101 *Short Form Prospectus Distributions*, National Instrument 44-102 *Shelf Distributions*, National Instrument 44-103 *Post-Receipt Pricing* and various local rules relating to long-form prospectuses. We intend to amend those instruments and rules to eliminate these conflicts. Until those amendments are implemented, issuers may apply for relief from the conflicting requirements in the instruments and rules when they file their prospectuses so that they can rely on the Instrument, and staff will favourably consider such an application.

We indicated in our notice of May 16, 2003 that National Policy No. 27 *Canadian Generally Accepted Accounting Principles* and National Policy No. 50 *Reservations in an Auditor’s Report* would be rescinded. However, these national policies will continue to apply to reporting issuers that are investment funds and therefore we have amended these documents accordingly. CSA Staff Notice 42-301 and 52-302 *Dual Reporting of Financial Information* will be rescinded as planned.

We will consider rescinding National Policy No. 3 *Unacceptable Auditors* or moving its contents into the Policy after considering the new auditor independence standards developed by the Canadian Institute of Chartered Accountants.

Questions

Please refer your questions to any of:

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National Instrument

The text of the Instrument follows.

January 16, 2004.

Appendix A
Summary of Comments and CSA Responses

Part I Background

On May 16 2003 the CSA published for comment the Instrument. The comment period expired on August 14, 2003. The CSA received submissions relating to the Instrument from the three commenters identified in Schedule 1.

The CSA have considered the comments received and thank all commenters for providing their comments.

Part II Comments on the Instrument

General

One commenter supported the implementation of NI 52-107, however, noted that implementing the Instrument may negatively affect the establishment and maintenance of accounting standards that reflect the characteristics of smaller issuers due to the potential drain of resources from servicing these smaller issuers.

No response required.

Part 1 – Definitions

One commenter questioned, in the definition of *eligible foreign issuer* and *eligible foreign registrant,*

- what are the assets or business of a holding entity that has subsidiaries or investees
- how one determines the location of securities
- if the 50% asset test is to be based on book or estimated market value.

The commenter also suggested the term *senior officer*, rather than *executive officer*, should be used in the definition, as it is less broad.

Response: The definitions of eligible foreign issuer and eligible foreign registrant *[now foreign* issuer and foreign registrant, respectively*] have been revised to clarify that it is the consolidated assets of the issuer that must be considered when applying the definition. An issuer must consider its specific circumstances in determining the location of its assets. For example, if an issuer holds securities in another company, and the investment is accounted for by the cost method, or is marked to market, the issuer may consider the location of the other company's head office for the purpose of determining the location of that investment.*

We have not replaced the reference to executive officer *in the definition with* senior officer*. The definition is intended to test whether the reporting issuer is carrying on business predominantly outside of Canada. Part of this is ensuring that the issuer's decisions are being made, and operations directed, from outside of Canada. As a result, it is the location of the chair, vice-chair, president, vice-president, and other people performing policy-making functions, that is relevant, not the location of the issuer's five highest paid employees.*

One commenter said the definition of *equity security* should not include securities that have a residual right to participate in earnings. Instead, it should be limited to a security that carries a residual right to participate in the assets of an issuer on the liquidation or winding-up of the reporting issuer.

Response: We have deleted the definition of equity security *in the Instrument as the term is already defined in National Instrument 14-101* Definitions*. That definition refers back to the definition of equity security in securities legislation. It would not be appropriate to change that definition, which has been used for many purposes in many different national and multilateral instruments, in this Rule.*

One commenter noted the definition of *exchange-traded security*

- excludes all foreign-listed or quoted securities,
- in provinces other than Ontario, appears to exclude TSX listed securities, and,
- in Ontario, excludes TSX Venture listed securities.

Response: The term is only used in the definition of marketplace. As the definition of marketplace also encompasses exchanges and quotation systems, regardless of where they are located, the limitations to the definition of exchange-traded security suggested by the commenter are irrelevant.

One commenter suggested paragraphs (e) or (f) of the definition of *executive officer* may be over-broad, as there could be a large number of policy-making personnel (for example, in respect of the privacy policy, or the environmental policy) that should not be considered "executive officers". The terms *senior officer* or *officer* would be more appropriate.

Response: We disagree. The definition of executive officer is designed to capture persons that are directing the operations of the reporting issuer and making its significant decisions. This includes the people responsible for approving a policy direction and ensuring the policy is implemented and followed (that is, the making of the policy for the issuer). This group is distinct from those personnel that simply develop the policies for consideration. Given this distinction, we do not agree that the definition is too broad.

Part 2 – Application

One commenter indicated it was not clear whether prospectuses of non-redeemable investment funds were to be exempted or not from the instrument.

Response: *We have modified the wording to clarify that prospectuses of non-redeemable investment funds are exempted from the instrument.*

One commenter indicated it was unclear why financial statements would be required of foreign registrants given the place of incorporation limits imposed by the IDA and the OSC.

Response: The Instrument was written to allow future changes to incorporation limits without the instrument being amended.

Part 3– General Rules

One commenter suggested that the instrument might preclude changes in principles under a specific form of GAAP.

Response: The instrument requires consistent principles (Canadian GAAP, U.S. GAAP, etc). Changes in accounting policies within the specific accounting principles are acceptable.

One commenter suggested that it was inappropriate to require issuers and registrants that prepare their financial statements in accordance with Canadian GAAP and have them audited in accordance with Canadian GAAS to use auditors licensed by the laws and professional standards of a jurisdiction of Canada. The commenter indicated licensing issues might preclude a Canadian auditor from conducting the audit in certain states in the United States. The commenter noted that the SEC does not preclude Canadian auditors from opining in accordance with U.S. GAAS on financial statements prepared in U.S. GAAP.

Response: We have eliminated the requirement that a Canadian auditor must report on financial statement prepared in accordance with Canadian GAAP and audited in accordance with Canadian GAAS. We have expanded the Policy to indicate that, if a foreign auditor is reporting on financial statements prepared in accordance with Canadian GAAP and audited in accordance with Canadian GAAS, that the foreign auditor should consult or involve an auditor that is knowledgeable about Canadian GAAP and Canadian GAAS.

Part 4 – Exemptions for SEC Issuers

One commenter indicated it was not clear whether an issuer that prepares its financial statements for continuous disclosure purposes in accordance with U.S. GAAP and has them audited in accordance with U.S. GAAS, and previously had been granted relief from the current rules to do so, would still be required to comply with the two year reconciliation requirement.

Response: If an SEC issuer or registrant had been granted relief more than two years ago from the current rules to file in accordance with U.S. GAAP and audit in accordance with U.S. GAAS, it would not be required to comply with the two year reconciliation requirement.

Part 5 – Exemptions for Eligible Foreign Issuers

One commenter suggested that foreign issuers should not be required to provide any more detail than is required today as the additional requirements may discourage foreign issuers from coming to Canada.

Response: Foreign issuers are given extensive flexibility in determining how to meet their reporting obligations to the public. We felt it was important to have consistency between reporting in prospectuses and on a continuous basis for foreign issuers.

Part 6 – Requirements for Acquisitions Statements

One commenter suggested that the requirement to prepare an audited balance sheet as at a date other than a financial year-end might be too onerous for venture issuers. The commenter indicated it was unclear whether Ontario issuers will be able to take advantage of the mutual reliance system to obtain exemptions.

Response: Exemptions will be considered on a case-by-case basis based on the facts and circumstances. Issuers can take full advantage of the mutual reliance system as detailed in National Policy 12-201 Mutual Reliance Review System for Exemptive Relief Applications.

One commenter suggested that it should be clear that the qualification relating to inventory in a business acquisition report cannot be a denial of opinion under generally accepted auditing standards.

Response: We modified the wording to clarify that an opinion is required.

Part 7 – Pro Forma Financial Statements

One commenter indicated it was not clear whether a Canadian issuer who chose to report under U.S. GAAP and was reconciling its financial statements to Canadian GAAP as required by subsection 4.1(2) (now 4.1(1)) would be required to reconcile pro forma financial statements under U.S. GAAP to Canadian GAAP.

Response: The CSA has amended the wording to clarify that the issuer would be required to provide a reconciliation with the pro forma financial statements.

Schedule 1
List of Commenters

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5.1.4 National Instrument 52-107 Acceptable Accounting Principles, Auditing Standards and Reporting Currency

NATIONAL INSTRUMENT 52-107
ACCEPTABLE ACCOUNTING PRINCIPLES, AUDITING STANDARDS AND REPORTING CURRENCY

NATIONAL INSTRUMENT 52-107
ACCEPTABLE ACCOUNTING PRINCIPLES, AUDITING STANDARDS AND REPORTING CURRENCY

PART 1
DEFINITIONS AND INTERPRETATION

1.1 Definitions – In this Instrument:

"accounting principles" mean a body of accounting principles that are generally accepted in a jurisdiction of Canada or a foreign jurisdiction and include, without limitation, Canadian GAAP, U.S. GAAP and International Financial Reporting Standards;

"acquisition statements" means the financial statements of an acquired business or a business to be acquired, or operating statements for an oil and gas property that is an acquired business or a business to be acquired, that are required to be filed under National Instrument 51-102 or that are included in a prospectus;

"auditing standards" mean a body of auditing standards that are generally accepted in a jurisdiction of Canada or a foreign jurisdiction and include, without limitation, Canadian GAAS, U.S. GAAS and International Standards on Auditing;

"business acquisition report" means a completed Form 51-102F4 *Business Acquisition Report*;

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

"credit support issuer" means an issuer of securities for which a credit supporter has provided a guarantee;

"credit supporter" means a person or company that provides a guarantee for any of the payments to be made by an issuer of securities as stipulated in the terms of the securities or in an agreement governing rights of, or granting rights to, holders of the securities;

"designated foreign issuer" means a foreign issuer

(a) that does not have a class of securities registered under section 12 of the 1934 Act and is not required to file reports under section 15(d) of the 1934 Act,

(b) that is subject to foreign disclosure requirements, and

(c) for which the total number of equity securities owned, directly or indirectly, by residents of Canada does not exceed ten per cent, on a fully-diluted basis, of the total number of equity securities of the issuer, calculated in accordance with sections 1.2 and 1.3;

"designated foreign jurisdiction" means Australia, France, Germany, Hong Kong, Italy, Japan, Mexico, the Netherlands, New Zealand, Singapore, South Africa, Spain, Sweden, Switzerland or the United Kingdom of Great Britain and Northern Ireland;

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

"exchange-traded security" means a security that is listed on a recognized exchange or is quoted on a recognized quotation and trade reporting system or is listed on an exchange or quoted on a quotation and trade reporting system that is recognized for the purposes of National Instrument 21-101 *Marketplace Operation* and National Instrument 23-101 *Trading Rules*;

"executive officer" with respect to a person or company means an individual who is

(a) a chair of the person or company,

(b) a vice-chair of the person or company,

(c) the president of the person or company,

(d) a vice-president of the person or company in charge of a principal business unit, division or function including sales, finance or production,

(e) an officer of the person or company or any of its subsidiaries who performed a policy-making function in respect of the person or company, or

(f) any other individual who performed a policy-making function in respect of the person or company;

"foreign disclosure requirements" means the requirements to which a foreign issuer is subject concerning disclosure made to the public, to securityholders of the issuer, or to a foreign regulatory authority

(a) relating to the foreign issuer and the trading in its securities, and

(b) that is made publicly available in the foreign jurisdiction under

(i) the securities laws of the foreign jurisdiction in which the principal trading market of the foreign issuer is located, or

(ii) the rules of the marketplace that is the principal trading market of the foreign issuer;

"foreign issuer" means an issuer, other than an investment fund, that is incorporated or organized under the laws of a foreign jurisdiction, unless

(a) outstanding voting securities of the issuer carrying more than 50 per cent of the votes for the election of directors are owned, directly or indirectly, by residents of Canada, and

(b) any of the following apply:

(i) the majority of the executive officers or directors of the issuer are residents of Canada;

(ii) more than 50 per cent of the consolidated assets of the issuer are located in Canada; or

(iii) the business of the issuer is administered principally in Canada;

"foreign registrant" means a registrant that is incorporated or organized under the laws of a foreign jurisdiction , except a registrant that satisfies the following conditions:

(a) outstanding voting securities of the registrant carrying more than 50 per cent of the votes for the election of directors are owned, directly or indirectly, by residents of Canada; and

(b) any of the following apply:

(i) the majority of the executive officers or directors of the registrant are residents of Canada;

(ii) more than 50 per cent of the consolidated assets of the registrant are located in Canada; or

(iii) the business of the registrant is administered principally in Canada;

"foreign regulatory authority" means a securities commission, exchange or other securities market regulatory authority in a designated foreign jurisdiction;

"inter-dealer bond broker" means a person or company that is approved by the Investment Dealers Association under IDA By-Law No. 36 *Inter-Dealer Bond Brokerage System*s, as amended, and is subject to IDA By-Law No. 36 and IDA Regulation 2100 *Inter-Dealer Bond Brokerage System*s, as amended;

"investment fund" means a mutual fund or a non-redeemable investment fund;

"issuer's GAAP" means the accounting principles used to prepare an issuer's financial statements, as permitted by this Instrument;

"marketplace" means

(a) an exchange,

(b) a quotation and trade reporting system,

(c) a person or company not included in paragraph (a) or (b) that

(i) constitutes, maintains or provides a market or facility for bringing together buyers and sellers of securities,

(ii) brings together the orders for securities of multiple buyers and sellers, and

(iii) uses established, non-discretionary methods under which the orders interact with each other, and the buyers and sellers entering the orders agree to the terms of a trade, or

(d) a dealer that executes a trade of an exchange-traded security outside of a marketplace,

but does not include an inter-dealer bond broker;

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

"National Instrument 51-102" means National Instrument 51-102 *Continuous Disclosure Obligations*;

"National Instrument 71-102" means National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers;*

"non-redeemable investment fund" means any issuer

(a) where contributions of security holders are pooled for investment,

(b) where security holders do not have day-to-day control over the management and investment decisions of the issuer, whether or not they have the right to be consulted or to give directions, and

(c) whose securities do not entitle the security holder to receive on demand, or within a specified period after demand, an amount computed by reference to the value of a proportionate interest in the whole or in part of the net assets of the issuer;

"principal trading market" means the published market on which the largest trading volume in the equity securities of the issuer occurred during the issuer's most recently completed financial year that ended before the date the determination is being made;

"public enterprise" means a public enterprise determined with reference to the Handbook;

"published market" means, for a class of securities, a marketplace on which the securities have traded that discloses, regularly in a publication of general and regular paid circulation or in a form that is broadly distributed by electronic means, the prices at which those securities have traded;

"recognized exchange" means

(a) in Ontario, an exchange recognized by the securities regulatory authority to carry on business as a stock exchange, and

(b) in every other jurisdiction of Canada, an exchange recognized by the securities regulatory authority as an exchange, self-regulatory organization or self-regulatory body;

"recognized quotation and trade reporting system" means

(a) in every jurisdiction of Canada other than British Columbia, a quotation and trade reporting system recognized by the securities regulatory authority under securities legislation to carry on business as a quotation and trade reporting system, and

(b) in British Columbia, a quotation and trade reporting system recognized by the securities regulatory authority under securities legislation as a quotation and trade reporting system or as an exchange;

"SEC issuer" means an issuer that

(a) has a class of securities registered under section 12 of the 1934 Act or is required to file reports under section 15(d) of the 1934 Act, and

(b) is not registered or required to be registered as an investment company under the *Investment Company Act* of 1940 of the United States of America, as amended;

"SEC foreign issuer" means a foreign issuer that is also an SEC issuer;

"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;

"U.S. GAAP" means generally accepted accounting principles in the United States of America that the SEC has identified as having substantial authoritative support, as supplemented by Regulation S-X and Regulation S-B under the 1934 Act; and

"U.S. GAAS" means generally accepted auditing standards in the United States of America, as supplemented by the SEC's rules on auditor independence.

1.2 Determination of Canadian Shareholders for Calculation of Designated Foreign Issuer and Foreign Issuer –

(1) For the purposes of paragraph (c) of the definition of "designated foreign issuer" and paragraph 5.1(c), a reference to equity securities owned, directly or indirectly, by residents of Canada, includes

(a) the underlying securities that are equity securities of the foreign issuer; and

(b) the equity securities of the foreign issuer represented by an American depositary receipt or an American depositary share issued by a depositary holding equity securities of the foreign issuer.

(2) For the purposes of paragraph (a) of the definition of "foreign issuer", securities represented by American depositary receipts or American depositary shares issued by a depositary holding voting securities of the foreign issuer must be included as outstanding in determining both the number of votes attached to securities owned, directly or indirectly, by residents of Canada and the number of votes attached to all of the issuer's outstanding voting securities.

1.3 Timing for Calculation of Designated Foreign Issuer, Foreign Issuer and Foreign Registrant – For the purposes of paragraph (c) of the definition of "designated foreign issuer" , paragraph (a) of the definition of " foreign issuer" and paragraph (a) of the definition of "foreign registrant", the calculation is made

(a) if the issuer has not completed one financial year, on the earlier of

(i) the date that is 90 days before the date of its prospectus, and

(ii) the date that it became a reporting issuer; and

(b) for all other issuers and for registrants, on the first day of the most recent financial year or year-to-date interim period for which operating results are presented in the financial statements filed or included in the issuer's prospectus.

1.4 Interpretation

(1) **Interpretation of "prospectus"** – For the purposes of this Instrument, a reference to "prospectus" includes a preliminary prospectus, a prospectus, an amendment to a preliminary prospectus and an amendment to a prospectus.

(2) **Interpretation of "included"** – For the purposes of this Instrument, a reference to information being "included in" another document means information reproduced in the document or incorporated into the document by reference.

PART 2
APPLICATION

2.1 Application –

(1) This Instrument does not apply to investment funds.

(2) This Instrument applies to

(a) all annual and interim financial statements delivered by registrants to the securities regulatory authority,

(b) all annual, interim and *pro forma* financial statements filed, or included in a document that is filed, under National Instrument 51-102 or National Instrument 71-102,

(c) all annual, interim and *pro forma* financial statements included in a prospectus or a take-overbid circular filed, or included in a document that is filed,

(d) any operating statements for an oil and gas property that is an acquired business or a business to be acquired, that are filed under National Instrument 51-102 or that are included in a prospectus or a take-over bid circular filed, or included in a document that is filed,

(e) any other annual, interim or *pro forma* financial statement filed by a reporting issuer, and

(f) financial information that is filed under National Instrument 51-102 or that is included in a prospectus or a take-over bid circular filed, or included in a document that is filed, that is

(i) derived from a credit support issuer's consolidated financial statements, or

(ii) summarized financial information as to the assets, liabilities and results of operations of a business relating to an acquisition that is, or will be, an investment accounted for by the issuer using the equity method.

PART 3
GENERAL RULES

3.1 Acceptable Accounting Principles –

(1) Financial statements, other than acquisition statements, must be prepared in accordance with Canadian GAAP as applicable to public enterprises.

(2) Financial statements must be prepared in accordance with the same accounting principles for all periods presented in the financial statements.

(3) The notes to the financial statements must identify the accounting principles used to prepare the financial statements.

3.2 Acceptable Auditing Standards – Financial statements, other than acquisition statements, that are required by securities legislation to be audited must be audited in accordance with Canadian GAAS and be accompanied by an auditor's report that

(a) does not contain a reservation;

(b) identifies all financial periods presented for which the auditor has issued an auditor's report;

(c) refers to the former auditor's reports on the comparative periods, if the issuer or registrant has changed its auditor and one or more of the comparative periods presented in the financial statements were audited by a different auditor; and

(d) identifies the auditing standards used to conduct the audit and the accounting principles used to prepare the financial statements.

3.3 Acceptable Auditors –

An auditor's report filed by an issuer or registrant must be prepared and signed by a person or company that is authorized to sign an auditor's report by the laws of a jurisdiction of Canada or a foreign jurisdiction, and that meets the professional standards of that jurisdiction.

3.4 Measurement and Reporting Currencies –

(1) The reporting currency must be disclosed on the face page of the financial statements or in the notes to the financial statements unless the financial statements are prepared in accordance with Canadian GAAP and the reporting currency is the Canadian dollar.

(2) The notes to the financial statements must disclose the measurement currency if it is different than the reporting currency.

3.5 Financial Information Derived from a Credit Support Issuer's Consolidated Financial Statements –

If a credit support issuer files, or includes in a prospectus, financial information derived from the credit support issuer's consolidated financial statements,

(a) the credit support issuer's consolidated financial statements must be prepared in accordance with Canadian GAAP as applicable to public enterprises for all periods presented in the financial statements and in the case of annual audited consolidated financial statements,

(i) be audited in accordance with Canadian GAAS and

(ii) be accompanied by an auditor's report that

(A) does not contain a reservation, and

(B) is prepared and signed by a person or company that is authorized to sign an auditor's report by the laws of a jurisdiction of Canada or a foreign jurisdiction, and that meets the professional standards of that jurisdiction;

(b) the financial information must disclose that the credit support issuer's consolidated financial statements from which the financial information is derived were prepared in accordance with Canadian GAAP as applicable to public enterprises; and

(c) the financial information must disclose the reporting currency for the financial information, and disclose the measurement currency if it is different than the reporting currency.

PART 4
EXEMPTIONS FOR SEC ISSUERS

4.1 Acceptable Accounting Principles for SEC Issuers –

(1) Despite subsections 3.1(1) and 3.1(2), financial statements filed by an SEC issuer, other than acquisition statements, may be prepared in accordance with U.S. GAAP provided that, if the SEC issuer previously filed or included in a prospectus financial statements prepared in accordance with Canadian GAAP, the SEC issuer complies with the following:

(a) the notes to the first two sets of the issuer's annual financial statements after the change from Canadian GAAP to U.S. GAAP and the notes to the issuer's interim financial statements for interim periods during those two years

(i) explain the material differences between Canadian GAAP as applicable to public enterprises and U.S. GAAP that relate to recognition, measurement and presentation;

(ii) quantify the effect of material differences between Canadian GAAP as applicable to public enterprises and U.S. GAAP that relate to recognition, measurement and presentation, including a tabular reconciliation between net income reported in the financial statements and net income computed in accordance with Canadian GAAP as applicable to public enterprises; and

(iii) provide disclosure consistent with disclosure requirements of Canadian GAAP as applicable to public enterprises to the extent not already reflected in the financial statements;

(b) financial information for any comparative periods that were previously reported in accordance with Canadian GAAP are presented as follows:

(i) as previously reported in accordance with Canadian GAAP;

(ii) as restated and presented in accordance with U.S. GAAP; and

(iii) supported by an accompanying note that

(A) explains the material differences between Canadian GAAP and U.S. GAAP that relate to recognition, measurement and presentation; and

(B) quantifies the effect of material differences between Canadian GAAP and U.S. GAAP that relate to recognition, measurement and presentation, including a tabular reconciliation between net income as previously reported in the financial statements in accordance with Canadian GAAP and net income as restated and presented in accordance with U.S. GAAP; and

(c) if the SEC issuer has filed financial statements prepared in accordance with Canadian GAAP for one or more interim periods of the current year, those interim financial statements are restated in accordance with U.S. GAAP and comply with paragraphs (a) and (b).

(2) The comparative information specified in subparagraph 4.1(1)(b)(i) may be presented on the face of the balance sheet and statements of income and cash flow or in the note to the financial statements required by subparagraph 4.1(1)(b)(iii).

4.2 Acceptable Auditing Standards for SEC Issuers – Despite section 3.2, financial statements filed by an SEC issuer, other than acquisition statements, that are required by securities legislation to be audited may be audited in accordance with U.S. GAAS if the financial statements are accompanied by an auditor's report prepared in accordance with U.S. GAAS that

(a) contains an unqualified opinion;

(b) identifies all financial periods presented for which the auditor has issued an auditor's report;

(c) refers to the former auditor's reports on the comparative periods, if the issuer has changed its auditor and one or more of the comparative periods presented in the financial statements were audited by a different auditor; and

(d) identifies the auditing standards used to conduct the audit and the accounting principles used to prepare the financial statements.

PART 5
EXEMPTIONS FOR FOREIGN ISSUERS

5.1 Acceptable Accounting Principles for Foreign Issuers – Despite subsection 3.1(1), financial statements filed by a foreign issuer, other than acquisition statements, may be prepared in accordance with

(a) U.S. GAAP, if the issuer is an SEC foreign issuer;

(b) International Financial Reporting Standards;

(c) accounting principles that meet the disclosure requirements for foreign private issuers, as that term is defined for the purposes of the 1934 Act, if

(i) the issuer is an SEC foreign issuer;

(ii) on the last day of the most recently completed financial year the total number of equity securities owned directly or indirectly by residents of Canada does not exceed ten per cent, on a fully-diluted basis, of the total number of equity securities of the issuer; and

(iii) the financial statements include any reconciliation to U.S. GAAP required by the SEC;

(d) accounting principles that meet the foreign disclosure requirements of the designated foreign jurisdiction to which the issuer is subject, if the issuer is a designated foreign issuer; or

(e) accounting principles that cover substantially the same core subject matter as Canadian GAAP, including recognition and measurement principles and disclosure requirements, if the notes to the financial statements

(i) explain the material differences between Canadian GAAP applicable to public enterprises and the accounting principles used that relate to recognition, measurement and presentation;

(ii) quantify the effect of material differences between Canadian GAAP applicable to public enterprises and the accounting principles used that relate to recognition, measurement and presentation, including a tabular reconciliation between net income reported in the issuer's financial statements and net income computed in accordance with Canadian GAAP applicable to public enterprises; and

(iii) provide disclosure consistent with Canadian GAAP applicable to public enterprises requirements to the extent not already reflected in the financial statements.

5.2 Acceptable Auditing Standards for Foreign Issuers – Despite section 3.2, financial statements filed by a foreign issuer, other than acquisition statements, that are required by securities legislation to be audited may be audited in accordance with

(a) U.S. GAAS if the auditor's report contains an unqualified opinion;

(b) International Standards on Auditing, if the auditor's report is accompanied by a statement by the auditor that

(i) describes any material differences in the form and content of the auditor's report as compared to an auditor's report prepared in accordance with Canadian GAAS; and

(ii) indicates that an auditor's report prepared in accordance with Canadian GAAS would not contain a reservation; or

(c) auditing standards that meet the foreign disclosure requirements of the designated foreign jurisdiction to which the issuer is subject, if the issuer is a designated foreign issuer,

if the financial statements are accompanied by an auditor's report prepared in accordance with the same auditing standards used to audit the financial statements and the auditor's report identifies the auditing standards used to conduct the audit and the accounting principles used to prepare the financial statements.

PART 6
REQUIREMENTS FOR ACQUISITION STATEMENTS

6.1 Acceptable Accounting Principles for Acquisition Statements –

(1) Acquisition statements included in a business acquisition report or included in a prospectus must be prepared in accordance with any of the following accounting principles:

(a) Canadian GAAP applicable to public enterprises;

(b) U.S. GAAP;

(c) International Financial Reporting Standards;

(d) accounting principles that meet the disclosure requirements for foreign private issuers, as that term is defined for the purposes of the 1934 Act, if

(i) the issuer or the acquired business is an SEC foreign issuer;

(ii) on the last day of the most recently completed financial year the total number of equity securities owned directly or indirectly by residents of Canada does not exceed ten per cent, on a fully-diluted basis, of the total number of equity securities of the SEC foreign issuer; and

(iii) the financial statements include any reconciliation to U.S. GAAP required by the SEC;

(e) accounting principles that meet the foreign disclosure requirements of the designated foreign jurisdiction to which the issuer or the acquired business is subject, if the issuer or the acquired business is a designated foreign issuer; or

(f) accounting principles that cover substantially the same core subject matter as Canadian GAAP, including recognition and measurement principles and disclosure requirements.

(2) Acquisition statements must be prepared in accordance with the same accounting principles for all periods presented.

(3) The notes to the acquisition statements must identify the accounting principles used to prepare the acquisition statements.

(4) If acquisition statements are prepared using accounting principles that are different from the issuer's GAAP, the acquisition statements for the most recently completed financial year and interim period that are required to be filed must be reconciled to the issuer's GAAP and the notes to the acquisition statements must

(a) explain the material differences between the issuer's GAAP and the accounting principles used to prepare the acquisition statements that relate to recognition, measurement, and presentation;

(b) quantify the effect of material differences between the issuer's GAAP and the accounting principles used to prepare the acquisition statements that relate to recognition, measurement and presentation, including a tabular reconciliation between net income reported in the acquisition statements and net income computed in accordance with the issuer's GAAP; and

(c) provide disclosure consistent with the issuer's GAAP to the extent not already reflected in the acquisition statements.

(5) Despite subsections (1) and (4), if the issuer is required to reconcile its financial statements to Canadian GAAP, the acquisition statements for the most recently completed financial year and interim period that are required to be filed must be

(a) prepared in accordance with Canadian GAAP applicable to public enterprises; or

(b) reconciled to Canadian GAAP applicable to public enterprises and the notes to the acquisition statements must

(i) explain the material differences between Canadian GAAP applicable to public enterprises and the accounting principles used to prepare the acquisition statements that relate to recognition, measurement, and presentation;

(ii) quantify the effect of material differences between Canadian GAAP applicable to public enterprises and the accounting principles used to prepare the acquisition statements that relate to recognition, measurement and presentation, including a tabular reconciliation between net income reported in the acquisition statements and net income computed in accordance with Canadian GAAP applicable to public enterprises; and

(iii) provide disclosure consistent with disclosure requirements of Canadian GAAP applicable to public enterprises to the extent not already reflected in the acquisition statements.

6.2 Acceptable Auditing Standards for Acquisition Statements –

(1) Acquisition statements that are required by securities legislation to be audited must be audited in accordance with

(a) Canadian GAAS; or

(b) U.S. GAAS.

(2) Despite subsection (1), acquisition statements filed by or included in a prospectus of a foreign issuer may be audited in accordance with

(a) International Standards on Auditing, if the auditor's report is accompanied by a statement by the auditor that

(i) describes any material differences in the form and content of the auditor's report as compared to an auditor's report prepared in accordance with Canadian GAAS; and

(ii) indicates that an auditor's report prepared in accordance with Canadian GAAS would not contain a reservation; or

(b) auditing standards that meet the foreign disclosure requirements of the designated foreign jurisdiction to which the issuer is subject, if the issuer is a designated foreign issuer.

(3) Acquisition statements must be accompanied by an auditor's report prepared in accordance with the same auditing standards used to audit the acquisition statements and the auditor's report must identify the auditing standards used to conduct the audit and the accounting principles used to prepare the financial statements.

(4) If acquisition statements are audited in accordance with paragraph (1)(a), the auditor's report must not contain a reservation.

(5) If acquisition statements are audited in accordance with paragraph (1)(b), the auditor's report must contain an unqualified opinion.

(6) Despite paragraph (2)(a) and subsections (4) and (5) an auditor's report that accompanies acquisition statements may contain a qualification of opinion relating to inventory if

(a) the issuer includes in the business acquisition report, prospectus or other document containing the acquisition statements, a balance sheet for the business that is for a date that is subsequent to the date to which the qualification relates; and

(b) the balance sheet referred to in paragraph (a) is accompanied by an auditor's report that does not contain a qualification of opinion relating to closing inventory.

6.3 Financial Information for Acquisitions Accounted for by the Issuer Using the Equity Method –

(1) If an issuer files, or includes in a prospectus, summarized financial information as to the assets, liabilities and results of operations of a business relating to an acquisition that is, or will be, an investment accounted for by the issuer using the equity method, the financial information must

(a) meet the requirements in section 6.1 if the term "acquisition statements" in that section is read as "summarized financial information as to the assets, liabilities and results of operations of a business relating to an acquisition that is, or will be, an investment accounted for by the issuer using the equity method," and

(b) disclose the reporting currency for the financial information, and disclose the measurement currency if it is different than the reporting currency.

(2) If the financial information referred to in subsection (1) is for any completed financial year, the financial information must

(a) either

(i) meet the requirements in section 6.2 if the term "acquisition statements" in that section is read as "summarized financial information as to the assets, liabilities and results of operations of a business relating to an acquisition that is; or will be, an investment accounted for by the issuer using the equity method," or

(ii) be derived from financial statements that meet the requirements in section 6.2 if the term "acquisition statements" in that section is read as "financial statements from which is derived summarized financial information as to the assets, liabilities and results of operations of a business relating to an acquisition that is, or will be, an investment accounted for by the issuer using the equity method"; and

(b) be audited, or derived from financial statements that are audited, by a person or company that is authorized to sign an auditor's report by the laws of a jurisdiction of Canada or a foreign jurisdiction, and that meets the professional standards of that jurisdiction.

PART 7
PRO FORMA FINANCIAL STATEMENTS

7.1 Acceptable Accounting Principles for *Pro Forma* Financial Statements –

(1) *Pro forma* financial statements must be prepared in accordance with the issuer's GAAP.

(2) Despite subsection (1), if an issuer's financial statements have been reconciled to Canadian GAAP under subsection 4.1(1) or paragraph 5.1(e), the issuer's *pro forma* financial statements must be prepared in accordance with, or reconciled to, Canadian GAAP applicable to public enterprises.

(3) Despite subsection (1), if an issuer's financial statements have been prepared in accordance with the accounting principles referred to in paragraph 5.1(c) and those financial statements are reconciled to U.S. GAAP, the *pro forma* financial statements may be prepared in accordance with, or reconciled to, U.S. GAAP.

PART 8
EXEMPTIONS FOR FOREIGN REGISTRANTS

8.1 Acceptable Accounting Principles for Foreign Registrants – Despite subsection 3.1(1), financial statements delivered by a foreign registrant may be prepared in accordance with

(a) U.S. GAAP;

(b) International Financial Reporting Standards;

(c) accounting principles that meet the disclosure requirements of a foreign regulatory authority to which the registrant is subject, if it is a foreign registrant incorporated or organized under the laws of that designated foreign jurisdiction; or

(d) accounting principles that cover substantially the same core subject matter as Canadian GAAP, including recognition and measurement principles and disclosure requirements, if the notes to the financial statements

(i) explain the material differences between Canadian GAAP as applicable to public enterprises and the accounting principles used that relate to recognition, measurement and presentation;

(ii) quantify the effect of material differences between Canadian GAAP as applicable to public enterprises and the accounting principles used that relate to recognition, measurement, and presentation; and

(iii) provide disclosure consistent with disclosure requirements of Canadian GAAP as applicable to public enterprises to the extent not already reflected in the financial statements.

8.2 Acceptable Auditing Standards for Foreign Registrants – Despite section 3.2, financial statements delivered by a foreign registrant that are required by securities legislation to be audited may be audited in accordance with

(a) U.S. GAAS if the auditor's report contains an unqualified opinion;

(b) International Standards on Auditing, if the auditor's report is accompanied by a statement by the auditor that

(i) describes any material differences in the form and content of the auditor's report as compared to an auditor's report prepared in accordance with Canadian GAAS; and

(ii) indicates that an auditor's report prepared in accordance with Canadian GAAS would not contain a reservation; or

(c) auditing standards that meet the foreign disclosure requirements of the designated foreign jurisdiction to which the registrant is subject, if it is a foreign registrant incorporated or organized under the laws of that designated foreign jurisdiction,

if the financial statements are accompanied by an auditor's report prepared in accordance with the same auditing standards used to audit the financial statements and the auditor's report identifies the auditing standards used to conduct the audit and the accounting principles used to prepare the financial statements.

PART 9
EXEMPTIONS

9.1 Exemptions –

(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 an exemption.

9.2 Certain Exemptions Evidenced by Receipt –

(1) Subject to subsections (2) and (3), without limiting the manner in which an exemption may be evidenced, an exemption from this Instrument as it pertains to financial statements or auditor's reports included in a prospectus, may be evidenced by the issuance of a receipt for the prospectus or an amendment to the prospectus.

(2) A person or company must not rely on a receipt as evidence of an exemption unless the person or company

(a) sent to the regulator or securities regulatory authority, on or before the date the preliminary prospectus or the amendment to the preliminary prospectus or prospectus was filed, a letter or memorandum describing the matters relating to the exemption application, and indicating why consideration should be given to the granting of the exemption; or

(b) sent to the regulator or securities regulatory authority the letter or memorandum referred to in paragraph (a) after the date of the preliminary prospectus or the amendment to the preliminary prospectus or prospectus has been filed and receives a written acknowledgement from the securities regulatory authority or regulator that issuance of the receipt is evidence that the exemption is granted.

(3) A person or company must not rely on a receipt as evidence of an exemption if the regulator or securities regulatory authority has before, or concurrently with, the issuance of the receipt for the prospectus, sent notice to the person or company that the issuance of a receipt does not evidence the granting of the exemption.

(4) For the purpose of this section, a reference to a prospectus does not include a preliminary prospectus.

PART 10
EFFECTIVE DATE

10.1 Effective Date – This Instrument comes into force on March 30, 2004.

COMPANION POLICY
TO NATIONAL INSTRUMENT 52-107
ACCEPTABLE ACCOUNTING PRINCIPLES, AUDITING STANDARDS AND REPORTING CURRENCY

PART ONE GENERAL

1.1 Introduction and Purpose – This companion policy provides information about how the provincial and territorial securities regulatory authorities interpret National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency* (the Instrument). The Instrument does not apply to investment funds. The Instrument sets out the accounting principles and auditing standards that must be used by

(a) registrants required to deliver financial statements to a provincial or territorial securities regulatory authority.

(b) issuers required to file financial statements or any operating statement for an oil and gas property under National Instrument 51-102 and National Instrument 71-102,

(c) issuers required to include financial statements or any operating statement for an oil and gas property in a prospectus or take-over bid circular, or

(d) issuers required to deliver financial information that is filed under NI 51-102 or that is included in a prospectus or a take-over bid circular filed, or included in a document that is filed, with the securities regulatory authority that is

(i) derived from a credit support issuer's consolidated financial statements, or

(ii) summarized financial information as to the assets, liabilities and results of operations of a business relating to an acquisition that is, or will be, an investment accounted for by the issuer using the equity method.

Any other financial statement filed by a reporting issuer with a provincial or territorial securities regulatory authority must also be prepared in accordance with this Instrument.

1.2 Multijurisdictional Disclosure System – National Instrument 71-101 *The Multijurisdictional Disclosure System* (NI 71-101) permits certain U.S. incorporated issuers to satisfy Canadian disclosure filing obligations, including financial statements, by using disclosure documents prepared in accordance with U.S. federal securities laws. The Instrument does not replace or alter NI 71-101. There are instances in which NI 71-101 and the Instrument offer similar relief to a reporting issuer. There are other instances in which the relief differs. If both NI 71-101 and the Instrument are available to a reporting issuer, the issuer should consider both instruments. It may choose to rely on the less onerous instrument in a given situation.

1.3 Calculation of Voting Securities Owned by Residents of Canada – The definition of "foreign issuer" is based upon the definition of foreign private issuer in Rule 405 of the 1933 Act and Rule 3b-4 of the 1934 Act. For the purposes of the definition of "foreign issuer", in determining the outstanding voting securities that are directly or indirectly owned by residents of Canada, an issuer should

(a) use reasonable efforts to identify securities held by a broker, dealer, bank, trust company or nominee or any of them for the accounts of customers resident in Canada,

(b) count securities beneficially owned by residents of Canada as reported on reports of beneficial ownership, including insider reports and early warning reports, and

(c) assume that a customer is a resident of the jurisdiction or foreign jurisdiction in which the nominee has its principal place of business if, after reasonable inquiry, information regarding the jurisdiction or foreign jurisdiction of residence of the customer is unavailable.

This method of calculation differs from that of NI 71-101 which only requires a calculation based on the address of record. Some SEC foreign issuers may therefore qualify for exemptive relief under NI 71-101 but not under this Instrument.

1.4 Exemptions Evidenced by the Issuance of a Receipt – Section 9.2 of the Instrument states that an exemption from any of the requirements of the Instrument pertaining to financial statements or auditor's reports included in a prospectus may be evidenced by the issuance of a receipt for that prospectus. Issuers should not assume that the

relief evidenced by the receipt will also apply to financial statements or auditors' reports filed in satisfaction of continuous disclosure obligations or included in any other filing.

1.5 Filed or Delivered – Financial statements that are filed in a jurisdiction will be made available for public inspection in that jurisdiction, subject to the provisions of securities legislation in the local jurisdiction regarding confidentiality of filed material. Material that is delivered to a regulator, but not filed, is not required under securities legislation to be made available for public inspection. However, the regulator may choose to make such material available for inspection by the public.

1.6 Other Legal Requirements – Issuers and auditors should refer to National Instrument 52-108 *Auditor Oversight* for requirements relating to auditor oversight by the Canadian Public Accountability Board. In addition, issuers and registrants are reminded that they and their auditors may be subject to requirements under the laws and professional standards of a jurisdiction that address matters similar to those addressed by the Instrument, and which may impose additional or more onerous requirements. For example, applicable corporate law may prescribe the GAAP or GAAS required for financial statements. Similarly, applicable federal, provincial or state law may impose licensing requirements on an auditor practising public accounting in certain jurisdictions.

PART TWO ACCEPTABLE ACCOUNTING PRINCIPLES

2.1 Acceptable Accounting Principles for Foreign Issuers – Appendix A contains a chart outlining the accounting principles permitted for annual and interim financial statements of foreign issuers.

2.2 Canadian GAAP Applicable to Public Enterprises - National Instrument 14-101 *Definitions* defines Canadian GAAP as generally accepted accounting principles determined with reference to the Handbook. The Handbook has differing requirements for public enterprises and non-publicly accountable enterprises. The Instrument generally requires issuers and registrants to use Canadian GAAP applicable to public enterprises. The following are some of the significant differences in the provisions of Canadian GAAP applicable to public enterprises compared to those applicable to non-publicly accountable enterprises:

(a) financial statements for public enterprises cannot be prepared using the differential reporting options as set out in the Handbook;

(b) transition provisions applicable to enterprises other than public enterprises are not available; and

(c) financial statements must include any additional disclosure requirements applicable to public enterprises.

2.3 GAAP Reconciliations – The Instrument specifies that where a reconciliation to Canadian GAAP applicable to public enterprises or a reconciliation to the issuer's GAAP is required, the reconciliation must quantify the effect of material differences between that GAAP and the accounting principles used that relate to recognition, measurement and presentation in the subject financial statements.

While the differences affecting net income must be presented in a tabular format, differences relating to other aspects of the financial statements may be presented in either a tabular reconciliation or some other form of reconciliation.

2.4 Financial Statements After an SEC Issuer Changes From Canadian GAAP to U.S. GAAP –

(1) An SEC issuer may change from Canadian GAAP to U.S. GAAP any time during a year. If, after filing financial statements prepared in accordance Canadian GAAP for one or more interim periods during a year, the issuer decides to adopt U.S. GAAP, the issuer may be required to restate and re-file the interim financial statements for the current year previously filed. An SEC issuer that changes from Canadian GAAP to U.S. GAAP during a year should consult National Instrument 51-102 to determine which financial statements should be restated and re-filed in satisfaction of its continuous disclosure obligations. Similarly, issuers planning to file a prospectus should refer to the prospectus instrument under which the prospectus will be prepared and filed to determine the financial statements that it may be required to restate and re-file.

(2) Appendix B includes examples of formats for presenting comparative financial information required by paragraph 4.1(1)(b) of the Instrument for both annual and interim financial statements after an SEC issuer changes from Canadian GAAP to U.S. GAAP.

2.5 Acquisition Statements

The Instrument provides that issuers may file acquisition statements prepared in accordance with Canadian GAAP as applicable to public enterprises. This means that the financial statements of a private enterprise may need to be modified to adjust for the items discussed in section 2.2 of this policy.

Subsection 6.1(4) of the Instrument requires acquisition statements to be reconciled to the issuer's GAAP. In addition, if an issuer is required to reconcile its financial statements to Canadian GAAP, subsection 6.1(5) of the Instrument requires acquisition financial statements either be prepared in accordance with, or reconciled to, Canadian GAAP applicable to public enterprises. If an SEC issuer has prepared and filed both Canadian GAAP and U.S. GAAP financial statements for its most recently completed interim and annual period, and the issuer can provide acquisition statements prepared in accordance with U.S. GAAP, the issuer may apply for an exemption from the requirement to file acquisition statements prepared in accordance with, or reconciled to, Canadian GAAP applicable to public enterprises. An issuer granted this relief would be required to prepare the pro forma financial statements based on the issuer's U.S. GAAP financial statements and the U.S. GAAP acquisition statements and include a reconciliation of the pro forma financial statements to Canadian GAAP. If the issuer is granted this relief in the context of a prospectus, the issuer's U.S. GAAP financial statements must be included in the prospectus.

2.6 Acceptable Accounting Principles for Financial Information

If an issuer or registrant is required to file other financial information, such as selected financial data or a statement of capital calculations, staff expects that information to be prepared on a basis that is consistent with the principles applied in the financial statements.

PART THREE ACCEPTABLE ACCOUNTING PRINCIPLES AND AUDITING STANDARDS

3.1 Acceptable Accounting Principles – Subsection 3.1(3) of the Instrument requires that the notes to the financial statements identify the accounting principles used to prepare the financial statements. We believe that disclosing financial information to the marketplace in a news release without disclosing the accounting principles used to prepare the financial information is inconsistent with this requirement.

3.2 Accounting Principles that Cover Substantially the Same Core Subject Matter as Canadian GAAP - Paragraphs 5.1(e) and 8.1(d) of the Instrument indicate that foreign issuers may prepare their financial statements using accounting principles that cover substantially the same core subject matter as Canadian GAAP. We believe U.S. GAAP meets this criteria. The accounting principles of other jurisdictions may also meet this criteria if the principles are based on a fundamental conceptual framework and the jurisdiction has an established methodology for ensuring that the principles are updated regularly to keep pace with international developments in accounting.

In evaluating a jurisdiction's accounting principles, the issuer or registrant should consider whether, at a minimum, the core standards as identified by the International Organization of Securities Commissions at its May 2000 conference are addressed. These core standards include: presentation of financial statements; inventories; depreciation accounting; cash flow statements; net profit or loss for the period, fundamental errors and changes in accounting policies; events after the balance sheet date; construction contracts; income taxes; segment reporting; property, plant and equipment; leases; revenue; accounting for government grants and disclosure of government assistance; the effects of changes in foreign exchange rates; business combinations; borrowing costs; related party disclosures; consolidated financial statements and accounting for investments in subsidiaries; accounting for investments in associates; financial reporting in hyperinflationary economies, financial reporting of interests in joint ventures; financial instruments: disclosure and presentation; earnings per share; interim financial reporting; discontinuing operations; impairment of assets; provisions, contingent liabilities and contingent assets; intangible assets; and financial instruments: recognition and measurement. We may request the issuer or registrant provide a rationale for asserting that the accounting principles of the jurisdiction cover substantially the same core subject matter as Canadian GAAP.

3.3 Summary of Acceptable Auditing Standards – Appendix C contains a chart outlining the auditing standards permitted for the audit of financial statements of foreign issuers.

PART FOUR AUDITORS AND THEIR REPORTS

4.1 Auditor's Expertise – The securities legislation in most jurisdictions prohibits a regulator or securities regulatory authority from issuing a receipt for a prospectus if it appears to the regulator or securities regulatory authority that a person or company who has prepared any part of the prospectus or is named as having prepared or certified a report used in connection with a prospectus is not acceptable.

4.2 Canadian Auditors for Canadian GAAP and GAAS Financial Statements – A Canadian auditor is a person or company that is authorized to sign an auditor's report by the laws, and that meets the professional standards, of a jurisdiction of Canada. We would normally expect issuers and registrants incorporated or organized under the laws of Canada or a jurisdiction of Canada, and any other issuer or registrant that is not a foreign issuer nor a foreign registrant, to engage a Canadian auditor to audit the issuer's or registrant's financial statements if those statements are prepared in accordance with Canadian GAAP and will be audited in accordance with Canadian GAAS unless a valid business reason exists to use a non-Canadian auditor. A valid business reason would include a situation where the principal operations of the company and the essential books and records required for the audit are located outside of Canada.

Non-Canadian auditors auditing financial statements in accordance with Canadian GAAS and prepared by the issuer or registrant in accordance with Canadian GAAP are expected to consult or involve an auditor familiar with Canadian GAAS and Canadian GAAP as applicable to public enterprises.

4.3 Reservations in an Auditor's Report –

(1) The Instrument generally prohibits an auditor's report from containing a reservation, qualification of opinion, or other similar communication that would constitute a reservation under Canadian GAAS.

(2) Part 9 of the Instrument permits the regulator or securities regulatory authority to grant exemptive relief from the Instrument, including the requirement that an auditor's report not contain a reservation, qualification of opinion or other similar communication that would constitute a reservation under Canadian GAAS. However, we believe that such exemptive relief should not be granted if the reservation, qualification of opinion or other similar communication is

(a) due to a departure from accounting principles permitted by the Instrument, or

(b) due to a limitation in the scope of the auditor's examination that

(i) results in the auditor being unable to form an opinion on the financial statements as a whole,

(ii) is imposed or could reasonably be eliminated by management, or

(iii) could reasonably be expected to be recurring.

4.4 Auditors' Knowledge of an Issuer's Accounting Principles and Auditing Standards – A foreign issuer or foreign registrant may have its financial statements prepared and audited in accordance with accounting principles and auditing standards, respectively, that do not correspond to the home jurisdiction of its auditor. In these situations, we may request, during a review of the issuer's prospectus, continuous disclosure records or other filings, or a registrant's filings, a letter from the foreign auditor describing its expertise in the accounting principles used to prepare the issuer's or registrant's financial statements and the auditing standards applied. A similar request may be made if the issuer or registrant has reconciled its financial statements to a set of accounting principles that are different from those of the auditor's home jurisdiction.

APPENDIX A
Accounting Principles Permitted for Annual and Interim Financial Statements of Foreign Issuers[1]

Accounting Principles:	Foreign Issuers [2]		
	SEC Foreign Issuers [2, 3]	Designated Foreign Issuers [2, 3]	Other Foreign Issuers[3]
Canadian GAAP	✓ s. 3.1(1)	✓ s. 3.1(1)	✓ s. 3.1(1)
U.S. GAAP	✓ No reconciliation required s. 5.1(a)	✓ Reconciliation to Canadian GAAP may be required [4] s. 5.1(d) or 5.1(e)	✓ Reconciliation to Canadian GAAP required s. 5.1(e)
International Financial Reporting Standards	✓ No reconciliation required s. 5.1(b)	✓ No reconciliation required s. 5.1(b)	✓ No reconciliation required s. 5.1(b)
Foreign accounting principles used in an SEC filing	✓ Only if ≤ 10% Canadian shareholders Reconciliation to U.S. GAAP required for annual financial statements s. 5.1(c)		
Accounting principles accepted in the Designated Foreign Jurisdiction		✓ No reconciliation required s. 5.1(d)	
Accounting principles that cover substantially the same core subject matter as Canadian GAAP	✓ Reconciliation to Canadian GAAP required s. 5.1(e)	✓ Reconciliation to Canadian GAAP required s. 5.1(e)	✓ Reconciliation to Canadian GAAP required s. 5.1(e)

Notes

1 This chart should be read in conjunction with National Instruments 52-107, 51-102 and 71-102 and Companion Policy 71-102CP. The chart does not relate to financial statements other than those of reporting issuers.

2 These terms are defined in the Instrument.

3 The corresponding section references in the Instrument appear in the bottom right-hand corner of each cell.

4 A Canadian GAAP reconciliation would not be required if the designated foreign jurisdiction accepts financial statements prepared in accordance with U.S. GAAP.

Appendix B – Presentation of Comparatives after an SEC Issuer Changes from Canadian GAAP to U.S. GAAP

The following are examples of formats for presenting comparative financial information required by paragraph 4.1(1)(b) of the Instrument for both annual and interim financial statements after an SEC issuer changes from using Canadian GAAP to U.S. GAAP. The examples do not address the reconciliation requirements in paragraph 4.1(1)(a).

1. Annual Financial Statements

Option 1 – All comparatives presented on the face of the financial statements

(a) Balance Sheet, Statements of Income and Cash Flow

Most Recent Year (U.S. GAAP)	Prior Year Comparative Restated (U.S. GAAP)	Prior Year Comparative as Previously Reported (Canadian GAAP)
Financial statement line items		

(b) Notes to the Annual Financial Statements

- explanation of material differences between Canadian GAAP and U.S. GAAP relating to recognition, measurement and presentation
- quantification of the differences relating to recognition, measurement and presentation

Option 2 – Comparative figures as previously reported in Canadian GAAP presented in a note to the annual financial statements

(a) Balance Sheet, Statements of Income and Cash Flow

Most Recent Year (U.S. GAAP)	Prior Year Comparative Restated (U.S. GAAP)
Financial statement line items	

(b) Notes to the Annual Financial Statements

(i) Balance Sheet, Statements of Income and Cash Flow

Prior Year Comparative as Previously Reported (Canadian GAAP)
Financial statement line items

(ii) Supporting Reconciliation Information

- explanation of material differences between Canadian GAAP and U.S. GAAP relating to recognition, measurement and presentation, for the prior year comparatives
- quantification of the differences relating to recognition, measurement and presentation

2. Interim Financial Statements

Option 1 – All comparative figures presented on the face of the interim financial statements

(a) Balance Sheet

Most Recent Interim Period (U.S. GAAP)	Prior Year Comparative Restated (U.S. GAAP)	Prior Year Comparative as Previously Reported (Canadian GAAP)

Financial statement line items

(b) Statements of Income and Cash Flow

Most Recent Interim Period (3 months) (U.S. GAAP)	Comparative Interim Period (3 months) Restated (U.S. GAAP)	Comparative Interim Period (3 months) as Previously Reported (Canadian GAAP)	Most Recent Year-to-Date Interim Period (U.S. GAAP)	Comparative Year-to-Date Interim Period Restated (U.S. GAAP)	Comparative Year-to-Date Interim Period as Previously Reported (Canadian GAAP)
Financial statement line items					

(c) Notes to the Interim Financial Statements

- explanation of material differences between Canadian GAAP and U.S. GAAP for the comparative interim periods (most recent three months and year-to-date) relating to recognition, measurement and presentation, for the prior period comparatives
- quantification of the differences relating to recognition, measurement and presentation

Option 2 - Comparative figures as previously reported in Canadian GAAP presented in a note to the interim financial statements

(a) Balance Sheet

Most Recent Interim Period (U.S. GAAP)	Prior Year Comparative Restated (U.S. GAAP)
Financial statement line items	

(b) Statements of Income and Cash Flow

Most Recent Interim Period (3 months) (U.S. GAAP)	Comparative Interim Period (3 months) Restated (U.S. GAAP)	Most Recent Year-to-Date Interim Period (U.S. GAAP)	Comparative Year-to-Date Interim Period Restated (U.S. GAAP)
Financial statement line items			

(c) Notes to the Interim Financial Statements

(i) Balance Sheet Comparatives

Prior Year Comparative as Previously Reported (Canadian GAAP)
Financial statement line items

(ii) Statements of Income and Cash Flow Comparatives

Comparative Interim Period (3 months) as Previously Reported (Canadian GAAP)	Comparative Year-to-Date Interim Period as Previously Reported (Canadian GAAP)
Financial statement line items	

(iii) Supporting Reconciliation Information

- explanation of material differences between Canadian GAAP and U.S. GAAP for the comparative interim periods (most recent three months and year-to-date)
- quantification of the differences relating to recognition, measurement and presentation

Option 3 - Comparative figures as previously reported in Canadian GAAP presented in a note to the interim financial statements and integrated with reconciliation information

(a) Balance Sheet

Most Recent Interim Period (U.S. GAAP)	Prior Year Comparative Restated (U.S. GAAP)
Financial statement line items	

(b) Statements of Income and Cash Flow

Most Recent Interim Period (3 months) (U.S. GAAP)	Comparative Interim Period (3 months) Restated (U.S. GAAP)	Most Recent Year-to-Date Interim Period (U.S. GAAP)	Comparative Year-to-Date Interim Period Restated (U.S. GAAP)
Financial statement line items			

(c) Note to the Interim Financial Statements

(i) Balance Sheet Comparatives and Quantification of Differences

Prior Year Comparatives as Previously Reported (Canadian GAAP)	Reconciling Adjustments	Prior Year Comparative Restated (U.S. GAAP)
Financial statement line items		

(ii) Statements of Income and Cash Flow Comparatives and Quantification of Differences

Comparative Interim Period (3 months) as Previously Reported (Canadian GAAP)	Reconciling Adjustments	Comparative Interim Period (3 months) Restated (U.S. GAAP)	Comparative Year-to-Date Interim Period as Previously Reported (Canadian GAAP)	Reconciling Adjustments	Comparative Year-to-Date Interim Period Restated (U.S. GAAP)
Financial statement line items					

(**iii) Supporting Reconciliation Information**

- explanation of material differences between Canadian GAAP and U.S. GAAP relating to recognition, measurement and presentation which are quantified in the "Reconciling Adjustments" columns above.

APPENDIX C
Auditing Standards Permitted for the Audit of Financial Statements of Foreign Issuers[1]

Auditing Standards:	Foreign Issuers[2]		
	SEC Foreign Issuers [2,3]	Designated Foreign Issuers [2, 3]	Other Foreign Issuers[3]
Canadian GAAS	✓ s. 3.2	✓ s. 3.2	✓ s. 3.2
U.S. GAAS	✓ s. 5.2(a)	✓ s. 5.2(a)	✓ s. 5.2(a)
International Standards on Auditing	✓ [4] s. 5.2(b)	✓ [4] s. 5.2(b)	✓ [4] s. 5.2(b)
Auditing Standards Accepted in the Designated Foreign Jurisdiction[5]		✓ s. 5.2(c)	

Notes

1 This chart should be read in conjunction with National Instruments 52-107, 51-102 and 71-102 and Companion Policy 71-102CP. The chart does not relate to financial statements other than those of reporting issuers.

2 These terms are defined in the Instrument.

3 The corresponding section references in the Instrument appear in the bottom right-hand corner of each cell.

4 The audit report must be accompanied by a statement disclosing any material differences in the form and content of the audit report compared to a Canadian GAAS audit report.

5 The auditing standards must meet the foreign disclosure requirements of the designated foreign jurisdiction to which the issuer is subject.

5.1.5 National Policy Statement No. 27 Canadian Generally Accepted Accounting Principles for Investment Funds

NATIONAL POLICY STATEMENT NO. 27
CANADIAN GENERALLY ACCEPTED ACCOUNTING PRINCIPLES FOR INVESTMENT FUNDS

Table of Contents

Part 1 Purpose

This policy statement sets out the position of the securities regulatory authorities with respect to the accounting principles to be applied to, and the disclosure to be included in, the financial statements of an issuer that is an investment fund (an "Issuer") required to file financial statements with a securities regulatory authority in any province or territory in Canada in accordance with the requirements of:

(i) the statutes concerning the regulation of securities markets and trading in securities in a jurisdiction, and the regulations in respect of these statutes ("Securities Legislation"), or

(ii) the blanket rulings and orders made under Securities Legislation of a jurisdiction, and the policy statements and written interpretations issued by securities regulatory authority of that jurisdiction ("Securities Requirements")._

Part 2 Application

This policy statement applies to all financial statements that are required to be filed by an Issuer under the Securities Legislation of any jurisdiction, unless otherwise specified in, or exempted by, the Securities Legislation of that jurisdiction, and that are required to be prepared in accordance with, or reconciled to, generally accepted accounting principles in Canada ("Canadian GAAP"). Where an Issuer is required to file other financial information, such as selected financial data or management's discussion and analysis of financial condition and results of operations, with the securities regulatory authorities of a jurisdiction, that information must be prepared on a basis that is consistent with the principles applied in the financial statements.

Part 3 Definition of Canadian GAAP

3.1 Financial statements to be prepared in accordance with Canadian GAAP

The Securities Legislation of certain jurisdictions requires, subject to certain exceptions, that financial statements be prepared in accordance with Canadian GAAP and any applicable provisions of the Securities Legislation. Where the Securities Legislation of a jurisdiction is silent on the issue of compliance with generally accepted accounting principles, the securities regulatory authorities nonetheless require that Issuers prepare their financial statements in accordance with Canadian GAAP.

3.2 Interpretation of Canadian GAAP

When used in Securities Legislation, "generally accepted accounting principles" has the meaning ascribed to this term in the Handbook of the Canadian Institute of Chartered Accountants (the "CICA Handbook"). Issuers and their advisors should refer to section 1000 of the CICA Handbook for a full discussion of financial statement concepts and other sources of Canadian GAAP.[7]

3.3 Pre-filing conference

In those rare circumstances where following a CICA Handbook recommendation would result in the preparation of misleading financial statements, the Issuer together with its auditor should discuss the situation with the appropriate representative of the securities regulatory authority (the "Applicable Regulator"). In addition, in those circumstances when Canadian GAAP is unclear, or where there are no established accounting principles, because of the new or unique nature of the transaction or activity, the Issuer together with its auditor is encouraged to discuss the situation with the Applicable Regulator. Failure to consult with the Applicable Regulator on a pre-filing basis may result in delays in the processing of regulatory filings.

3.4 Additional requirements

The Securities Legislation and Securities Requirements of certain jurisdictions may impose accounting and disclosure requirements in addition to those set out under Canadian GAAP. Issuers are reminded that they must review the Securities Legislation and Securities Requirements of each jurisdiction in which they are required to file to ensure that their financial statements comply with all applicable requirements.

Part 4 Discretion Available to Applicable Regulator

Where the accounting principles or practices that the Issuer intends to apply in preparing its financial statements will result in a departure from Canadian GAAP, the Issuer together with its auditor should discuss the situation with the Applicable Regulator. The Applicable Regulator may, if it has the necessary authority under the Securities Legislation of that jurisdiction and it considers it to be in the public interest,

(1) at the request of the Issuer, and

(2) upon receipt in writing from the Issuer and its auditor, sufficiently in advance of the filing deadline applicable to the financial statements that give rise to the departure from Canadian GAAP, of all relevant information including the basis of accounting or disclosure that is not in accordance with Canadian GAAP and that has been selected by the Issuer,

exercise its discretion to accept financial statements that are not prepared in accordance with Canadian GAAP when the financial statements are filed. In certain jurisdictions the Applicable Regulator may require the holding of a public hearing as part of its consideration of the Issuer's request. Reference should be made to National Policy Statement No. 50 for further information on the securities regulatory authorities' position where financial statements are accompanied by an auditor's report containing a reservation of opinion.

Part 5 Effective Date

5.1 Effective date

This policy statement is effective March 30, 2004.

5.2 Policy statement repealed

National Policy Statement No. 27 dated December 31, 1992 is repealed upon the coming into effect of this policy statement.

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[7] Regulated Issuers – The Securities Legislation of certain jurisdictions may exempt certain regulated Issuers from preparing their financial statements in accordance with Canadian GAAP and the applicable provisions of the Securities Legislation where Canadian GAAP has not been established. In these circumstances, where the regulator established the accounting principles to be followed or where the regulator clarifies Canadian GAAP to be applied by the regulated Issuer in the preparation of its financial statements, the financial statements prepared in accordance with the regulatory requirements will be acceptable for purposes of Securities Legislation as long as there are no departures from Canadian GAAP.

5.1.6 National Policy Statement No. 50 Reservations in an Auditor's Report Filed by an Investment Fund

NATIONAL POLICY STATEMENT NO. 50
RESERVATIONS IN AN AUDITOR'S REPORT FILED BY AN INVESTMENT FUND

Table of Contents

Part 1 Purpose

This policy statement sets out the position of the securities regulatory authorities with respect to the acceptability of the financial statements of an issuer that is an investment fund (an "Issuer") required to file financial statements with a securities regulatory authority in any province or territory in Canada in accordance with the requirements of the statutes concerning the regulation of securities markets and trading in securities in a jurisdiction, and the regulations in respect of these statutes ("Securities Legislation"), where the financial statements are accompanied by an auditor's report containing a reservation of opinion.

Part 2 Application

This policy statement applies to all financial statements filed by an Issuer, that are required to be audited, under the requirements of the Securities Legislation of any jurisdiction, unless otherwise specified in, or exempted by, the specific provisions of the Securities Legislation of that jurisdiction. The application of this policy statement to the audited financial statements that are required to be audited of an Issuer incorporated or organized in a jurisdiction other than Canada or a province of Canada (a "Non-Canadian Issuer") is set out in part 6

Part 3 Financial Statements to be Prepared in Accordance with Canadian GAAP

The Securities Legislation of certain jurisdictions requires, subject to certain exceptions, that financial statements be prepared in accordance with generally accepted accounting principles in Canada ("Canadian GAAP") and with any applicable provisions of the Securities Legislation. Where the Securities Legislation of a jurisdiction is silent on the issue of compliance with generally accepted accounting principles, the securities regulatory authorities nonetheless require that Issuers prepare their financial statements in accordance with Canadian GAAP. See National Policy Statement No. 27 for a discussion of the meaning of "Canadian GAAP" and information on the additional disclosure requirements that may be imposed by certain jurisdictions.

Part 4 Audits to be Performed in Accordance with Canadian GAAS

Where an Issuer is required to file audited financial statements, the Securities Legislation of certain jurisdictions requires that the auditor make the necessary audit to be able to prepare an auditor's report in accordance with generally accepted auditing

standards as set out in the Handbook of the Canadian Institute of Chartered Accountants ("Canadian GAAS") and with any applicable provisions of the Securities Legislation. In these jurisdictions, as well as in jurisdictions where the Securities Legislation is silent on the issue of compliance with generally accepted auditing standards, the securities regulatory authorities expect that the auditor will complete the audit, and prepare the auditor's report, in accordance with Canadian GAAS. For a full discussion of the meaning of "Canadian GAAS", see section 5100 of the Handbook of the Canadian Institute of Chartered Accountants

Part 5 Reservations in an Auditor's Report

5.1 Acceptability of financial statements accompanied by an auditor's report containing a reservation of opinion

Where financial statements accompanied by an auditor's report containing a reservation of opinion are filed with the securities regulatory authorities, the securities regulatory authorities will generally take the position that the Issuer has not filed financial statements that are in compliance with the requirements of the Securities Legislation.

5.2 Meaning of reservation of opinion

The expression "reservation of opinion" is used when an auditor

(1) forms a positive opinion on the financial statements as a whole, but qualifies that opinion with respect to a departure from generally accepted accounting principles or a limitation in the scope of the audit (a "Qualified Opinion");

(2) forms an opinion that the financial statements are not presented fairly in accordance with generally accepted accounting principles (an "Adverse Opinion"); or

(3) is unable to form an opinion on the financial statements as a whole because of a limitation in the scope of the audit (a "Denial of Opinion")

See section 5510 of the Handbook of the Canadian Institute of Chartered Accountants for a discussion of the circumstances when the auditor is unable to express an opinion without reservation on financial statements

5.3 Financial statements accompanied by a reservation of opinion acceptable in limited circumstances

The securities regulatory authorities recognize that, in certain limited circumstances, it may be in the public interest to accept, for the purpose for which they are filed, financial statements on which the auditor is not able to express an opinion without reservation. Subject to part 7 where the Securities Legislation gives the appropriate representative of the securities regulatory authority (the "Applicable Regulator") the discretion to accept financial statements accompanied by an auditor's report in which the auditor is not able to express an opinion without reservation, these financial statements will generally be accepted except where the reservation is:

(1) due to a departure from Canadian GAAP; or

(2) due to a limitation in the scope of the auditor's examination that

  (a) results in a Denial of Opinion,

  (b) is imposed or could reasonably be eliminated by management, or

  (c) could reasonably be expected to be recurring.

5.4 Example of application of section 5.3

Financial statements will generally be accepted where the reservation of opinion is due to a limitation in the scope of the auditor's examination resulting from an event that clearly limits the availability of accounting records that substantiate a specific financial statement balance to such an extent that the Issuer is unable to provide its auditor with sufficient appropriate audit evidence to afford a reasonable basis for the auditor to express an opinion without reservation on the financial statements as a whole. In such a circumstance, for the financial statements to be considered for acceptance the auditor must have performed all of the other procedures necessary and reasonable under the circumstances and as required by Canadian GAAS on the financial statements except those that cannot be performed because of the limiting event.

5.5 Action by securities regulatory authorities where financial statements accompanied by a reservation of opinion

Subject to part 7, where financial statements accompanied by an auditor's report containing a reservation of opinion are filed with the securities regulatory authorities in circumstances other than those acceptable to the securities regulatory authorities, the securities regulatory authorities may:

(1) require the Issuer to revise its financial statements or provide its auditor with the necessary information, as is appropriate in the circumstances, such that the financial statements are prepared in accordance with Canadian GAAP and the audit is completed, and auditor's report is prepared, in accordance with Canadian GAAS,

(2) issue a cease trading order, if the financial statements are filed as part of an Issuer's continuous disclosure obligations under the Securities Legislation,

(3) suspend, cancel or restrict the registration of an Issuer, if the financial statements are filed as part of the Issuer's obligation to file financial statements under the Securities Legislation,

(4) refuse to issue a receipt for a preliminary or final prospectus, if the financial statements form part of, or are incorporated by reference into, that prospectus, or

(5) use the remedies available under the Securities Legislation, if the financial statements form part of, or are incorporated by reference into, an offering memorandum or a take-over bid circular.

Part 6 Financial Statements of Non-Canadian Issuers

6.1 Financial statements of Non-Canadian Issuers accompanied by an auditor's report containing a reservation of opinion

Where the financial statements of a Non-Canadian Issuer are accompanied by an auditor's report that contains a reservation of opinion due to either

(1) a departure from the applicable Non-Canadian generally accepted accounting principles ("Non-Canadian GAAP"), or

(2) a limitation in the scope or application of the audit under the applicable non-Canadian generally accepted auditing standards ("Non-Canadian GAAS"),

the principles set out in part 5 will apply. The principles set out in part 5 will also apply where Non-Canadian GAAS does not require the expression of a reservation of opinion in situations where Canadian GAAS would require a reservation to be included.

6.2 Financial statements of Non-Canadian Issuers where reservation not required by Canadian GAAS

Where Non-Canadian GAAS requires the expression of a reservation of opinion in situations where Canadian GAAS would not require such a reservation, and in all other respects the financial statements and auditor's report comply with all of the requirements of the applicable Securities Legislation, the securities regulatory authorities will generally take the position that the Non-Canadian Issuer has filed financial statements that are acceptable for the purpose for which they were filed. This position will also be taken when the auditor's report that accompanies a Non-Canadian Issuer's financial statements includes additional emphasis paragraphs in situations that do not represent or require a reservation of opinion under Canadian GAAS.

6.3 Example of application of section 6.2

A report prepared in accordance with generally accepted auditing standards in the United States may include an additional emphasis paragraph where there is uncertainty as to an issuer's ability to continue to operate as a going concern. Although Canadian GAAS does not permit this reference when there is adequate disclosure in the financial statements, the securities regulatory authorities will generally take the position that the Non-Canadian Issuer has filed financial statements that are acceptable for the purpose for which they were filed, if, in all other respects,

(1) the financial statements are prepared in accordance with generally accepted accounting principles in the United States,

(2) the audit has been performed in accordance with generally accepted auditing standards in the United States, and

(3) there is adequate disclosure of the uncertainty in the financial statements

Part 7 Discretion Available to Applicable Regulator

Where an Issuer, including a Non-Canadian Issuer, or the Issuer's auditor believes that the auditor's report on the Issuer's financial statements will contain a reservation of opinion that is not, or may not be, otherwise acceptable to the securities regulatory authorities, the Issuer together with its auditor should discuss the situation with the Applicable Regulator. The Applicable Regulator may, if it has the necessary authority under the Securities Legislation of that jurisdiction and it considers it to be in the public interest,

(1) at the request of the Issuer, and

(2) upon receipt in writing from the

  (a) Issuer of all relevant information, and

  (b) Issuer's auditor of the impact of the relevant information on the preparation of the financial statements in accordance with Canadian GAAP or the auditor's ability to complete the audit in accordance with Canadian GAAS or Non-Canadian GAAS, as applicable, together with the anticipated form of the auditor's report,

sufficiently in advance of the filing deadline applicable to the financial statements that will be accompanied by an auditor's report containing a reservation of opinion, exercise its discretion to accept financial statements that are accompanied by an auditor's report containing a reservation of opinion when the financial statements are filed. In certain jurisdictions the Applicable Regulator may require the holding of a public hearing as part of its consideration of the Issuer's request.

Part 8 Effective Date

8.1 Effective Date

This policy statement is effective March 30, 2004.

8.2 Policy statement repealed

National Policy Statement No. 50 dated December 31, 1992 is repealed upon the coming into effect of this policy statement.

5.1.7 Notice of Multilateral Instrument 52-110 Audit Committees

NOTICE OF MULTILATERAL INSTRUMENT 52-110
AUDIT COMMITTEES

Multilateral Instrument 52-110 *Audit Committees*, Form 52-110F1, Form 52-110F2 (collectively, the Instrument) and Companion Policy 52-110CP *Audit Committees* (the Companion Policy) are initiatives of certain members of the Canadian Securities Administrators (the CSA or we).

The Instrument has been made, or is expected to be made, as:

- a rule in each of Québec, Alberta, Manitoba, Ontario, Nova Scotia and Newfoundland and Labrador,
- a Commission regulation in Saskatchewan and Nunavut,
- a policy in each of New Brunswick, Prince Edward Island and in the Yukon Territory, and
- a code in the Northwest Territories.

It is expected that the Companion Policy will be implemented as a policy in Québec, Alberta, Saskatchewan, Manitoba, Ontario, Nova Scotia, Newfoundland and Labrador, New Brunswick, Prince Edward Island, Nunavut, the Yukon Territory and the Northwest Territories.

We expect to implement the Instrument and Companion Policy on March 30, 2004.

In Ontario, the Instrument and other required materials were delivered to the Minister of Finance on January 14, 2004. The Minister may approve or reject the Instrument or return it for further consideration. If the Minister approves the Instrument or does not take any further action by March 15, 2004, the Instrument will come into force on March 30, 2004. The Companion Policy will come into force on the date that the Instrument comes into force.

In Québec, the Instrument is a regulation made under section 331.1 of *The Securities Act* (Québec) and must be approved, with or without amendment, by the Minister of Finance. The Instrument will come into force on the date of its publication in the *Gazette officielle du Québec* or on any later date specified in the regulation. It must also be published in the Bulletin.

In Alberta, the Instrument and other materials were delivered to the Minister of Revenue. The Minister may approve or reject the Instrument. Subject to Ministerial approval, the Instrument and Companion Policy will come into force on March 30, 2004. The Alberta Securities Commission will issue a separate notice advising of whether the Minister has approved or rejected the Instrument.

Background

In July of 2002, the *Sarbanes-Oxley Act of 2002* (SOX) was enacted in the United States. SOX prescribes a broad range of measures designed to restore the public's faith in the U.S. capital markets in the wake of several U.S. financial reporting scandals. These measures include requirements regarding the responsibilities and composition of audit committees. Since our markets are largely integrated with and affected by the U.S. markets, they are not immune from real or perceived erosion of investor confidence in the United States. Therefore, we have initiated measures, including the audit committee requirements set out in the Instrument, to address the issue of investor confidence and to maintain the reputation of our markets internationally. The Instrument is based on the audit committee requirements currently being implemented in the United States. In particular, it is derived from the audit committee requirements in SOX, certain requirements of the U.S. Securities and Exchange Commission (the SEC) and listing requirements of the New York Stock Exchange and Nasdaq.

Recent U.S. financial scandals have demonstrated that a conflict of interest may arise when management assumes the role of overseeing the relationship between an issuer and its external auditor. In particular, a conflict arises when the external auditor begins to consider management, and not the issuer and its shareholders, as its client. As a result, U.S. listed issuers will now be required to have an independent audit committee which is directly responsible for the appointment, compensation, retention and oversight of the work of the external auditor and to whom the external auditor must report directly. By barring management from any oversight role with respect to the external auditor, the U.S. audit committee requirements facilitate the independent review and oversight of a company's financial reporting processes and the work of the external auditors. The Instrument requires certain reporting issuers to comply with provisions similar to those in the United States. The Instrument differs from the U.S. audit committee requirements to the extent required by Canadian corporate law and certain realities of the Canadian markets (*i.e.*, the high number of public junior issuers and controlled companies).

Substance and Purpose

The purpose of the Instrument is to encourage reporting issuers to establish and maintain strong, effective and independent audit committees. We believe that such audit committees enhance the quality of financial disclosure made by reporting issuers, and ultimately foster investor confidence in Canada's capital markets.

The Instrument requires that every reporting issuer have an audit committee to which the issuer's external auditor must directly report. In addition, every audit committee must be responsible for:

- overseeing the work of the external auditor engaged for the purpose of preparing or issuing an audit report or related work;
- pre-approving all non-audit services to be provided to the issuer or its subsidiary entities by the issuer's external auditor; and
- reviewing the issuer's financial statements, MD&A, and annual and interim earnings press releases before they are publicly disclosed by the issuer.

Every audit committee must recommend to the board of directors the external auditor to be nominated for the purpose of preparing or issuing an auditor's report (or any related work), as well as the compensation to be paid to the external auditor.

The Instrument also establishes composition requirements for audit committees. Every audit committee must have a minimum of three members, and each member must be financially literate and independent. A member is independent if the member has no direct or indirect material relationship with the issuer. A material relationship is defined as a relationship that could, in the view of the issuer's board of directors, reasonably interfere with the exercise of a member's independent judgement. In addition, certain categories of persons are considered to have a material relationship with the issuer.

The Instrument requires that every audit committee be provided with the authority to engage and compensate independent counsel and other advisers which the committee determines are necessary to carry out its duties. Every audit committee must also have the authority to communicate directly with the internal and external auditors. In our view, these powers are essential to enable an independent audit committee to perform its role without reliance on management.

The Instrument exempts venture issuers from the requirements of Parts 3 (*Composition of the Audit Committee*) and 5 (*Reporting Obligations*) of the Instrument. As a result, the members of a venture issuer's audit committee are not required to be either independent or financially literate; however, venture issuers must provide, on an annual basis, the alternative disclosure required by Form 52-110F2.

The Instrument also contains an exemption for issuers who are U.S. listed issuers.

The Companion Policy provides interpretive guidance and other background information regarding the Instrument.

Summary of Written Comments Received by the CSA

The Instrument and the Companion Policy were published for comment on June 27, 2003. We have subsequently received submissions from 50 commenters. We have considered the comments received and thank all the commenters. The names of all the commenters are contained in Appendix A of this Notice.

Generally, the commenters were supportive of the Instrument and the Companion Policy, although many had comments on specific portions of the Instrument and Companion Policy. A summary of these comments is contained in Appendix B of this Notice, together with our responses to those comments.

Upon considering the comments, we made several revisions to the Instrument and the Companion Policy. Blacklined versions of these documents, which highlight all of the revisions that were made, are published as Appendix C of this Notice. We have not republished the Instrument and Companion Policy for comment, as we believe that the revisions do not constitute material changes to the Instrument or Companion Policy. In reaching this conclusion, we note that the fundamental purpose and approach of the Instrument remain unchanged, and that for the most part the revisions reflect either clarifications to the Instrument or certain additional exemptions to the Instrument that we do not believe materially alter the Instrument.

Summary of Changes

Set out below are noteworthy changes made to the Instrument and Companion Policy since those materials were published for comment on June 27, 2003.

1. Application of the Instrument

Section 1.2 has been revised so that the following classes of issuers will not be subject to the Instrument:

(a) **SEC foreign issuers.** An "SEC foreign issuer" has the meaning set out in National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers*.

(b) **Exchangeable security issuers.** Issuers that are "exchangeable security issuers" are not subject to the Instrument, provided that they qualify for the relief contemplated by, and are in compliance with the requirements and conditions set out in, section 13.3 of National Instrument 51-102 *Continuous Disclosure Obligations*.

(c) **Credit support issuers.** Issuers that are "credit support issuers" are not subject to the Instrument, provided that they qualify for the relief contemplated by, and are in compliance with the requirements and conditions set out in, section 13.4 of National Instrument 51-102 *Continuous Disclosure Obligations*.

In addition, the Companion Policy now incorporates additional guidance regarding the application of the Instrument to income trusts and other non-corporate entities.

2. Meaning of Independence

The meaning of independence has been revised to more closely parallel similar provisions in the U.S. We have also added guidance to the Companion Policy that discusses the origins of our definition of independence.

3. Audit Committee Responsibilities

Section 2.3 has been revised to clarify the audit committee's responsibilities regarding the pre-approval of non-audit services.

(a) **Pre-approval of non-audit services.** Subsection 2.3(4) of the Instrument has been revised to clarify that it is the provision of non-audit services by the issuer's external auditors that must be pre-approved by the issuer's audit committee, regardless of whether the non-audit services are provided to the issuer or a subsidiary entity of the issuer.

(b) **Pre-approval policies and procedures.** Section 2.6 now provides that an audit committee satisfies the pre-approval requirements in subsection 2.3(4) through the adoption of specific polices and procedures for the engagement of non-audit services. In addition, the Companion Policy now includes additional guidance regarding the development and application of such policies and procedures.

4. New Exemptions from the Composition Requirements

Part 3 of the Instrument has been amended by the addition of certain exemptions.

(a) **New exemption for controlled companies.** To accommodate controlling shareholders, we have added an additional exemption to section 3.3 of the Instrument. The new exemption exempts an audit committee member from the independence requirements where:

(i) the member would be independent, but for his or her status as an "affiliated entity";

(ii) the member is not an executive officer, general partner or managing member of a publicly traded affiliated entity, or an immediate family member of such a person;

(iii) the member does not act as the chair of the audit committee; and

(iv) the board determines in its reasonable judgement that

(A) the member is able to exercise the impartial judgement necessary for the member to fulfill his or her responsibilities as an audit committee member, and

(B) the appointment of the member is required by the best interests of the issuer and its shareholders.

The exemption is not available to a member unless a majority of the audit committee members will be independent. When an audit committee member relies on this exemption, the issuer must make certain disclosure. See Item 5 of Form 52-110F1.

(b) **Temporary exemption for limited and exceptional circumstances.** A new exemption has been added to the Instrument as section 3.6. It provides an exemption from the independence requirements for a period of up to two years, provided that:

(i) the member is not an individual described in paragraphs 1.4(3)(f)(i) or 1.4(3)(g) of the Instrument;

(ii) the member is not an employee or officer of the issuer, or an immediate family member of such a person;

(iii) the board, under exceptional and limited circumstances, determines in its reasonable judgement that

(A) the member is able to exercise the impartial judgement necessary for the member to fulfill his or her responsibilities as an audit committee member, and

(B) the appointment of the member is required by the best interests of the issuer and its shareholders; and

(iv) the member does not act as the chair of the audit committee.

The exemption is not available to a member unless a majority of the audit committee members will be independent. When an audit committee member relies on this exemption, the issuer must make certain disclosure. See Item 5 of Form 52-110F1.

(c) **Financial literacy.** Section 3.8 has been added to the Instrument to clarify that an audit committee member who is not financially literate at the time of his or her appointment to the audit committee will be permitted a reasonable amount of time in which to become financially literate. However, where this provision is relied upon, Form 52-110F1 now requires an issuer to disclose the name of the member in question and the date by which the member expects to become financially literate.

5. Restriction on Use of Certain Exemptions

As previously published, Form 52-110F1 required issuers that relied upon certain exemptions contained in the Instrument to disclose an assessment of whether, and if so, how, such reliance could materially adversely affect the ability of the audit committee to satisfy the other requirements of the Instrument. Upon reflection, we recognized that this disclosure requirement would act as a *de facto* condition to the use of the exemption, and that such a provision should more appropriately be included in the Instrument. This provision has therefore been added as section 3.9 of the Instrument.

6. Disclosure Regarding Audit Committee Financial Experts

The Instrument no longer requires an issuer to disclose whether or not an audit committee financial expert is serving on its audit committee. Instead, issuers are required to describe, for each member of the audit committee, that member's education and experience that relate to his or her responsibilities as an audit committee member (see Item 3 of Form 52-110F1). Guidance regarding the application of this disclosure requirement has been included in the Companion Policy.

7. Exemption for U.S. Listed Issuers

The conditions applicable to the exemption for U.S. listed issuers in section 7.1 has been revised to clarify that

- an issuer using the exemption must be in compliance with the requirements of the U.S. marketplace applicable to issuers other than foreign private issuers, and
- only issuers incorporated, continued or otherwise organized in Canada must comply with the AIF disclosure requirement in clause 7.1(b).

8. Effective Date and Transition

The effective date of the Instrument is March 30, 2004. However, it will not apply to issuers until the earlier of

(a) the first annual meeting of the issuer after July 1, 2004, and

(b) July 1, 2005.

9. Audit committee procedures

The Companion Policy has been revised to clarify that nothing in the Instrument is intended to restrict the ability of the board of directors or the audit committee to establish the audit committee's quorum or procedures, nor to restrict the committee's ability to invite additional parties to attend audit committee meetings.

Authority for the Instrument – Ontario

In those jurisdictions in which the Instrument is to be adopted or made as a rule or regulation, securities legislation provides the securities regulatory authority with rule-making or regulation-making authority regarding the subject matter of the Instrument.

Paragraph 143(1)57 of the *Securities Act* (Ontario) authorizes the Ontario Securities Commission to make rules requiring reporting issuers to appoint audit committees and prescribing requirements relating to the functioning and responsibilities of audit committees, including requirements in respect of the composition of audit committees and the qualifications of audit committee members, including independence requirements.

Related Instruments

The Instrument is related to National Instrument *51-102 Continuous Disclosure Obligations* and National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers*.

Anticipated Costs and Benefits

The anticipated costs and benefits of implementing the Instrument and the Companion Policy are discussed in the paper entitled, *Investor Confidence Initiatives: A Cost-Benefit Analysis* (the Cost-Benefit Analysis), which was published on June 27, 2003. A response to comments received on the Cost-Benefit Analysis has been published together with this Notice, and is incorporated by reference into this Notice.

Alternatives Considered

As noted above, the Instrument is largely derived from the audit committee requirements currently being implemented in the United States. The U.S. requirements are being adopted to restore the public's faith in the U.S. capital markets. Because our markets are largely integrated with and affected by the U.S. markets, we determined it appropriate to propose similar requirements. We did consider proposing an instrument or policy which would contain less onerous requirements than those found in the Instrument; however, because an aim of the Instrument is to foster investor confidence in Canada's capital markets, we determined that it was necessary to propose requirements that are as robust as those proposed in the United States.

Reliance on Unpublished Studies, Etc.

In developing the Instrument, we did not rely upon any significant unpublished study, report or other written materials.

Questions

Questions regarding the Instrument and Companion Policy may be referred to the following people:

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Instrument and Companion Policy

The text of the Instrument and Companion Policy follows.

January 16, 2004.

APPENDIX A

LIST OF COMMENTERS

The Advisory Group on Corporate Responsibility Review
Agrium Inc.
Association for Investment Management and Research
Association of Chartered Certified Accountants
Automodular Corporation
BDO Dunwoody LLP
Jean Bédard
Bennett Jones LLP
Blake, Cassels & Graydon LLP
British Columbia Securities Commission
Canadian Bankers Association
Canadian Council of Chief Executives
The Canadian Institute of Chartered Accountants
Canadian Oil Sands Trust
Canadian Pacific Railway Limited
Certified General Accountants Association of Canada
Davies Ward Phillips & Vineberg LLP
Deloitte & Touche LLP
EnCana Corporation
Ernst & Young LLP
Fasken Martineau
Joel Fried
Grant Thornton LLP
Imperial Oil Limited
Institute of Corporate Directors
Institute of Internal Auditors
KPMG LLP
Leon's Furniture Limited
MacPherson Leslie & Tyerman LLP
Mendelsohn
Robert W. A. Nicholls and Robert F.K. Mason
Ontario Teachers' Pension Plan Board
Ogilvy Renault
Osler, Hoskin & Harcourt LLP
Power Corporation of Canada
PricewaterhouseCoopers LLP
Raymond Chabot Grant Thornton
Thomas P. Reilly
Simon Romano
Stephen D. Rotz
Harry G. Schaefer
Sears Canada Inc.
Shoppers Drug Mart Corporation
Talisman Energy Inc.
TELUS Corporation
TransCanada Corporation
TransCanada Power,L.P.
Torys LLP
TSX Group
Winpak Ltd.

APPENDIX B

SUMMARY OF COMMENTS AND RESPONSES

No.	Section/Topic	Comment	Response
	Part One Definitions and Application		
1.	**Section 1.1 (*Definitions — Definition of Audit Committee Financial Expert*)**	One commenter suggested that the definition of "audit committee financial expert" should be harmonized with the definition utilized by the SEC, and that the Instrument should specify how a person can acquire the requisite attributes. One commenter suggested that paragraph (b) of the definition of "audit committee financial expert" be broadened to read "the ability to assess the general application of such accounting principles to the activities and the affairs of the issuer". Another commenter suggested that paragraph (b) be deleted as it is unclear and is captured by paragraph (c). One commenter also questioned whether paragraph (e) of the definition was necessary, as all directors and senior officers would be expected to have such knowledge.	The definition of "audit committee financial expert" has been deleted. See comments regarding Topic 36, below.
2.	**Section 1.1 (*Definitions — Definition of Immediate Family Member*)**	Several commenters raised concerns about the definition of "immediate family member".	See the comments regarding Topic 13, below.
3.	**Section 1.1 *(Definitions – Financially Literate)***	A number of commenters considered the definition of "financially literate" to provide sufficient guidance to allow an issuer to adequately assess a member's compliance with the Instrument. One commenter did not. One commenter suggested that the definition of "financially literate" be revised to expressly give the board the power to determine the requisite level of financial literacy for its audit committee members.	We have clarified in the Companion Policy that, in our view, it is not necessary for an audit committee member to have a comprehensive knowledge of generally accepted accounting principles and generally accepted auditing standards to be considered "financially literate". We disagree. In our view, an audit committee member must at least have the ability required by the definition.
4.	**Section 1.1 (*Definitions – Definition of Non-Audit Services*)**	One commenter believed that the definition of "non-audit services" was unhelpful, as it merely referred to services other than audit services. The commenter recommended that services provided to an issuer in connection with the issuer's statutory and regulatory filings be excluded from the definition of "non-audit services".	We have revised the definition of "audit services" to mean the professional services rendered by the issuer's external auditors for the audit and review of the issuer's financial statements or services that are normally provided by the external auditor in connection with statutory and regulatory filings or engagements. We believe this will address the commenters concerns about "non-audit services".
5	**Section 1.1 (*Definitions – Definition of***	One commenter noted that an issuer that only has securities quoted on an "alternative trading system" in Canada or	The definition of "venture issuer" is based upon the definition used in National Instrument 52-102 *Continuous Disclosure Obligations*. To ensure

No.	Section/Topic	Comment	Response
	Venture Issuer)	the U.S. is a "venture issuer". The commenter suggested that it was anomalous that an issuer that has its securities listed or quoted on any marketplace outside of Canada or the U.S. would not be a "venture issuer". Three commenters recommended that the definition of "venture issuer" be based upon the size or market capitalization of the issuer.	harmony between these two instruments, we have not revised the definition to address these comments.
6.	**Section 1.2 (*Application — Subsidiary Entities*)**	One commenter recommended that the Instrument contain a clear definition of "equity securities". The commenter suggested that the definition include only voting securities and exclude preferred securities where the security holders do not ordinarily have a right to vote. One commenter noted that a subsidiary entity that has no equity securities displayed for trading on a marketplace is exempt from the Instrument if its parent entity is subject to the requirements of the Instrument. The commenter suggested that the exemption should be expanded to include those situations where the parent is subject to the equivalent provisions under SEC rules.	A definition of "equity securities" has not been incorporated into the Instrument, as this term is defined in the securities legislation of various jurisdictions. However, we have revised section 1.2 so that subsidiary entities that only have non-convertible, non-participating preferred securities displayed for trading on a marketplace are not subject to the Instrument, provided that the parent issuer is subject to the Instrument or to comparable US requirements. We agree, subject to the issuer having it securities listed on a U.S. marketplace and the issuer being in compliance with the requirements of that marketplace. We have revised section 1.2 accordingly.
7.	**Section 1.2 (*Application —Exchange-able Securities and other Issuers Exempt from Continuous Disclosure Requirements*)**	Several commenters recommended that the Instrument provide an exemption for issuers of exchangeable securities, as the financial statements of such issuers are not relevant to security holders. Another commenter noted that many issuers of medium term notes **(MTNs**) are exempt from both the continuous dis-closure requirements in securities legislation and the audit committee requirements in corporate statutes. Consequently, the commenter recommended that MTN issuers be exempt from the requirement to have an audit committee that complies with the Instrument. One commenter suggested that any issuer eligible to rely on an exemption, waiver or approval granted to it by a regulator or securities regulatory authority relating to continuous disclosure be entitled to rely upon a similar exemption from the Instrument.	We agree. We have revised section 1.2 so that the Instrument will not apply to these issuers. We agree. We have revised section 1.2 so that the Instrument will not apply to these issuers who are credit support issuers. We believe that such an exemption would be too broad. However, when applying for relief from the continuous disclosure requirements in securities legislation, issuers may also seek exemptive relief from the Instrument. Applications for such relief will be considered on a case-by-case basis.

No.	Section/Topic	Comment	Response
8.	**Section 1.2 (*Application – Limited Partnerships, Income Trusts and Holding Company Structures, etc.)***	Several commenters questioned how the Instrument would apply, generally, to issuers such as limited partnerships, income trusts and holding company structures.	Paragraph 1.2 of the Companion Policy describes our views regarding how the Instrument should apply to entities such as limited partnerships and income trusts. In our view, where the Instrument or this Policy refers to a particular corporate characteristic, such as a board of directors, the reference should be read to also include any equivalent characteristic of a non-corporate entity. In other words, in the case of an income trust, we expect that the trustees will appoint a minimum of three independent trustees to act as an audit committee and fulfil the responsibilities of the audit committee imposed by the Instrument. Similarly, in the case of a limited partnership, we expect the directors of the general partner to appoint an audit committee which fulfils these responsibilities. However, where the structure of an issuer would not permit it to comply with the Instrument, the issuer may seek exemptive relief. In addition, we have also added guidance to the Companion Policy regarding the application of the term "executive officer" to individuals who are employed through management companies.
		Another commenter recommended that an exemption from the independence requirements be made for arm's length qualifying transactions for capital pool companies (**CPCs**) and reverse take-over bids of public company shells. The commenter noted that in both cases, the directors and officers of the CPC or public shell company will often continue with the post-transaction entity, but may not meet the definition of independence on account of their association with the former CPC or public shell company. The commenter suggested that, because the director's or officer's association with the former CPC or public shell company would not have been in a managerial role, it would be inappropriate to preclude those officers and directors from being independent of the resulting entity.	Notwithstanding that the transaction in question may be arm's length, we do not believe that the directors and officers of a former CPC or public shell company will necessarily be independent of the resulting issuer. Consequently we are not prepared to incorporate such an exemption.
9.	**Section 1.3 *(Meaning of Affiliated Entity, Subsidiary Entity and Control)***	Two commenters noted that the definitions of affiliated entity, control and subsidiary entity were very fuzzy or difficult to follow. Two other commenters noted that the definitions were borrowed from U.S. securities law, but that neither the Instrument nor Companion Policy provided guidance as to how these terms were to be interpreted. The commenters strongly urged the CSA to adopt bright line definitions that reflect how these terms are commonly understood in Canada.	We considered the comments related to the definitions used in this section, but determined to retain them as they are the same as those contained in Rule 10A-3 under the 1934 Act (or **Rule 10A-3**).We believe that this is necessary for the Instrument to be as consistent as possible with the equivalent U.S. regulation.
		One commenter suggested that it was unclear what was meant by "managing	The term "managing member" is meant to capture individuals who occupy positions of authority with

No.	Section/Topic	Comment	Response
		member" in subsection 1.3(1)(b)(ii). One commenter noted that subsection 1.3(1)(b) was an example of an incomplete definition, as it did not follow an "if this, then that" formula.	entities other than corporations or limited partnerships (*i.e.*, limited liability companies, etc.). We believe that the definition in subsection 1.3(1)(b) is complete and, accordingly, have not modified it.
10.	**Section 1.4 (*Meaning of Independence — General*)**	A number of commenters endorsed the definition of independence contained in subsections 1.4(1) and (2). Seven commenters suggested that any examination of a member's independence should focus on the member's independence from management, rather than on his or her independence from the issuer. One commenter was concerned that issuers operating in regulated industries, especially those issuers designated as "common carriers", would find it difficult to locate directors who did not have a material relationship with the issuer. Two commenters suggested that a director should be considered to be not independent only if the director had a material relationship with the issuer that might interfere with the exercise of the director's judgement with respect to matters that might come before the audit committee. One commenter suggested that where a director had a material relationship with the issuer, the board should be permitted to override this determination if the independent directors unanimously approve the decision and disclosure of the decision is made in the issuer's annual disclosure.	- We concur that an audit committee member's independence from management is a critical component of the member's independence. However, in addition, a member should not be affiliated with the issuer, as affiliated entities can exert control over management. Furthermore, a member must also be independent of the issuer's internal and external auditors, to facilitate auditor independence. As noted in subsection 1.4(2), a material relationship means a relationship that could, in the view of the issuer's board of directors, reasonably interfere with the exercise of a member's independent judgement. We believe that there is likely a pool of directors who are not related to the common carrier in a manner that, in the view of its board, would reasonably interfere with the exercise of their independent judgement. We do not agree that the scope of the independence definition should be restricted to those matters that might come before the audit committee. Independence requires objectivity on the part of the director with respect to all matters related to the issuer. Further, this suggestion would be inconsistently applied given the subjectivity that would be involved in determining whether a matter might come before the audit committee. We also do not agree that the board should be able to override the independence provisions where a director has a material relationship with the issuer. Both of these suggestions would detract from consistency in the application of the independence provisions included in the Instrument.
11.	**Section 1.4 (*Meaning of Independence — Prescribed Relationships, General*)**	One commenter commended the CSA for providing such a comprehensive test for independence. However, 14 commenters suggested that the prescribed relationships set out in subsection 1.4(3) were either too stringent or unnecessary. Eight commenters recommended that a board be permitted to designate a director as being independent notwithstanding that the director would be deemed to be not	We appreciate the concerns that have been expressed and have made the following accommodations. Subsection 1.4(3) has been revised such that an immediate family member must be an executive officer, rather than merely an employee, in order to preclude a finding of independence. The Instrument has also been revised to provide a temporary exemption for a director who is not independent to be a member of the audit committee in limited and exceptional circumstances. While we have made these accommodations to address the concerns

No.	Section/Topic	Comment	Response
		independent under subsection 1.4(3) of the Instrument. Five commenters suggested, however, that any such determination by the board be publicly disclosed by the issuer, together with the board's reasons for making the determination. Two commenters suggested that the specific relationships identified in subsection 1.4(3) should be moved to the Companion Policy, where they would provide guidance to the board in applying the test set out in subsection 1.4(1). Another commenter believed that it was unnecessary to specifically deem directors with the identified relationships to be not independent. With respect to the specific relationships prescribed by subsection 1.4(3), one commenter considered them to be generally appropriate. Two other commenters, however, noted that the prescribed relationships did not capture some relationships (such as close friendships) and other factors that could influence board independence. One commenter suggested that only the independence restrictions imposed by SOX (i.e., those found in subsections 1.4(3)(e) and (f)) should apply to audit committees. Another commenter suggested that, if the prescribed relationships were to be included in the Instrument, they should go no further than those proposed by the SEC and NYSE.	expressed, we consider the prescribed relationships set out in subsection 1.4(3) to be of a sufficiently fundamental nature as to preclude a finding of independence. Further, in the revised Instrument, they generally mirror the relationships that have been prescribed by the SEC in Rule 10A-3 and the NYSE listing requirements. We do not agree that the board should be able to designate a member as being independent notwithstanding that the member would be deemed to be not independent under subsection 1.4(3) of the Instrument. We also do not agree that the specific relationships identified in subsection 1.4(3) should be moved to the Companion Policy. The underlying premise of subsection 1.4(3) is that individuals in these relationships lack the independence to be audit committee members. We recognize that subsection 1.4(3) does not capture all possible relationships that could influence a member's independence. However, it is the responsibility of the board to consider all relationships in exercising its discretion under subsection 1.4(2) of the Instrument. We do not agree that only the independence provisions imposed by SOX should apply to audit committees. This would be inconsistent with broader regulation that is imposed by U.S. exchanges. The SEC has recognized the importance of U.S. exchange regulation in approving the listing requirements of such exchanges. We have revised the Instrument to ensure that the prescribed relationships included in the Instrument are no broader than those prescribed by the SEC and the NYSE.
12.	**Section 1.4 (*Meaning of Independence — Non-Executive Chairs*)**	Five commenters noted that many non-executive chairs and vice-chairs would be deemed to be not independent under the proposed Instrument. One commenter noted that the term "full time" was not very helpful.	We acknowledge that a full-time chair and vice-chair would be deemed to have a material relationship with the issuer under the proposed Instrument. The presumption is that, if a person is performing the function on a full time basis, they are acting in the capacity of an executive officer regardless of their designation. The Instrument has been revised to clarify that fees paid to a non-executive chair or vice-chair will not, alone, cause that person's independence to be impeded.
13.	**Section 1.4 (*Meaning of Independence — Restrictions regarding Immediate Family Members*)**	Various commenters raised concerns regarding the definition of "immediate family member" and its role in determining a member's independence under section 1.4 of the Instrument. Many of the commenters noted that the relationships identified in subsections 1.4(3)(a) through (d) were derived from the listing requirements of the NYSE and use the NYSE definition of "immediate family member" which is broader than the	The Instrument has been revised accordingly.

No.	Section/Topic	Comment	Response
		definition of "immediate family member" used by the SEC. They suggested that the test in subsection 1.4(3)(e), which was derived from Rule 10A-3, use the narrower SEC definition of immediate family member. Five commenters suggested that it was inappropriate to deem a director to be not independent merely because their immediate family member was employed by the issuer. Instead, they suggested that the determination of independence in such circumstances be left to the board of directors. Other commenters suggested that a director's independence should be impaired by an immediate family member's employment with the issuer only if the immediate family member worked full time for the issuer and occupied a senior position that involved a policy-making function. They suggested that the board be given discretion to override these prohibitions. Six commenters suggested that a monetary threshold be used to measure the seniority of an employment relationship. One commenter suggested a $75,000 threshold, while others suggested a threshold of $100,000 or $150,000. A seventh commenter noted that any monetary threshold would be arbitrary.	The Instrument has been revised so that the immediate family member must be an executive officer of the issuer to preclude independence. However, we do not agree that the determination of independence in that circumstance should be left to the board of directors. See our response above. Subsections 1.4(3)(a) and (b) of the revised Instrument focus on employment while subsection 1.4(3)(f) focuses on compensation. As noted above, an immediate family member must now be an executive officer of the issuer to preclude independence. We continue to believe that if a member is an employee of the issuer, that person should be precluded from being considered independent.
14.	**Section 1.4 (*Meaning of Independence — The Prescribed Period*)**	Several commenters noted that, unlike the Instrument, the SEC requirements did not impose a "look-back" position. These commenters recommended that the Instrument be more closely harmonized with the U.S. requirements. Two commenters recommended that a two year cooling off period would be more appropriate. Another commenter suggested a one year period. A fourth commenter recommended either a one or two year period, while a fifth commenter recommended a one year cooling off period, to be used as a guideline only. Generally, the commenters recognized that a balance must be achieved between directors who are independent and those that have knowledge and expertise in the business and industry. One commenter suggested that a three year cooling off period for former partners, members or executive officers of entities that provide consulting, legal, investment	We agree that the provisions that have been derived from Rule 10A-3 should not impose a "look-back" period. The Instrument has been revised accordingly. We do not agree with these comments and continue to believe that three years is an appropriate cooling off period. The NYSE has also adopted a three year cooling off period in its director independence requirements. We do not agree that the three year cooling off period should be rebuttable by the board.

No.	Section/Topic	Comment	Response
		banking or financial advisory services is too restrictive. Instead, this presumption should be rebuttable by the board. One commenter suggested that the policy include an example of how the prescribed period should be applied.	
15.	**Section 1.4 (*Meaning of Independence — Persons Employed by Auditor*)**	Two commenters suggested limiting the prescribed relationship in subsection 1.4(3)(b) to those employed in a "professional capacity", in the same manner that they are used in subsection 1.4(3)(c). Another commenter recommended that the restrictions in subsections 1.4(3)(b) and (c) relating to former partners and employees of the current or former external auditors only apply to those persons who provided services to the issuer.	We do not agree. These prescribed relationships are consistent with those included in the NYSE listing requirements.
16.	**Section 1.4 (*Meaning of Independence — Prohibition Against Certain Compensatory Fees*)**	Five commenters recommended that the prohibition against compensatory fees be subject to a *de minimis* threshold. Two commenters suggested that a monetary threshold for various independence requirements would not be successful, as the number would be either arbitrary or otherwise insufficient. One commenter questioned whether being in a lawyer-client relationship necessarily created a situation of non-independence. In the experience of the commenter, the reverse was often true, as the commenter believed that lawyers were often very conservative and risk-averse by training.	We are of the view that the prohibition against compensatory fees should not be subject to a *de minimis* threshold. The application of a *de minimis* threshold may not be appropriate for all types of fees and services and may not be consistently applied by issuers. Further, the absence of a *de minimis* threshold is consistent with the parallel restriction included in Rule 10A-3. As noted above, it is desirable that the Instrument be as consistent with equivalent U.S. regulation as possible. We disagree.
17.	**Section 1.4 (*Meaning of Independence — Limited Partners*)**	One commenter questioned the use of the term "limited partner" in subsection 1.4(5) because, to the knowledge of the commenter, no accounting firm was organized as a limited partnership. Instead, the commenter recommended the use of the term "fixed income partner".	We agree and have amended subsection 1.4(5) accordingly.
18.	**Section 1.4 – (*Meaning of Independence — Indirect Acceptance of Compensatory Fees*)**	Three commenters noted that the indirect acceptance provisions in subsection 1.4(7) are phrased differently than the corresponding provisions in the U.S. The commenters thought that this may result in confusion. The commenters also believed that the language in subsection 1.4(7) captured a broader group of persons and companies than the comparable U.S. provisions.	The provisions of subsection 1.4(7) have been revised to more closely parallel the equivalent U.S. provisions.

No.	Section/Topic	Comment	Response
		Another commenter suggested that subsection 1.4(7)(b) be amended to clarify that the exception included therein extends to associates (*i.e.,* non-partner employees of professional firms) whose compensation does not depend directly on the fees received from the issuer. Three commenters were unclear regarding the meaning of "member" or "non-managing member".	The term "member" is meant to capture individuals who occupy positions of authority with entities other than corporations or limited partnerships (*i.e*., limited liability companies, etc.). The term "non-managing member" has the reciprocal meaning.
	Part 2 Audit Committee Responsibili-ties		
19.	**Section 2.2 – (*Relationship with External Auditor*)**	One commenter suggested that the Instrument include some direction regarding the scope of the work that may be performed by the external auditor for the benefit of the audit committee. At the very least, the commenter suggested revising subsection 2.3(4) to prohibit the audit committee from pre-approving any non-audit work which, in the opinion of the audit committee, would result in the external auditors auditing their own work. One commenter suggested that the Instrument go further to strengthen the interaction between the auditor and the audit committee. The commenter suggested that the audit committee be required to meet with the external auditor at least once per year, and to discuss with the external auditor his or her professional judgements with respect to all critical accounting policies and practices used by the issuer and all alternative accounting treatments. The commenter also recommended that material written communication between the auditor and the issuer's management be discussed. Further, the commenter suggested that the audit committee be required to disclose the number of times per year that such meetings were held and whether such discussions took place. One commenter suggested that the relationship of the audit committee and the internal audit function be formalized in the Instrument. The commenter suggested that where an internal auditing function does not exist in an issuer, the audit committee be required to annually assess whether its absence creates unacceptable risk for the organization.	We believe that the restrictions on the scope of work that can be performed by an external auditor are appropriately dealt with by the Canadian Institute of Chartered Accountants (**CICA**) standards on independence. We have therefore not added the suggested guidance to the Instrument. We believe that it would not be appropriate to include such responsibilities in the Instrument. If the external auditors are unable to fulfil their professional obligations, they will be unable to complete the issuer's audit. At this time, we have decided not to require issuers to maintain internal audit functions.

No.	Section/Topic	Comment	Response
20.	**Subsection 2.3(2) (*Audit Committee Responsibilities – Recommendations to the Board*)**	One commenter suggested that, rather than requiring the audit committee to recommend to the issuer's board of directors the compensation of the external auditors as provided in subsection 2.3(2)(b), an issuer's board of directors should be permitted to delegate to the audit committee its authority to approve the compensation of the external auditors. The commenter noted that, under the *Canada Business Corporations Act* and the *Alberta Business Corporations Act*, the delegation of the director's authority to fix the remuneration of the auditors is not restricted as it is for other director actions.	We agree that the board of directors may delegate such matters to the audit committee. However, the directors may only fix the remuneration of the external auditors if the shareholders fail to do so (s.162 (4), CBCA; s.162(4), ABCA) Although in practice, the directors may fix the remuneration, the right to fix the remuneration is, nevertheless, a right of the shareholders. We therefore believe that it is inappropriate to include in the Instrument a presumption that the right will not be exercised.
21.	**Subsection 2.3(3) (*Audit Committee Responsibilities – Oversight of Work of External Auditors*)**	One commenter was concerned that the responsibility to "oversee" the work of the external auditors would preclude the external auditors from providing their views directly to the shareholders if the external auditors disagreed with the approach being taken by the audit committee. The commenter viewed the responsibility to oversee the "resolution of disagreements between management and the external auditors regarding financial reporting" as reinforcing this interpretation. The commenter believed that the matter of whether the external auditors are performing their function appropriately should be left to the standards established and maintained by the accounting profession and its various oversight bodies. One commenter questioned whether the phrase "directly responsible" implied an additional responsibility for the audit committee. If so, this commenter recommended clarification in the Instrument.	We have included a paragraph in the Companion Policy to clarify that the external auditors have the authority to also give their views directly to the shareholders if they disagree with the approach being taken by the audit committee. We agree that the external auditors are subject to professional standards and oversight by professional oversight bodies. We believe that specific decisions regarding the execution of the audit committee's oversight responsibilities, as well as decisions regarding the extent of desired involvement by the audit committee, are best left to the discretion of the audit committee of the issuer in addressing the issuer's individual circumstances. The phrase "directly responsible" is used to clarify that the oversight responsibility rests with the audit committee. Accordingly, no additional clarification has been added.
22.	**Subsection 2.3(4) (*Audit Committee Responsibilities – Pre-approval of non-audit services*)**	Five commenters believed that the Instrument should address the use of specific policies and procedures for the pre-approval of non-audit services. Three commenters suggested that we incorporate in the Companion Policy guidance regarding pre-approval requirements similar to that provided in the SEC's FAQ on Auditor Independence. Two commenters suggested that the pre-approval requirements in subsection 2.3(4) should also extend to audit services.	The discussion of pre-approval policies and procedures previously found in paragraph 5.1 of the Companion Policy has been incorporated into the Instrument. Guidance related to monetary thresholds and the appropriate level of detail necessary for such pre-approval has been included in the Companion Policy. We disagree with this suggestion. Under Canadian corporate law, the shareholders have the right to appoint the external auditor. By requiring the audit committee to pre-approve the provision of audit services, we believe that we would interfere with this right of the shareholders.

No.	Section/Topic	Comment	Response
		Two commenters suggested that the pre-approval requirement in subsection 2.3(4) should not be extended to the external auditors of an issuer's subsidiary if they are not the auditors of the issuer. One of the commenters limited this suggestion to the situation where the subsidiary, itself, is subject to the Instrument. Another commenter suggested that the pre-approval requirement should relate to all audit services provided to the issuer whether by its external auditors or the external auditors of subsidiary entities, that non-audit services provided to subsidiary entities by their external auditors (where they are not also the issuer's external auditors) should not be subject to pre-approval by the audit committee of the issuer, and that fee disclosure requirements should relate to all services provided by the external auditors of the issuer but not to any services provided to subsidiary entities by their external auditors (where they are not also the issuer's external auditors.)	Subsection 2.3(4) has been revised so that non-audit services that are provided by the issuer's external auditors to either the issuer or its subsidiary entities must be pre-approved by the issuer's audit committee. Paragraph 9 of Form 52-110F1 and paragraph 6 of Form 52-110F2 have been revised to clarify that the fee disclosure requirements contained therein relate to all services provided to the issuer or its subsidiary entities by the issuer's external auditors. They do not relate to any services provided by the external auditors of a subsidiary entity if they are different than the external auditors of the issuer.
		One commenter suggested that that it is the responsibility of the audit committee and the board of directors to establish pre-approval policies and procedures that are appropriate to assess auditor independence. Consequently, detailed rules and interpretations should not be prescribed in this respect.	We agree. We do not believe that the provisions of the Instrument regarding pre-approval polices and procedures constitute "detailed rules and interpretations".
23.	**Subsection 2.3(5) (*Audit Committee Responsibilities — Review of Financial Statements, etc.*)**	One commenter noted that the requirement for the audit committee to review an issuer's earnings press releases prior to public disclosure was unnecessary as such releases were derived from an issuer's primary financial documents which must also be reviewed by the audit committee. The commenter suggested that it was logically inconsistent to single out earnings press releases from the other statements an issuer might make about itself and its prospects, many of which would be unscripted. The commenter argued that this logical inconsistency was recognized in the recent and pending amendments to the *Securities Act* (Ontario). By requiring the audit committee to review earnings press releases, the commenter suggested that such releases would effectively become "board statements", and dangerously cross the line between management and the board.	We believe that earnings press releases, unlike many of the other statements that an issuer may make about itself or its prospects, are high profile documents which can often trigger media attention and affect an issuer's share price. Consequently, we believe such documents are sufficiently important to be reviewed by the audit committee prior to public release.
		Another commenter requested clarification as to whether the phrase "earnings press releases" included profit	We do not consider the phrase "earnings press releases" to include profit warnings or similar guidance. To clarify this point, subsection 2.3(5)

No.	Section/Topic	Comment	Response
		warnings and similar guidance. If so, the commenter recommended that a temporary exemption be provided where an earnings press release was used in the context of a "material change", as the issuer has an obligation to make prompt disclosure of information to the marketplace.	has been revised by replacing the phrase "earnings press releases" with "annual and interim earnings press releases".
24.	**Subsection 2.3(6) (*Audit Committee Responsibilities — Procedures for review of Other Financial Disclosure*)**	One commenter suggested that subsection 2.3(6) be clarified as to whether the review of financial information must occur before or after its public disclosure.	In our view, to be meaningful, the review must occur prior to the public disclosure of such financial information.
25.	**Subsection 2.3(7) (*Audit Committee Responsibilities – Establishing Complaint Procedures, etc.*)**	One commenter recommended that issuers also be required to establish procedures for the treatment of reports of alleged fraud and illegal acts. One commenter recommended that there be a six month transition period to allow meaningful procedures to be established. One commenter suggested that anonymity not be required to be maintained in subsection 2.3(7)(b) if, in the reasonable opinion of the audit committee, the maintenance of anonymity would significantly impair the audit committee's ability to investigate and deal with concerns initially submitted by an employee. Another commenter suggested that anonymous submissions by employees should not be allowed, but that each submission should be required to be signed by the employee.	Subsection 2.3(7) presently encompasses fraud and possibly illegal acts to the extent they relate to accounting, internal accounting controls, or auditing matters. As such, we do not believe it necessary for subsection 2.3(7) to be revised. We disagree. We believe issuers will have sufficient time to establish such procedures given the proposed effective date of July 1, 2004. See Topic 41, below. We disagree. We believe that anonymity is essential for employees to communicate their concerns.
26.	**Section 2.4 (*De Minimis Non-Audit Services*)**	Two commenters suggested that subsection 2.4(a) should refer to services that are "reasonably expected to constitute" a maximum percentage of the total amount of revenues, since one may not know the total revenues until year end. One commenter suggested that the *de minimis* exemption for pre-approval of non-audit services should be increased from 5% to 10% of total audit fees paid by both the issuer and its subsidiary entities to the issuer's external auditors in subsection 2.4(a).	We agree. Section 2.4 has been revised accordingly. Subsection 2.4 has been revised to clarify that the *de minimis* exemption relates to 5% of the fees paid by the issuer and the issuer's subsidiary entities to the issuer's external auditors. It does not relate to the fees paid for any services provided by the external auditors of a subsidiary entity if those auditors are different than the external auditors of the issuer.

No.	Section/Topic	Comment	Response
		This commenter also suggested that the issuer and the auditor should not have to not recognize the services as non-audit services for the *de minimis* exemption to be available and, accordingly, that subsection 2.4 (b) should be deleted. One commenter suggested that subsection 2.4(c) should require that non-audit services be brought to the attention of , and approved by, the audit committee of the issuer prior to the public release of the audited financial statements rather than prior to completion of the audit. Another commenter suggested that the appropriate deadline be the next scheduled meeting of the audit committee. Both commenters suggested that the word "promptly" be deleted from subsection 2.4(c).	We do not agree that subsection 2.4(b) should be deleted. The purpose of section 2.4 is to provide relief only in the circumstances where there has been an oversight. We consider it to be important that the provision of non-audit services be reported promptly, and that they be approved by the audit committee prior to completion of the audit, so that the audit committee can assure itself that the non-audit services did not detract from auditor independence.
27.	**Section 2.5 (*Delegation of Pre-Approval Function*)**	One commenter suggested that by expressly allowing pre-approval of *de minimis* non-audit services to be delegated to one or more audit committee members, it could be inferred that no other audit committee functions may be delegated. The commenter suggested that boards and audit committees should be free to determine their own functions and procedures and that audit committees should be free to delegate any powers within their responsibility and mandate to one or more audit committee members as they see fit in the context of the issuer, the membership of the audit committee and other unique factors. In the commenter's view, this would be particularly critical where timeliness is required such as in connection with the review of the issuer's financial statements, MD&A and earnings press releases as per subsection 2.3(5). According to the commenter, any matter so delegated should be presented to the full audit committee at its next annual meeting.	See our response to Topic 28, below.
	Part 3 Composition of the Audit Committee		
28.	**Section 3.1 (*Composition*)**	One commenter suggested that the Instrument be clarified such that an audit committee can set its own quorum requirements and procedures, including those related to its ability to act without all members being present. Two commenters suggested that the Instrument permit venture issuers or other small issuers to have an audit committee composed of less than three members.	We have revised the Companion Policy to provide clarification. We note that most Canadian corporate statutes require that an audit committee be composed of a minimum of three directors. Because any exemption from the minimum size requirement in

No.	Section/Topic	Comment	Response
		Another commenter suggested that an exemption from the minimum size requirement be provided in certain transitory circumstances, such as in the case of the death, disability or resignation of an audit committee member. One commenter was concerned that the composition requirements put too much emphasis on technical independence issues, and not enough emphasis on the broader business and industry knowledge that is critical for audit committee effectiveness.	section 3.1 would have little practical effect, we have not included such an exemption in the Instrument. While the Instrument focuses on the independence and financial skills and experience of audit committee members, we recognize the value of broader business and industry knowledge. In our view, however, it is the responsibility of the directors to ensure that audit committee members have this broader knowledge.
29.	**Section 3.2 (*Initial Public Offerings*)**	Four commenters were of the view that the exemptions were appropriate. One commenter suggested that section 3.2 should also clearly apply to a "secondary IPO".	- We believe that the exemption in section 3.2, as written, clearly applies to all initial public offerings, including those that involve the distribution of securities by selling security holders. No change to the Instrument has therefore been made.
30.	**Section 3.3 (*Controlled Companies*)**	Two commenters believed that the exemption in section 3.3 appropriately addressed the concerns of controlling shareholders. Many commenters, however, expressed concern about the inability of a controlling shareholder to fully participate in an issuer's audit committee. In particular: • One commenter recommended that shareholdings alone should not taint independence. • Three commenters noted that where equity and voting rights were controlled by the same person or entity, such person or entity should not (on that basis alone) be precluded from being an independent member of the audit committee. • One commenter suggested that a major or controlling shareholder has an urgent and compelling interest in ensuring strong oversight of financial reporting and should not be prohibited from participation on the audit committee. • Two commenters suggested that a controlling shareholder should be permitted to sit on an audit committee. The first commenter recommended that a majority of the audit committee members be unrelated to the major shareholder. The second commenter recommended that the remaining	We acknowledge the comments received and have revised the Instrument to provide exemptions for the following persons to sit on an issuer's audit committee: - a controlling shareholder that is not a publicly traded company; and - a controlling shareholder who is a natural person.

No.	Section/Topic	Comment	Response
		members be independent. • Several commenters recommended that senior employees of controlling shareholders be permitted to sit on audit committees. • Two commenters noted that the very nature of a family business almost requires that a family member sit on the audit committee. • One commenter suggested extending the exemption in section 3.3 to any insider or associate as well as any affiliate.	
31.	**Section 3.4 (*Events Outside Control of Member*)**	One commenter recommended that the Instrument contain an exemption from the financial literacy requirements for a period following the introduction of new accounting standards, to provide members an opportunity to get up to speed on the new standards.	We do not believe that a person's financial literacy, as defined in the Instrument, will necessarily be affected by the introduction of new accounting standards. As a result, this comment has not been reflected in the Instrument.
32.	**Section 3.5 (*Death, Disability or Resignation of Member*)**	One commenter suggested that section 3.5 provide an exemption from the minimum size requirement of subsection 3.1(1).	We disagree. See the response to comments on Topic 28, above.
33.	**Part 3 (*Other*)**	One commenter was of the view that the Instrument required audit committee members to have industry specific financial literacy. The commenter suggested that a two year exemption from the industry specific provisions of the financial literacy requirement be provided for all new audit committee members. Another commenter recommended that a temporary exemption from the financial literacy requirements be provided for all existing audit committee members.	The Instrument has been revised whereby a director who is not financially literate may be appointed to the audit committee provided the member becomes literate within a reasonable period of time following his or her appointment.
	Part 5 Reporting Obligations		
34.	**Section 5.1 (*Required Disclosure – Location of Required Disclosure*)**	Three commenters supported including the disclosure required by Form 52-110F1 in an issuer's AIF. Another commenter suggested that an issuer should have the option of including this information in either its management information circular or its AIF. Another commenter suggested that an issuer should have the flexibility to include this information in its annual report or proxy circular provided that the location of the disclosure is referenced in its AIF. Another commenter suggested that the disclosure be included in an issuer's financial statements	We are of the view that the disclosure required by Form 52-110F1 should always be included in the AIF so that an investor knows where to look for it. However, we will not object to an issuer incorporating information into the AIF by reference to another document, other than a previous AIF. See paragraph 6.1 of the Companion Policy.

No.	Section/Topic	Comment	Response
		One commenter suggested that an issuer should be permitted to post the text of its audit committee's charter on its web site, provided that the AIF contain an appropriate cross-reference.	
35.	**Section 5.1 (*Required Disclosure – Content of Required Disclosure – Text of Audit Committee Charter*)**	Three commenters suggested that only a summary of the audit committee's charter should be required to be disclosed rather than the full charter. One of the commenters was also of the view that the disclosure about the audit committee's charter should be restricted to the audit committee's responsibilities and the extent to which those responsibilities were fulfilled. In the view of the commenters, summary information about the charter would be more succinct and useful to readers. One commenter suggested that annually disclosing the text of the audit committee's charter was too onerous, and recommended that such disclosure only be required every three years. The commenter noted that such a change would harmonize the Instrument with the equivalent U.S. requirements. One commenter suggested that the publication of the audit committee's charter may lead to enhanced personal civil liability for audit committee members, which would discourage participation on audit committees. The commenter therefore queried whether publication should be mandatory.	We disagree. We believe that access to the complete text of an audit committee's charter is valuable to investors and other market participants. We note that the Instrument does not prohibit an issuer from providing succinct, summary information about the charter if the issuer believes such a summary would be useful to readers, provided that the full text of the charter is also disclosed in accordance with the Instrument. See our response to Topic 34, above. We disagree.
36.	**Section 5.1 (*Required Disclosure – Content of Required Disclosure - Identification of an Audit Committee Financial Expert*)**	One commenter supported the approach to the audit committee financial expert because it would provide flexibility for issuers, being only a disclosure requirement; the definition is relative to the complexity of an issuer and its affairs and therefore sensitive to the circumstances of small issuers; and it is consistent with the approach that has been taken in the United States. Four commenters were of the view that the disclosure requirement was inadequate and suggested that every issuer be required to have an audit committee financial expert on its audit committee. Another commenter made the same recommendation for all issuers other than venture issuers. 14 commenters expressed concern that the requirement for an issuer to disclose the identity of any audit committee financial expert serving on its audit	We continue to believe that the attributes of an audit committee financial expert will be a valuable resource for an audit committee. However, we acknowledge the concerns that have been expressed about this provision including: actual or perceived incremental liability for an individual who is identified as an audit committee financial expert; the limited number of individuals who are qualified to be audit committee financial experts; and the negative impact that actual or perceived incremental liability would have on the willingness of individuals to serve as an audit committee financial expert. Accordingly, the Instrument will no longer require an issuer to disclose the identity of an audit committee financial expert. However, in order to encourage issuers to have available to their audit committees the attributes that were previously included in the definition of an audit committee financial expert, we have amended paragraph 3 of Form 52-110F1 to require disclosure of each member's education and experience that is relevant to the performance of his or her responsibilities as an audit committee

No.	Section/Topic	Comment	Response
		committee may result in increased legal liability for that person. The commenters generally noted that the CSA's clarifying views expressed in paragraph 4.2 of the Companion Policy are not binding on the courts (or even on the Commission), and many expressed the view that legislative reform will be necessary to achieve the protective goal that the Companion Policy aspires to achieve. The solutions put forward by these commenters include: • eliminating the disclosure requirement entirely; • replacing the disclosure requirement with a positive statement as at why a person with financial experience or expertise is desirable; • disclosing that the audit committee has an audit committee financial expert but not specifically identifying the individual; • permitting (but not requiring) an explanation if there is no audit committee financial expert; • requiring detailed "non-boilerplate" disclosure about the qualifications of each member of the audit committee; and • including in the Instrument itself (as opposed to in the Companion Policy) a statement that the mere designation and public identification of an audit committee financial expert does not affect that person's duties, obligations or liabilities as an audit committee member or board member. A number of commenters expressed concern about the number of audit committee financial experts that would be available to serve on boards. One of these commenters also noted that it would be of questionable value to have the same audit committee financial expert serving on the boards of numerous issuers. One commenter believed that the operation of the audit committee, being a committee of financially literate members, should be sufficient to meet the goals of good governance.	member and, in particular, any education and experience that would provide the member with certain specified attributes. These attributes are nearly identical to the attributes of an audit committee financial expert as defined by the SEC, after giving effect to the SEC instruction regarding the term "generally accepted accounting principles" in connection with the application of that definition for foreign private issuers. The guidance regarding how an individual may acquire the requisite attributes has been deleted from Form 52-110F1.

No.	Section/Topic	Comment	Response
		One commenter was of the view that the identification of an audit committee financial expert by the issuer may be misleading to investors. The commenter believed that such identification would likely be relied on by investors, and may cause investors to not examine the qualifications of each audit committee member to assess whether the committee as a whole is adequately imbued with the requisite level of expertise and experience. One commenter suggested that the Companion Policy should make it clear that the conclusions with respect to minimizing financial expert liability exposure apply as well to financial experts on the audit committees of inter-listed issuers that avail themselves of the Part 7 exemption. One commenter suggested that the requirements related to the audit committee financial expert be deferred until July 31, 2005, the date by which foreign private issuers in the U.S. are required to comply with the U.S. audit committee rules.	
37.	**Section 5.1 (*Required Disclosure – Content of Required Disclosure – Disclosure Where Reliance on Certain Exemptions*)**	One commenter expressed broad support for disclosure obligations for those relying upon the exemptions in sections 3.2, 3.3, 3.4 and 3.5 of the Instrument. Two commenters suggested that there should be no requirement to disclose whether an issuer is relying on the controlled company exemption in section 3.3. The commenters noted that Rule 10A-3 does not contain a similar disclosure requirement.	- We agree. Form 52-110F1 has been revised accordingly.
38.	**Section 5.1 (*Required Disclosure – Content of Required Disclosure – Fees and Other Disclosure*)**	One commenter suggested that paragraphs (a) "Audit Fees" and (b) "Audit-Related Fees" of paragraph 7 of Form 52-110F1 and paragraph 5 of Form 52-110F2 should be collapsed into one disclosure item requiring disclosure of "any services other than non-audit services." One commenter suggested that disclosure of "Tax Fees" is not relevant and should be removed. The commenter was of the view that this disclosure could impair the capability of an issuer to plan its affairs to minimize its tax expenses. One commenter suggested that only one year of the external auditor's service fees should be required to be disclosed by	We disagree. We note that those disclosure categories parallel those adopted in the U.S. We disagree. In our view, all fees that are paid to the external auditors should be reported to shareholders. Further, we do not believe that disclosing fees, as opposed to strategies, would impair the capability of an issuer to plan its affairs to minimize its tax expenses. We disagree. Disclosure of the external auditor's fees should be required for each of the issuer's two most recent fiscal years to allow an investor to

No.	Section/Topic	Comment	Response
		paragraph 7 of Form 52-110F1 and paragraph 5 of Form 52-110F2.	consider them in the context of the issuer's comparative financial statements and other financial disclosure.
		One of the commenters noted that the requirement for venture issuers to disclose their practices, fees and reliance on the exemption would provide an incentive for them to upgrade their audit committees as soon as possible.	-
		One commenter suggested that the audit committee should be required to report on its activities.	We disagree. The Instrument requires an audit committee to perform a number of activities. We believe that, in the circumstances, there is no need for a disclosure requirement.
		One commenter was concerned that the disclosure required by paragraph 5 of Form 52-110F1 would be prejudicial to the external auditors and that such disclosure could repress the dialogue amongst board members.	We disagree. We believe that such disclosure is necessary to ensure that the board seriously considers the recommendations of the audit committee.
	Part 6 Venture Issuers		
39.	**Section 6.1 (*Venture Issuers*)**	Five commenters supported the exemption for small issuers. One commenter, however, was not supportive of the exemption because, in their view, it would create a two-tier market in Canada in connection with the core principles of financial reporting, auditing and governance.	We thank the commenters for their support. We believe that the exemption constitutes a practical trade-off between the furtherance of the goals of the Instrument and the practical realities of small issuers.
		Two commenters supported the exemption based on the definition of "venture issuer" in section 1.1. Two commenters suggested that small TSX-listed issuers should also be entitled to this exemption. One commenter noted that some fairly large issuers will meet the definition of a venture issuer and that they should not be afforded the exemption. One commenter suggested that a more appropriate exemption might be based on the size or market capitalization of the issuer.	We have left the exemption unchanged. We do not agree with the suggested changes. Basing the exemption on exchange listing status provides for a readily discernible bright line test. Furthermore, the TSX is Canada's senior stock exchange and, as such, investors (particularly, international investors) expect to be accorded regulatory protection that is equivalent to that provided by the major U.S. stock exchanges. Confidence in Canada's capital markets is predicated on such equivalent regulatory protection. An investor can readily determine whether or not an issuer is complying with all of the provisions of the Instrument by the stock exchange on which its securities are listed.
		One of the commenters supported the exemption but suggested that at least one audit committee member should be required to meet the independence and financial literacy requirements outlined in subsection 3.1.	We thank the commenter for their support. However, we do not agree that the exemption should be more limited. We believe that the exemption constitutes a practical trade-off between the furtherance of the goals of the Instrument and the practical realities of small issuers.

No.	Section/Topic	Comment	Response
	Part 7 U.S. Listed Issuers		
40.	**Section 7.1 (*U.S. Listed Issuers*)**	One commenter suggested that the exemption in Part 7 be expanded to include unlisted issuers that are in compliance with U.S. federal securities laws implementing the audit committee requirements of the Sarbanes-Oxley Act.	The exemption in Part 7 was intended to provide relief for issuers who are subject to U.S. audit committee requirements which are comparable with those in the Instrument. The U.S. audit committee requirements include requirements imposed by U.S. exchanges and Nasdaq. Expanding the exemption to include unlisted issuers would not ensure that the issuers in question are subject to U.S. audit committee requirements comparable to those in the Instrument. Consequently, we have not adopted this suggestion.
		One commenter suggested that section 7.1 should refer to "quoted" as well as "listed" securities.	This change has been made.
		One commenter questioned why 10-Ks (which, by definition, are AIFs) that are filed by foreign issuers must include the disclosure required by paragraph 5 of Form 52-110F1.	We have revised the exemption in Part 7 to clarify that the requirement to include the paragraph 5 disclosure will only apply to Canadian issuers that use the exemption.
	Part 9 Effective Date		
41.	**Section 9.1 (*Effective Date*)**	Several commenters expressed concern about the transitional provisions included in this Part. Only one commenter was fully supportive of its provisions. Five commenters were of the view that the provisions were too restrictive. Two of these commenters suggested that the implementation dates for issuers that are interlisted on U.S. exchanges should not be earlier than July 31, 2005, the date by which foreign private issuers in the U.S. are required to comply with the U.S. audit committee rules. One of the commenters also supported a later date given that the rules are not yet in force and could impose significant new requirements on issuers. A third commenter was of the view that a six month transitional period would be appropriate. Two other commenters suggested that there should be at least a 12 month transitional period. One commenter requested clarification as to whether issuers with fiscal year ends prior to the implementation date included in Part 9 will be required to take the Instrument into account in preparing their annual proxy materials during the 2004 proxy season. Three commenters suggested revisions to the mechanics of the transitional provisions. One commenter suggested that the effective date relate to year-ends	Subsection 9.2(2) has been revised so that the Instrument applies to an issuer commencing on the first annual meeting of the issuer after July 1, 2004. We believe this effective date will provide issuers with sufficient time to arrange their affairs in compliance with the Instrument.

No.	Section/Topic	Comment	Response
		of filings of annual financial statements but not annual meeting dates. Each commenter was concerned that the existing transition period could result in a lack of consistent disclosure.	

APPENDIX C

Comparison to the materials published June 27, 2003

MULTILATERAL INSTRUMENT 52-110
AUDIT COMMITTEES

Table of Contents

MULTILATERAL INSTRUMENT 52-110
AUDIT COMMITTEES

PART 1
DEFINITIONS AND APPLICATION

1.1 Definitions – In this Instrument,

"accounting principles" ~~mean a body of accounting principles that are generally accepted in a jurisdiction of Canada or a foreign jurisdiction and include, without limitation, Canadian GAAP, U.S. GAAP and International Financial Reporting Standards;~~[1] ~~"AIF"~~ has the meaning ~~set out~~ascribed to it in National Instrument ~~51-102 *Continuous Disclosure Obligations*~~52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency*;

"AIF" has the meaning ascribed to it in National Instrument 51-102;

~~"asset backed security" means a security that is primarily serviced by the cash flows of a discrete pool of mortgages, receivables or other financial assets, fixed or revolving, that by their terms convert into cash within a finite period and any rights or other assets designed to assure the servicing or timely distribution of proceeds to security holders;~~[2]
"asset-backed security" has the meaning ascribed to it in National Instrument 51-102;

"audit committee" means a committee (or an equivalent body) established by and among the board of directors of an issuer for the purpose of overseeing the accounting and financial reporting processes of the issuer and audits of the financial statements of the issuer, and, if no such committee exists, the entire board of directors of the issuer;

"audit ~~committee financial expert" means, with respect to an issuer, a person who has:(a) an understanding of financial statements and the accounting principles used by the issuer to prepare its financial statements;~~services" means the professional services rendered by the issuer's external auditor for the audit and review of the issuer's financial statements or services that are normally provided by the external auditor in connection with statutory and regulatory filings or engagements;

~~(b) the ability to assess the general application of such accounting principles in connection with the accounting for estimates, accruals and reserves;~~

~~(c) experience preparing, auditing, analyzing or evaluating financial statements that present a breadth and level of complexity of accounting issues that are generally comparable to the breadth and complexity of issues that can reasonably be expected to be raised by the issuer's financial statements, or experience actively supervising one or more persons engaged in such activities;~~

~~(d) an understanding of internal controls and procedures for financial reporting; and~~

~~(e) an understanding of audit committee functions;~~

"credit support issuer" has the meaning ascribed to it in section 13.4 of National Instrument 51-102;

"designated foreign issuer" has the meaning ~~set out~~ascribed to it in National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers*;

"exchangeable security issuer" has the meaning ascribed to it in section 13.3 of National Instrument 51-102;

"executive officer" of an entity means ~~a person~~an individual who is:

(a) a chair of the entity~~, if that person performs the functions of the office on a full-time basis;~~;

(b) a vice-chair of the entity~~, if that person performs the functions of the office on a full-time basis;~~;

(c) the president of the entity;

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[1] ~~This definition has been adopted from proposed National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currencies*.~~

[2] ~~This definition has been adopted from National Instrument 44-101 S*hort Form Prospectus Distributions* and proposed National Instrument 51-102 *Continuous Disclosure Obligations*.~~

(d) a vice-president of the entity in charge of a principal business unit, division or function including sales, finance or production;

(e) an officer of the entity or any of its subsidiary entities who performs a policy-making function in respect of the entity; or

(f) any other ~~person~~individual who performs a policy-making function in respect of the entity;[3]

~~"financially literate" means the ability to read and understand a set of financial statements that present a breadth and level of complexity of accounting issues that are generally comparable to the breadth and complexity of the issues that can reasonably be expected to be raised by the issuer's financial statements;~~
"foreign private issuer" means an issuer that is a foreign private issuer within the meaning of Rule 405 under the 1934 Act;

"immediate family member" means an individual's spouse, parent, child, sibling, mother or father-in-law, son or daughter-in-law, brother or sister-in-law, and anyone (other than an employee of either the individual or the individual's immediate family member) who shares the individual's home;

"investment fund" has the meaning ~~set out~~ascribed to it in National Instrument 51-102 ~~*Continuous Disclosure Obligations*~~;

"marketplace" has the meaning ~~set out~~ascribed to it in National Instrument 21-101 *Marketplace Operation*;

"MD&A" has the meaning ~~set out in~~ascribed to it in National Instrument 51-102;

"National Instrument 51-102" means National Instrument 51-102 *Continuous Disclosure Obligations*;

"non-audit services" means ~~any services provided to an issuer by its external auditor, other than those provided to the issuer in connection with an audit or review of the financial statements of the issuer;~~services other than audit services;

"SEC foreign issuer" has the meaning ascribed to it in National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers*;

"U.S. marketplace" means an exchange registered as a 'national securities exchange' under section 6 of the 1934 Act, or the Nasdaq Stock Market;

"venture issuer" means an issuer that does not have any of its securities listed or quoted on any of the Toronto Stock Exchange, ~~the New York Stock Exchange, the American Stock Exchange, the Nasdaq National Market, the Nasdaq SmallCap Market, the Pacific Exchange~~a U.S. marketplace, or a marketplace outside of Canada ~~or~~and the United States~~.~~[4] of America.

1.2 Application – This Instrument applies to all reporting issuers other than:

(a) investment funds;

(b) issuers of asset-backed securities;

(c) designated foreign issuers; ~~and~~

(d) ~~reporting~~ SEC foreign issuers;

(e) issuers that are subsidiary entities, if

(i) the subsidiary entity does not have equity securities ~~displayed for~~(other than non-convertible, non-participating preferred securities) trading on a marketplace, and

(ii) the parent of the subsidiary entity is

(A) subject to the requirements of this Instrument~~.~~, or

~~3. This definition is derived from proposed National Instrument 51-102 and Ontario Securities Commission Rule 14-501 *Definitions*.~~

~~4 This definition is derived from proposed National Instrument 51-102.~~

(B) an issuer that (1) has securities listed or quoted on a U.S. marketplace, and (2) is in compliance with the requirements of that U.S. marketplace applicable to issuers, other than foreign private issuers, regarding the role and composition of audit committees;

(f) exchangeable security issuers, if the exchangeable security issuer qualifies for the relief contemplated by, and is in compliance with the requirements and conditions set out in, section 13.3 of National Instrument 51-102; and

(g) credit support issuers, if the credit support issuer qualifies for the relief contemplated by, and is in compliance with the requirements and conditions set out in, section 13.4 of National Instrument 51-102.

1.3 Meaning of Affiliated Entity, Subsidiary Entity and Control –

(1) For the purposes of this Instrument, a person or company is considered to be an affiliated entity of another person or company if

(a) one of them controls or is controlled by the other or if both persons or companies are controlled by the same person or company, or

(b) the person or company is

(i) both a director and an employee of an affiliated entity, or

(ii) an executive officer, general partner or managing member of an affiliated entity.

(2) For the purposes of this Instrument, a person or company is considered to be a subsidiary entity of another person or company if

(a) it is controlled by,

(i) that other, or

(ii) that other and one or more persons or companies each of which is controlled by that other, or

(iii) two or more persons or companies, each of which is controlled by that other; or

(b) it is a subsidiary entity of a person or company that is the other's subsidiary entity.

(3) For the purpose of this Instrument, "control" means the direct or indirect power to direct or cause the direction of the management and policies of a person or company, whether through ownership of voting securities or otherwise.

(4) Despite subsection (1), a person will not be considered to be an affiliated entity of an issuer for the purposes of this Instrument if the person:

(a) owns, directly or indirectly, ten per cent or less of any class of voting ~~equity~~ securities of the issuer; and

(b) is not an executive officer of the issuer.

1.4 Meaning of Independence –

(1) A member of an audit committee is independent if the member has no direct or indirect material relationship with the issuer.

(2) For the purposes of subsection (1), a material relationship means a relationship which could, in the view of the issuer's board of directors, reasonably interfere with the exercise of a member's independent judgement.

(3) Despite subsection (2), the following ~~persons~~individuals are considered to have a material relationship with an issuer:

(a) ~~a person~~an individual who is, or ~~whose immediate family member is, or at any time during the prescribed period~~ has been, an ~~officer or~~ employee or executive officer of the issuer, ~~its parent, or of any of its subsidiary entities or affiliated entities~~unless the prescribed period has elapsed since the end of the service or employment;

(b) ~~a person who~~an individual whose immediate family member is, or has been, an executive officer of the issuer, unless the prescribed period has elapsed since the end of the service or employment;

(c) an individual who is, or has been, an affiliated entity of, a partner of, or employed by, a current or former internal or external auditor of the issuer, unless the prescribed period has elapsed since the person's relationship with the internal or external auditor, or the auditing relationship, has ended;

(~~c~~~~a person~~d) an individual whose immediate family member is, or has been, an affiliated entity of, a partner of, or employed in a professional capacity by, a current or former internal or external auditor of the issuer, unless the prescribed period has elapsed since the person's relationship with the internal or external auditor, or the auditing relationship, has ended;

(~~d~~~~a person~~e) an individual who is, or has been, or whose immediate family member is or has been, ~~employed as~~ an executive officer of an entity if any of the issuer's current ~~executives~~executive officers serve on the entity's compensation committee, unless the prescribed period has elapsed since the end of the service or employment;

(~~e~~~~a person who accepts, or has accepted at any time during the prescribed period~~f) an individual who

(i) has a relationship with the issuer pursuant to which the individual may accept, directly or indirectly, any consulting, advisory or other compensatory fee from the issuer or any subsidiary entity of the issuer, other than as remuneration for acting in his or her capacity as a member of the ~~audit~~board of directors or any board committee, or as a part-time chair or vice-chair of the board ~~of directors, or any other~~or any board committee; ~~and~~or

(ii) receives, or whose immediate family member receives, more than $75,000 per year in direct compensation from the issuer, other than as remuneration for acting in his or her capacity as a member of the board of directors or any board committee, or as a part-time chair or vice-chair of the board or any board committee, unless the prescribed period has elapsed since he or she ceased to receive more than $75,000 per year in such compensation.

(~~f~~~~a person~~g) an individual who is an affiliated entity of the issuer or any of its subsidiary entities.

(4) For the purposes of subsection (3), the prescribed period is the shorter of

(a) the period commencing on **[~~January 1,~~**March 30, 2004**]** and ending immediately prior to the determination required by subsection (3); and

(b) the three year period ending immediately prior to the determination required by subsection (3).

(5) For the purposes of clauses (3)(~~b~~)c) and (3)(~~c~~)d), a partner does not include a ~~limited~~fixed income partner whose interest in the internal or external auditor is limited to the receipt of fixed amounts of compensation (including deferred compensation) for prior service with an internal or external auditor if the compensation is not contingent in any way on continued service.

(6) For the purposes of clause (3)(~~e~~f), compensatory fees and direct compensation do not include the receipt of fixed amounts of compensation under a retirement plan (including deferred compensation) for prior service with the issuer if the compensation is not contingent in any way on continued service.

(7) For the purposes of ~~clause~~subclause 3(~~e~~f)(i), the indirect acceptance by a person of any consulting, advisory or other compensatory fee includes acceptance of a fee by

~~(a) an immediate family member, or~~

(a) a person's spouse, minor child or stepchild, or a child or stepchild who shares the person's home; or

(b) an entity in which such person is a partner, member, an officer such as a managing director occupying a comparable position or executive officer ~~of~~, or ~~a person who~~ occupies a similar position

~~with, an entity that~~(except limited partners, non-managing members and those occupying similar positions who, in each case, have no active role in providing services to the entity) and which provides accounting, consulting, legal, investment banking or financial advisory services to the issuer or any subsidiary entity of the issuer~~, other than limited partners, non-managing members and those occupying similar positions who, in each case, have no active role in providing services to the entity.~~.

(8) Despite subsection (3), a person will not be considered to have a material relationship with the issuer solely because he or she

(a) has previously acted as an interim chief executive officer of the issuer, or

(b) acts, or has previously acted, as a chair or vice-chair of the board of directors or any board committee, other than on a full-time basis.

1.5 Meaning of Financial Literacy – For the purposes of this Instrument, an individual is financially literate if he or she has the ability to read and understand a set of financial statements that present a breadth and level of complexity of accounting issues that are generally comparable to the breadth and complexity of the issues that can reasonably be expected to be raised by the issuer's financial statements.

PART 2
AUDIT COMMITTEE RESPONSIBILITIES

2.1 Audit Committee – Every issuer must have an audit committee that complies with the requirements of the Instrument.

2.2 Relationship with External ~~Auditor –~~ An Auditors – Every issuer must require its external auditor ~~must~~to report directly to the audit committee.

2.3 Audit Committee Responsibilities –

(1) An audit committee must have a written charter that sets out its mandate and responsibilities.

(2) An audit committee must recommend to the board of directors:

(a) the external ~~auditors~~auditor to be nominated for the purpose of preparing or issuing an ~~audit~~auditor's report or performing other audit, review or attest services for the issuer; and

(b) the compensation of the external ~~auditors.~~auditor.

(3) An audit committee must be directly responsible for overseeing the work of the external ~~auditors~~auditor engaged for the purpose of preparing or issuing an ~~audit~~auditor's report or performing other audit, review or attest services for the issuer, including the resolution of disagreements between management and the external ~~auditors~~auditor regarding financial reporting.

(4) An audit committee must pre-approve all non-audit services to be provided to the issuer or its subsidiary entities by ~~its external auditors or the external auditors of~~ the issuer's ~~subsidiary entities~~external auditor.

(5) An audit committee must review the issuer's financial statements, MD&A and annual and interim earnings press releases before the issuer publicly discloses this information.

(6) An audit committee must be satisfied that adequate procedures are in place for the review of the issuer's public disclosure of financial information extracted or derived from the issuer's financial statements, other than the public disclosure referred to in subsection (5), and must periodically assess the adequacy of those procedures.

(7) An audit committee must establish procedures for:

(a) the receipt, retention and treatment of complaints received by the issuer regarding accounting, internal accounting controls, or auditing matters; and

(b) the confidential, anonymous submission by employees of the issuer of concerns regarding questionable accounting or auditing matters.

(8) An audit committee must review and approve the issuer's hiring policies regarding partners, employees and former partners and employees of the present and former external ~~auditors~~auditor of the issuer.

2.4 ***De Minimis*** **Non-Audit Services** – An audit committee ~~may satisfy~~satisfies the pre-approval requirement in subsection 2.3(4) if:

(a) the aggregate amount of all the non-audit services that were not pre-approved ~~constitutes~~is reasonably expected to constitute no more than five per cent of the total amount of ~~revenues~~fees paid by the issuer ~~to its~~and its subsidiary entities to the issuer's external ~~auditors~~auditor during the fiscal year in which the services are provided;

(b) the ~~services were not recognized by the issuer~~issuer or the subsidiary entity of the issuer, as the case may be, did not recognize the services as non-audit services at the time of the engagement ~~to be non-audit services~~; and

(c) the services are promptly brought to the attention of the audit committee of the issuer and approved, prior to the completion of the audit, by the audit committee or by one or more of its members ~~of the audit committee~~ to whom authority to grant such approvals has been delegated by the audit committee.

2.5 Delegation of Pre-Approval Function –

(1) An audit committee may delegate to one or more independent members the authority to pre-approve non-audit services in satisfaction of the requirement in subsection 2.3(4).

(2) The pre-approval of non-audit services by any member to whom authority has been delegated pursuant to subsection (1) must be presented to the ~~full~~ audit committee at its first scheduled meeting following such pre-approval.

2.6 Pre-Approval Policies and Procedures – An audit committee satisfies the pre-approval requirement in subsection 2.3(4) if it adopts specific policies and procedures for the engagement of the non-audit services, if:

(a) the pre-approval policies and procedures are detailed as to the particular service;

(b) the audit committee is informed of each non-audit service; and

(c) the procedures do not include delegation of the audit committee's responsibilities to management.

PART 3
COMPOSITION OF THE AUDIT COMMITTEE

3.1 Composition –

(1) An audit committee must be composed of a minimum of three members.

(2) Every audit committee member must be a director of the issuer.

(3) Subject to sections 3.2, 3.3, ~~3.4~~3.4, 3.5 and ~~3.5,~~3.6, every audit committee member must be independent.

(4) Subject to ~~section 3.5,~~sections 3.5 and 3.8, every audit committee member must be financially literate.

3.2 Initial Public Offerings –

(1) **~~If~~Subject to section 3.9, if** an issuer has filed a prospectus to qualify the distribution of securities that constitutes its initial public offering, subsection 3.1(3) does not apply for a period of up to 90 days commencing on the date of the receipt for the prospectus, provided that one member of the audit committee is independent.

(2) ~~If~~Subject to section 3.9, if an issuer has filed a prospectus to qualify the distribution of securities that constitutes its initial public offering, subsection 3.1(3) does not apply for a period of up to one year commencing on the date of the receipt for the prospectus, provided that a majority of the audit committee members are independent.

3.3 Controlled Companies – ~~–~~

(1) An audit committee member that sits on the board of directors of an affiliated entity is exempt from the requirement in subsection 3.1(3) if ~~that~~the member, except for being a director (or member of ~~the audit committee or any other~~a board committee) of the issuer and the affiliated entity, is otherwise independent of the issuer and the affiliated entity.

(2) Subject to section 3.7, an audit committee member is exempt from the requirement in subsection 3.1(3) if:

(a) the member would be independent of the issuer but for the relationship described in paragraph 1.4(3)(g);

(b) the member is not an executive officer, general partner or managing member of a person or company that

(i) is an affiliated entity of the issuer, and

(ii) has its securities trading on a marketplace;

(c) the member is not an immediate family member of an executive officer, general partner or managing member referred to in paragraph (b), above;

(d) the member does not act as the chair of the audit committee; and

(e) the board determines in its reasonable judgement that

(i) the member is able to exercise the impartial judgement necessary for the member to fulfill his or her responsibilities as an audit committee member, and

(ii) the appointment of the member is required by the best interests of the issuer and its shareholders.

3.4 Events Outside Control of Member – ~~If~~ Subject to section 3.9, if an audit committee member ceases to be independent for reasons outside ~~that~~the member's reasonable control, ~~that~~the member is exempt from the requirement in subsection 3.1(3) for a period ending on the later of:

(a) the next annual meeting of the issuer, and

(b) the date that is six months from the occurrence of the event which caused the member to not be independent.

3.5 Death, Disability or Resignation of Member – ~~Where~~Subject to section 3.9, if the death, disability or resignation of an audit committee member has resulted in a vacancy on the audit committee that the board of directors is required to fill, an audit committee member appointed to fill such vacancy is exempt from the requirements in subsections 3.1(3) and (4) for a period ending on the later of:

(a) the next annual meeting of the issuer, and

(b) the date that is six months from the day the vacancy was created.

3.6 Temporary Exemption for Limited and Exceptional Circumstances – Subject to section 3.7, an audit committee member is exempt from the requirement in subsection 3.1(3) if:

(a) the member is not an individual described in paragraphs 1.4(3)(f)(i) or 1.4(3)(g);

(b) the member is not an employee or officer of the issuer, or an immediate family member of an employee or officer of the issuer;

(c) the board, under exceptional and limited circumstances, determines in its reasonable judgement that

(i) the member is able to exercise the impartial judgement necessary for the member to fulfill his or her responsibilities as an audit committee member, and

(ii) the appointment of the member is required by the best interests of the issuer and its shareholders;

(d) the member does not act as chair of the audit committee; and

(e) the member does not rely upon this exemption for a period of more than two years.

3.7 Majority Independent – The exemptions in subsection 3.3(2) and section 3.6 are not available to a member unless a majority of the audit committee members would be independent.

3.8 Acquisition of Financial Literacy – Subject to section 3.9, an audit committee member who is not financially literate may be appointed to the audit committee provided that the member becomes financially literate within a reasonable period of time following his or her appointment.

3.9 Restriction on Use of Certain Exemptions – The exemptions in sections 3.2, 3.4, 3.5 and 3.8 are not available to a member unless the issuer's board of directors has determined that the reliance on the exemption will not materially adversely affect the ability of the audit committee to act independently and to satisfy the other requirements of this Instrument.

PART 4
AUTHORITY OF THE AUDIT COMMITTEE

4.1 Authority – An audit committee must have the authority

(a) to engage independent counsel and other advisors as it determines necessary to carry out its duties,

(b) to set and pay the compensation for any advisors employed by the audit committee, and

(c) to communicate directly with the internal and external auditors.

PART 5
REPORTING OBLIGATIONS

5.1 Required Disclosure – Every issuer must include in its AIF the disclosure required by Form 52-110F1.

5.2 Management Information Circular – If management of an issuer solicits proxies from the security holders of the issuer for the purpose of electing directors to the issuer's board of directors, the issuer must include in its management information circular a cross-reference to the sections in the issuer's AIF that contain the information required by section 5.1.

PART 6
VENTURE ISSUERS

6.1 Venture Issuers – Venture issuers are exempt from the requirements of Parts 3 (*Composition of the Audit Committee*) and 5 (*Reporting Obligations*).

6.2 Required Disclosure –

(1) Subject to subsection (2), ~~every venture issuer that relies on the exemption in section 6.1 must annually disclose~~if management of a venture issuer solicits proxies from the security holders of the venture issuer for the purpose of electing directors to its board of directors, the venture issuer must include in its management information circular the disclosure required by Form 52-110F2.

(2) ~~If a~~A venture issuer ~~does~~that is not ~~have~~required to send a management information circular~~, the annual~~ to its security holders must provide the disclosure required by ~~subsection (1) must be provided in the venture issuer's~~Form 52-110F2 in its AIF or annual MD&A.

PART 7
U.S. LISTED ISSUERS

7.1 U.S. Listed Issuers – An issuer that has securities listed ~~on a national securities exchange registered pursuant to section 6 of the 1934 Act or in an automated inter-dealer quotation system of a national securities association registered pursuant to section 15A of the 1934 Act~~or quoted on a U.S. marketplace is exempt from the requirements of Parts 2 (*Audit Committee Responsibilities*), 3 (*Composition of the Audit Committee*), 4 (*Authority of the Audit Committee*), and 5 (*Reporting Obligations*), ~~provided that~~if:

(a) the issuer is in compliance with the requirements of that ~~exchange or quotation system~~U.S. marketplace applicable to a issuers, other than foreign private issuers, regarding the role and composition of audit committees; and

(b) if the issuer is incorporated, continued or otherwise organized in a jurisdiction in Canada, the issuer includes in its AIF the disclosure~~,~~ (if any~~,~~) required by paragraph 5 of Form 52-110F1.

PART 8
EXEMPTIONS

8.1 Exemptions –

(1) The securities regulatory authority or regulator may grant an exemption from this rule, 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.

PART 9
EFFECTIVE DATE

9.1 Effective Date –

(1) This Instrument comes into force on ~~**[January 1, 2004]**~~ March 30, 2004.

(2) Despite subsection (1), this Instrument applies to an issuer commencing on the earlier of:

(a) the first annual meeting of the issuer after ~~**[January**~~July 1, ~~**2004]**~~,2004, and

~~(b) **[June 30, 2004]**~~.

(b) July 1, 2005.

FORM 52-110F1
AUDIT COMMITTEE INFORMATION REQUIRED IN AN AIF

1. The ~~audit committee's charter~~Audit Committee's Charter

Disclose the text of the audit committee's charter.

2. Composition of ~~audit committee~~the Audit Committee

Disclose the name of each audit committee member~~. If a~~ and state whether or not the member is ~~not~~(i) independent~~, state that fact and explain why~~ and (ii) financially literate.

~~**3. Audit Committee Financial Expert**~~

~~(a) Disclose the identity of any audit committee financial expert(s) serving on the audit committee.~~

~~If the audit committee does not have an audit committee financial expert serving on the audit committee, state that fact and explain why.~~

~~(b) If an audit committee financial expert's qualifications were acquired other than as a result of:~~

~~(i) education and experience as a principal financial officer, principal accounting officer, controller, public accountant or auditor or experience in one or more positions that involve the performance of similar functions;~~

3. Relevant Education and Experience

~~(ii) experience actively supervising a principal financial officer, principal accounting officer, controller, public accountant, auditor or person performing similar functions; or~~

Describe the education and experience of each audit committee member that is relevant to the performance of his or her responsibilities as an audit committee member and, in particular, disclose any education or experience that would provide the member with:

~~(iii) experience overseeing or assessing the performance of companies or public accountants with respect to the preparation, auditing or evaluation of financial statements,~~

(a) an understanding of the accounting principles used by the issuer to prepare its financial statements;

(b) the ability to assess the general application of such accounting principles in connection with the accounting for estimates, accruals and reserves;

(c) experience preparing, auditing, analyzing or evaluating financial statements that present a breadth and level of complexity of accounting issues that are generally comparable to the breadth and complexity of issues that can reasonably be expected to be raised by the issuer's financial statements, or experience actively supervising one or more persons engaged in such activities; and

~~provide a brief listing of the audit committee financial expert's relevant experience.~~

(d) an understanding of internal controls and procedures for financial reporting.

4. Reliance on Certain Exemptions ~~from the Instrument~~

If, at any time since the commencement of the issuer's most recently completed financial year, the issuer has relied on ~~sections~~

(a) the exemption in section 2.4 *(De Minimis Non-audit Services*),

(b) the exemption in section 3.2 (*Initial Public Offerings*), ~~3.3 (*Controlled Companies*),~~

(c) the exemption in section 3.4 (*Events Outside Control of Member*),

(d) the exemption in section 3.5 (*Death, Disability or Resignation of Audit Committee Member*) or

(e) an exemption from this Instrument, in whole or in part, granted under Part ~~7 (*Exemptions)*, disclose that fact and provide an assessment of whether, and if so, how, such reliance could materially adversely affect the ability of the audit committee to act independently and to satisfy the other requirements of the Instrument.~~ 8 (*Exemptions)*,

state that fact.

5. Reliance on the Exemption in Subsection 3.3(2) or Section 3.6

If, at any time since the commencement of the issuer's most recently completed financial year, the issuer has relied upon the exemption in subsection 3.3(2) (*Controlled Companies*) or section 3.6 (*Temporary Exemption for Limited and Exceptional Circumstances*), state that fact and disclose

(a) the name of the member, and

(b) the rationale for appointing the member to the audit committee.

6. Reliance on Section 3.8

If, at any time since the commencement of the issuer's most recently completed financial year, the issuer has relied upon section 3.8 (*Acquisition of Financial Literacy*), state that fact and disclose

(a) the name of the member,

(b) that the member is not financially literate, and

(c) the date by which the member expects to become financially literate.

~~5.~~7. Audit Committee Oversight

If, at any time since the commencement of the issuer's most recently completed financial year, a recommendation of the audit committee to nominate or compensate an external auditor was not adopted by the board of directors, ~~disclose~~state that fact and explain why.

~~6.~~8. Pre-Approval Policies and Procedures

If the audit committee has adopted specific policies and procedures for the engagement of non-audit services, describe those policies and procedures.

~~7.~~9. External Auditor Service Fees (By Category)

(a) Disclose, under the caption "Audit Fees", the aggregate fees billed ~~for~~by the issuer's external auditor in each of the last two fiscal years for ~~professional services rendered by an external auditor for the audit and review of the issuer's financial statements or services that are normally provided by the external auditor in connection with statutory and regulatory filings or engagements~~audit services.

(b) Disclose, under the caption "Audit-Related Fees", the aggregate fees billed in each of the last two fiscal years for assurance and related services by ~~an~~the issuer's external auditor that are reasonably related to the performance of the audit or review of the issuer's financial statements and are not reported under clause (a) above. Include a description of the nature of the services comprising the fees disclosed under this category.

(c) Disclose, under the caption "Tax Fees", the aggregate fees billed in each of the last two fiscal years for professional services rendered by ~~an~~the issuer's external auditor for tax compliance, tax advice, and tax planning. Include a description of the nature of the services comprising the fees disclosed under this category.

(d) Disclose, under the caption "All Other Fees", the aggregate fees billed in each of the last two fiscal years for products and services provided by ~~an~~ the issuer's external auditor, other than the services reported under clauses (a), (b) and (c), above. Include a description of the nature of the services comprising the fees disclosed under this category.

INSTRUCTION

The fees required to be disclosed by this paragraph 9 relate only to services provided to the issuer or its subsidiary entities by the issuer's external auditor.

FORM 52-110F2
DISCLOSURE BY VENTURE ISSUERS

1. The ~~audit committee's charter~~Audit Committee's Charter

Disclose the text of the audit committee's charter.

2. Composition of ~~audit committee~~the Audit Committee

Disclose the name of each audit committee member and state whether or not the member is (i) independent and (ii) financially literate.

3. Audit Committee Oversight

If, at any time since the commencement of the ~~venture~~ issuer's most recently completed financial year, a recommendation of the audit committee to nominate or compensate an external auditor was not adopted by the board of directors, ~~disclose~~state that fact and explain why.

4. Reliance on Certain Exemptions

If, at any time since the commencement of the issuer's most recently completed financial year, the issuer has relied on

(a) the exemption in section 2.4 *(De Minimis Non-audit Services*), or

(b) an exemption from this Instrument, in whole or in part, granted under Part 8 (*Exemptions)*,

state that fact.

5. Pre-Approval Policies and Procedures

If the audit committee has adopted specific policies and procedures for the engagement of non-audit services, describe those policies and procedures.

~~5.~~6. External Auditor Service Fees (By Category)

(a) Disclose, under the caption "Audit Fees", the aggregate fees billed ~~for~~by the issuer's external auditor in each of the last two fiscal years for ~~professional services rendered by an external auditor for the audit and review of the venture issuer's financial statements or services that are normally provided by the external auditor in connection with statutory and regulatory filings or engagements~~audit fees.

(b) Disclose, under the caption "Audit-Related Fees", the aggregate fees billed in each of the last two fiscal years for assurance and related services by ~~an~~the issuer's external auditor that are reasonably related to the performance of the audit or review of the ~~venture~~ issuer's financial statements and are not reported under clause (a) above. Include a description of the nature of the services comprising the fees disclosed under this category.

(c) Disclose, under the caption "Tax Fees", the aggregate fees billed in each of the last two fiscal years for professional services rendered by ~~an~~ the issuer's external auditor for tax compliance, tax advice, and tax planning. Include a description of the nature of the services comprising the fees disclosed under this category.

(d) Disclose, under the caption "All Other Fees", the aggregate fees billed in each of the last two fiscal years for products and services provided by ~~an~~ the issuer's external auditor, other than the services reported under clauses (a), (b) and (c), above. Include a description of the nature of the services comprising the fees disclosed under this category.

INSTRUCTION

The fees required to be disclosed by this paragraph 5 relate only to services provided to the issuer or its subsidiary entities by the issuer's external auditor.

~~6.~~7. Exemption

Disclose that the ~~venture~~ issuer is relying upon the exemption in section 6.1 of the Instrument.

COMPANION POLICY 52-110CP
TO MULTILATERAL INSTRUMENT 52-110
AUDIT COMMITTEES

Part One
General

1.1 **Purpose –** Multilateral Instrument 52-110 *Audit Committees* (the Instrument) is a rule in each of Québec, Alberta, Manitoba, Ontario, Nova Scotia and Newfoundland and Labrador, a Commission regulation in Saskatchewan and Nunavut, a policy in New Brunswick, Prince Edward Island and the Yukon Territory, and a code in the Northwest Territories ~~and Nunavut~~. We, the securities regulatory authorities in each of the foregoing jurisdictions (the Jurisdictions), have implemented the Instrument to encourage reporting issuers to establish and maintain strong, effective and independent audit committees. We believe that such audit committees enhance the quality of financial disclosure made by reporting issuers, and ultimately foster increased investor confidence in Canada's capital markets.

This companion policy (the Policy) provides information regarding the interpretation and application of the Instrument.

1.2 **Application to Non-Corporate Entities** ~~– ,~~ The Instrument applies to ~~all reporting issuers other than investment funds, issuers of asset backed securities, designated foreign issuers and certain subsidiary entities of reporting issuers. Consequently, the Instrument applies to issuers that are~~ both corporate and non-corporate entities. Where the Instrument or this Policy refers to a particular corporate characteristic, such as a board of directors, the reference should be read to also include any equivalent characteristic of a non-corporate entity.

E.g., for an income trust to comply with the Instrument, the trustees should appoint a minimum of three trustees who are independent of the trust and the underlying business to act as an audit committee and fulfil the responsibilities of the audit committee imposed by the Instrument. Similarly, in the case of a limited partnership, the directors of the general partner who are independent of the limited partnership (including the general partner) should form an audit committee which fulfils these responsibilities.

If the structure of an issuer will not permit it to comply with the Instrument, the issuer should seek exemptive relief.

1.3 **Management Companies.** The definition of "executive officer" includes any individual who performs a policy-making function in respect of the entity in question. We consider this aspect of the definition to include an individual who, although not employed by the entity in question, nevertheless performs a policy-making function in respect of that entity, whether through another person or company or otherwise.

1.4 **Audit Committee Procedures.** The Instrument establishes requirements for the responsibilities, composition and authority of audit committees. Nothing in the Instrument is intended to restrict the ability of the board of directors or the audit committee to establish the committee's quorum or procedures, or to restrict the committee's ability to invite additional parties to attend audit committee meetings.

Part Two
The Role of the Audit Committee

2.1 **The Role of the Audit Committee.** An audit committee is a committee of a board of directors to which the board delegates its responsibility for oversight of the financial reporting process. Traditionally, the audit committee has performed a number of roles, including

- helping directors meet their responsibilities,
- providing better communication between directors and the external auditors,
- enhancing the independence of the external ~~auditors,~~ auditor,
- increasing the credibility and objectivity of financial reports, and
- strengthening the role of the directors by facilitating in -depth discussions among directors, management and the external ~~auditors~~auditor.

The Instrument requires that the audit committee also be responsible for managing, on behalf of the shareholders, the relationship between the issuer and the external auditors. In particular, it provides that an audit committee must have responsibility for:

(~~i~~a) overseeing the work of the external auditors engaged for the purpose of preparing or issuing an ~~audit~~auditor's report or related work; and

(~~ii~~b) recommending to the board of directors the nomination and compensation of the external auditors.

Although under corporate law an issuer's external auditors are responsible to the shareholders, in practice, shareholders have often been too dispersed to effectively exercise meaningful oversight of the external auditors. As a result, management has typically assumed this oversight role. However, the auditing process may be compromised if the external auditors view their main responsibility as serving management rather than the shareholders. By assigning these responsibilities to an independent audit committee, the Instrument ensures that the external audit will be conducted independently of the issuer's management.

~~**2.2 Review of Financial Statements by Parent's Audit Committee**. Subsection 2.3(5) of the Instrument provides that an audit committee must review financial statements, MD&A and earnings press releases before the issuer publicly discloses this information. Where a subsidiary entity is also subject to the Instrument, we believe that the parent company's audit committee can perform the review function for the subsidiary entity with respect to this information.~~

2.2 Relationship between External Auditors and Shareholders. Subsection 2.3(3) of the Instrument provides that an audit committee must be directly responsible for overseeing the work of the external auditors engaged for the purpose of preparing or issuing an auditor's report or performing other audit, review or attest services for the issuer, including the resolution of disagreements between management and the external auditors regarding financial reporting. Notwithstanding this responsibility, the external auditors are retained by, and are ultimately accountable to, the shareholders. As a result, subsection 2.3(3) does not detract from the external auditors' right and responsibility to also provide their views directly to the shareholders if they disagree with an approach being taken by the audit committee.

2.3 Public Disclosure of Financial Information. Issuers are reminded that, in our view, the extraction of information from financial statements that have not previously been reviewed by the audit committee and the release of that information into the marketplace is inconsistent with the issuer's obligation to have its audit committee review the financial statements. See also National Policy 51-201 *Disclosure Standards*.

Part Three
Independence

3.1 Meaning of Independence. The Instrument generally requires every member of an audit committee to be independent. Subsection 1.4(1) of the Instrument defines independence to mean the absence of any direct or indirect material relationship between the director and the issuer. In our view, this relationship may include commercial, charitable, industrial, banking, consulting, legal, accounting or familial relationships. However, only those relationships which could, in the view of the issuer's board of directors, reasonably interfere with the exercise of a member's independent judgement should be considered material relationships within the meaning of section 1.4.

Subsection 1.4(3) of the Instrument sets out a list of persons that we believe have a relationship with an issuer that would reasonably interfere with the exercise of the person's independent judgement. Consequently, these persons are not considered independent for the purposes of the Instrument and are therefore precluded from serving on the issuer's audit committee. Directors and their counsel should therefore consider the nature of the relationships outlined in subsection 1.4(3) as guidance in applying the general independence test set out in subsection 1.4(1).

3.2 Derivation of Definition. The definition of independence and associated provisions included in the Instrument have been derived from both the rules promulgated by the SEC in response to the Sarbanes-Oxley Act and the corporate governance rules issued by the NYSE. The SEC rules set out requirements for a member of the audit committee to be considered independent. The NYSE corporate governance rules define independence and outline conditions for a director to be considered independent and also require that audit committee members be independent directors as defined by both the SEC provisions and the NYSE rules. We have mirrored this composite approach to the definition of independence for audit committee members in the Instrument.

3.3 Safe Harbour. Subsection 1.3(1) of the Instrument provides, in part, that a person or company is an affiliated entity of another entity if the person or company controls the other entity. Subsection 1.3(4), however, provides that a person will not be considered to be an affiliated entity of an issuer if the person:

(a) owns, directly or indirectly, ten per cent or less of any class of voting equity securities of the issuer; and

(b) is not an executive officer of the issuer.

Subsection 1.3(4) is intended only to identify those persons who are not considered affiliated entities of an issuer. The provision is not intended to suggest that a person who owns more than ten percent of an issuer's voting equity securities is automatically an affiliated entity of the issuer. Instead, a person who owns more than ten percent of an issuer's voting equity securities should examine all relevant facts and circumstances to determine if he or she is an affiliated entity within the meaning of subsection 1.3(1).

Part Four
~~Audit Committee~~
Financial ~~Experts~~

~~4.1 Definition of Audit Committee Financial Expert.~~Literacy, Financial Education and Experience

4.1 Financial Literacy. For the purposes of the Instrument, an individual is financially literate if he or she has the ability to read and understand a set of financial statements that present a breadth and level of complexity of accounting issues that are generally comparable to the breadth and complexity of the issues that can reasonably be expected to be raised by the issuer's financial statements. In our view, it is not necessary for a member to have a comprehensive knowledge of GAAP and GAAS to be considered financially literate.

~~(1) Subsection (a) of the definition of~~ **~~4.2~~ Financial Education and Experience.** (1) Item 3 of Form 52-110F1 requires an issuer to disclose any education or experience of an audit committee ~~financial expert requires the individual to have~~member that would provide the member with, among other things, an understanding of ~~financial statements and~~ the accounting principles used by the issuer to prepare its financial statements. ~~Where an issuer prepares its financial statements in accordance with Canadian GAAP, the audit committee financial expert must therefore have an understanding of Canadian GAAP. However, in our view, an individual~~In our view, for a member to have such an understanding, the member needs a detailed understanding of only those accounting principles ~~of Canadian GAAP which~~that might reasonably be applicable to the issuer in question. For example, an individual would not be required to have a detailed understanding of the ~~Canadian GAAP~~accounting principles relating to the treatment of complex derivatives transactions if the issuer in question would not reasonably be involved in such transactions.

(2) ~~Clause (c) of the definition of audit committee financial expert allows an individual to meet the definition as a consequence of the active supervision of persons engaged in the specified conduct~~Item 3 of Form 52-110F1 also requires an issuer to disclose any experience that the member has, among other things, actively supervising persons engaged in preparing, auditing, analyzing or evaluating certain types of financial statements. The phrase active supervision means more than the mere existence of a traditional hierarchical reporting relationship between supervisor and those being supervised. A person engaged in active supervision participates in, and contributes to, the process of addressing (albeit at a supervisory level) the same general types of issues regarding preparation, auditing, analysis or evaluation of financial statements as those addressed by the person or persons being supervised. The supervisor should also have experience that has contributed to the general expertise necessary to prepare, audit, analyze or evaluate financial statements that is at least comparable to the general expertise of those being supervised. An executive officer should not be presumed to qualify. An executive officer with considerable operations involvement, but little financial or accounting involvement, likely would not be exercising the necessary active supervision. Active participation in, and contribution to, the process, albeit at a supervisory level, of addressing financial and accounting issues that demonstrate a general expertise in the area would be necessary.

~~(3) In addition to determining that a person possesses an adequate degree of knowledge and experience to qualify as an audit committee financial expert, an issuer should also ensure that the candidate embodies the highest standards of personal and professional integrity. In this regard, an issuer should consider any disciplinary actions to which a potential expert is, or has been, subject in determining whether that person would be a suitable audit committee financial expert.~~

~~4.2 Liability of Audit Committee Financial Expert.~~

~~(1) The primary benefit of having an audit committee financial expert serve on an issuer's audit committee is that the person, with his or her enhanced level of financial sophistication or expertise, can serve as a resource for the audit committee as a whole in carrying out its functions. The role of the audit committee financial expert is therefore to assist the audit committee in overseeing the audit process, not to audit the issuer.~~

~~The Instrument requires an issuer to disclose whether or not an audit committee financial expert is serving on its audit committee. In our view, the mere designation or identification of a person as an audit committee financial expert in compliance with the disclosure obligation does not impose on such person any duties, obligations or liability that are greater than the duties, obligations and liability imposed on such person as a~~

~~member of the audit committee and board of directors in the absence of such designation or identification. Conversely, the designation or identification of a person as an audit committee financial expert does not affect the duties, obligations or liability of any other member of the audit committee or board of directors. The purpose of the disclosure requirement is to encourage issuers to appoint audit committee financial experts to their audit committees. As a result, we believe that it would adversely affect the operation of the audit committee and its vital role in our financial reporting and public disclosure system, and systems of corporate governance more generally, if courts were to conclude that the designation and public identification of an audit committee financial expert affected such person's duties, obligations or liability as an audit committee member or board member. We believe that it would be adverse to the interests of investors and to the operation of markets and therefore would not be in the public interest, if the designation and identification affected the duties, obligations or liabilities to which any member of the issuer's audit committee or board is subject.~~

~~(2) A person who is designated or identified as an audit committee financial expert is not deemed to be an expert for any other purpose, including, without limitation, for the purpose of filing a consent pursuant to section 10.4 of National Instrument 44-101 *Short Form Distributions*.~~

Part Five
Non-Audit Services

5.1 Pre-Approval of Non-Audit Services. ~~Subsection 2.3(4)~~ Section 2.6 of the Instrument ~~requires an audit committee to pre-approve certain non-audit services. In our view, it may be sufficient for an audit committee to adopt~~allows an audit committee to satisfy, in certain circumstances, the pre-approval requirements in subsection 2.3(4) by adopting specific policies and procedures for the engagement of non-audit services ~~where~~. The following guidance should be noted in the development and application of such policies and procedures:

- Monetary limits should not be the only basis for the pre-approval policies and procedures ~~are detailed~~. The establishment of monetary limits will not, alone, constitute policies that are detailed as to the particular services to be provided and will not, alone, ensure that the audit committee will be informed about each service.

- ~~the audit committee is informed of each non-audit service, and~~ The use of broad, categorical approvals (*e.g.* tax compliance services) will not meet the requirement that the policies must be detailed as to the particular services to be provided.

- ~~the procedures do not include delegation of the audit committee's responsibilities to management.~~The appropriate level of detail for the pre-approval policies will differ depending upon the facts and circumstances of the issuer. The pre-approval policies must be designed to ensure that the audit committee knows precisely what services it is being asked to pre-approve so that it can make a well-reasoned assessment of the impact of the service on the auditor's independence. Furthermore, because the Instrument requires that the policies cannot result in a delegation of the audit committee's responsibility to management, the pre-approval policies must be sufficiently detailed as to particular services so that a member of management will not be called upon to determine whether a proposed service fits within the policy.

~~**5.2 Pre-Approval By Parent Company's Audit Committee.** Subsection 2.3(4) of the Instrument requires an audit committee to pre-approve certain non-audit services that are provided to the issuer or its subsidiary entities. Where a subsidiary entity is also subject to the Instrument, the audit committee of the parent company may pre-approve the services on behalf of the subsidiary entity's audit committee. However, the parent company and subsidiary entity should first examine all relevant facts and circumstances surrounding the engagement or relationship to determine which audit committee, that of the parent or subsidiary entity, is in the best position to review the impact of the service on the external auditor's independence.~~

Part Six
Disclosure Obligations

6.1 Incorporation by Reference. National Instrument 51-102 permits disclosure required to be included in an issuer's AIF or information circular to be incorporated by reference, provided that the referenced document has already been filed with the applicable securities regulatory authorities.[1] Any disclosure required by the Instrument to be included in an issuer's AIF or management information circular may also incorporated by reference, provided that the procedures set out in National Instrument 51-102 are followed.

[1] See Part 1, paragraph (g) of Form 51-102F2 (*Annual Information Form*) and Part 1, paragraph (c) of Form 51-102F5 (*Information Circular*).

5.1.8 Multilateral Instrument 52-110 Audit Committees

MULTILATERAL INSTRUMENT 52-110
AUDIT COMMITTEES

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MULTILATERAL INSTRUMENT 52-110
AUDIT COMMITTEES

PART 1
DEFINITIONS AND APPLICATION

1.1 Definitions – In this Instrument,

"accounting principles" has the meaning ascribed to it in National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency*;

"AIF" has the meaning ascribed to it in National Instrument 51-102;

"asset-backed security" has the meaning ascribed to it in National Instrument 51-102;

"audit committee" means a committee (or an equivalent body) established by and among the board of directors of an issuer for the purpose of overseeing the accounting and financial reporting processes of the issuer and audits of the financial statements of the issuer, and, if no such committee exists, the entire board of directors of the issuer;

"audit services" means the professional services rendered by the issuer's external auditor for the audit and review of the issuer's financial statements or services that are normally provided by the external auditor in connection with statutory and regulatory filings or engagements;

"credit support issuer" has the meaning ascribed to it in section 13.4 of National Instrument 51-102;

"designated foreign issuer" has the meaning ascribed to it in National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers*;

"exchangeable security issuer" has the meaning ascribed to it in section 13.3 of National Instrument 51-102;

"executive officer" of an entity means an individual who is:

(a) a chair of the entity;

(b) a vice-chair of the entity;

(c) the president of the entity;

(d) a vice-president of the entity in charge of a principal business unit, division or function including sales, finance or production;

(e) an officer of the entity or any of its subsidiary entities who performs a policy-making function in respect of the entity; or

(f) any other individual who performs a policy-making function in respect of the entity;

"foreign private issuer" means an issuer that is a foreign private issuer within the meaning of Rule 405 under the 1934 Act;

"immediate family member" means an individual's spouse, parent, child, sibling, mother or father-in-law, son or daughter-in-law, brother or sister-in-law, and anyone (other than an employee of either the individual or the individual's immediate family member) who shares the individual's home;

"investment fund" has the meaning ascribed to it in National Instrument 51-102;

"marketplace" has the meaning ascribed to it in National Instrument 21-101 *Marketplace Operation*;

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

"National Instrument 51-102" means National Instrument 51-102 *Continuous Disclosure Obligations*;

"non-audit services" means services other than audit services;

"SEC foreign issuer" has the meaning ascribed to it in National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers*;

"U.S. marketplace" means an exchange registered as a 'national securities exchange' under section 6 of the 1934 Act, or the Nasdaq Stock Market;

"venture issuer" means an issuer that does not have any of its securities listed or quoted on any of the Toronto Stock Exchange, a U.S. marketplace, or a marketplace outside of Canada and the United States of America.

1.2 Application – This Instrument applies to all reporting issuers other than:

(a) investment funds;

(b) issuers of asset-backed securities;

(c) designated foreign issuers;

(d) SEC foreign issuers;

(e) issuers that are subsidiary entities, if

(i) the subsidiary entity does not have equity securities (other than non-convertible, non-participating preferred securities) trading on a marketplace, and

(ii) the parent of the subsidiary entity is

(A) subject to the requirements of this Instrument, or

(B) an issuer that (1) has securities listed or quoted on a U.S. marketplace, and (2) is in compliance with the requirements of that U.S. marketplace applicable to issuers, other than foreign private issuers, regarding the role and composition of audit committees;

(f) exchangeable security issuers, if the exchangeable security issuer qualifies for the relief contemplated by, and is in compliance with the requirements and conditions set out in, section 13.3 of National Instrument 51-102; and

(g) credit support issuers, if the credit support issuer qualifies for the relief contemplated by, and is in compliance with the requirements and conditions set out in, section 13.4 of National Instrument 51-102.

1.3 Meaning of Affiliated Entity, Subsidiary Entity and Control –

(1) For the purposes of this Instrument, a person or company is considered to be an affiliated entity of another person or company if

(a) one of them controls or is controlled by the other or if both persons or companies are controlled by the same person or company, or

(b) the person or company is

(i) both a director and an employee of an affiliated entity, or

(ii) an executive officer, general partner or managing member of an affiliated entity.

(2) For the purposes of this Instrument, a person or company is considered to be a subsidiary entity of another person or company if

(a) it is controlled by,

(i) that other, or

(ii) that other and one or more persons or companies each of which is controlled by that other, or

(iii) two or more persons or companies, each of which is controlled by that other; or

(b) it is a subsidiary entity of a person or company that is the other's subsidiary entity.

(3) For the purpose of this Instrument, "control" means the direct or indirect power to direct or cause the direction of the management and policies of a person or company, whether through ownership of voting securities or otherwise.

(4) Despite subsection (1), a person will not be considered to be an affiliated entity of an issuer for the purposes of this Instrument if the person:

(a) owns, directly or indirectly, ten per cent or less of any class of voting securities of the issuer; and

(b) is not an executive officer of the issuer.

1.4 Meaning of Independence –

(1) A member of an audit committee is independent if the member has no direct or indirect material relationship with the issuer.

(2) For the purposes of subsection (1), a material relationship means a relationship which could, in the view of the issuer's board of directors, reasonably interfere with the exercise of a member's independent judgement.

(3) Despite subsection (2), the following individuals are considered to have a material relationship with an issuer:

(a) an individual who is, or has been, an employee or executive officer of the issuer, unless the prescribed period has elapsed since the end of the service or employment;

(b) an individual whose immediate family member is, or has been, an executive officer of the issuer, unless the prescribed period has elapsed since the end of the service or employment;

(c) an individual who is, or has been, an affiliated entity of, a partner of, or employed by, a current or former internal or external auditor of the issuer, unless the prescribed period has elapsed since the person's relationship with the internal or external auditor, or the auditing relationship, has ended;

(d) an individual whose immediate family member is, or has been, an affiliated entity of, a partner of, or employed in a professional capacity by, a current or former internal or external auditor of the issuer, unless the prescribed period has elapsed since the person's relationship with the internal or external auditor, or the auditing relationship, has ended;

(e) an individual who is, or has been, or whose immediate family member is or has been, an executive officer of an entity if any of the issuer's current executive officers serve on the entity's compensation committee, unless the prescribed period has elapsed since the end of the service or employment;

(f) an individual who

(i) has a relationship with the issuer pursuant to which the individual may accept, directly or indirectly, any consulting, advisory or other compensatory fee from the issuer or any subsidiary entity of the issuer, other than as remuneration for acting in his or her capacity as a member of the board of directors or any board committee, or as a part-time chair or vice-chair of the board or any board committee; or

(ii) receives, or whose immediate family member receives, more than $75,000 per year in direct compensation from the issuer, other than as remuneration for acting in his or her capacity as a member of the board of directors or any board committee, or as a part-time chair or vice-chair of the board or any board committee, unless the prescribed period has elapsed since he or she ceased to receive more than $75,000 per year in such compensation.

(g) an individual who is an affiliated entity of the issuer or any of its subsidiary entities.

(4) For the purposes of subsection (3), the prescribed period is the shorter of

(a) the period commencing on March 30, 2004 and ending immediately prior to the determination required by subsection (3); and

(b) the three year period ending immediately prior to the determination required by subsection (3).

(5) For the purposes of clauses (3)(c) and (3)(d), a partner does not include a fixed income partner whose interest in the internal or external auditor is limited to the receipt of fixed amounts of compensation (including deferred compensation) for prior service with an internal or external auditor if the compensation is not contingent in any way on continued service.

(6) For the purposes of clause (3)(f), compensatory fees and direct compensation do not include the receipt of fixed amounts of compensation under a retirement plan (including deferred compensation) for prior service with the issuer if the compensation is not contingent in any way on continued service.

(7) For the purposes of subclause 3(f)(i), the indirect acceptance by a person of any consulting, advisory or other compensatory fee includes acceptance of a fee by

(a) a person's spouse, minor child or stepchild, or a child or stepchild who shares the person's home; or

(b) an entity in which such person is a partner, member, an officer such as a managing director occupying a comparable position or executive officer, or occupies a similar position (except limited partners, non-managing members and those occupying similar positions who, in each case, have no active role in providing services to the entity) and which provides accounting, consulting, legal, investment banking or financial advisory services to the issuer or any subsidiary entity of the issuer.

(8) Despite subsection (3), a person will not be considered to have a material relationship with the issuer solely because he or she

(a) has previously acted as an interim chief executive officer of the issuer, or

(b) acts, or has previously acted, as a chair or vice-chair of the board of directors or any board committee, other than on a full-time basis.

1.5 Meaning of Financial Literacy – For the purposes of this Instrument, an individual is financially literate if he or she has the ability to read and understand a set of financial statements that present a breadth and level of complexity of accounting issues that are generally comparable to the breadth and complexity of the issues that can reasonably be expected to be raised by the issuer's financial statements.

PART 2
AUDIT COMMITTEE RESPONSIBILITIES

2.1 Audit Committee – Every issuer must have an audit committee that complies with the requirements of the Instrument.

2.2 Relationship with External Auditors – Every issuer must require its external auditor to report directly to the audit committee.

2.3 Audit Committee Responsibilities –

(1) An audit committee must have a written charter that sets out its mandate and responsibilities.

(2) An audit committee must recommend to the board of directors:

(a) the external auditor to be nominated for the purpose of preparing or issuing an auditor's report or performing other audit, review or attest services for the issuer; and

(b) the compensation of the external auditor.

(3) An audit committee must be directly responsible for overseeing the work of the external auditor engaged for the purpose of preparing or issuing an auditor's report or performing other audit, review or attest services for the issuer, including the resolution of disagreements between management and the external auditor regarding financial reporting.

(4) An audit committee must pre-approve all non-audit services to be provided to the issuer or its subsidiary entities by the issuer's external auditor.

(5) An audit committee must review the issuer's financial statements, MD&A and annual and interim earnings press releases before the issuer publicly discloses this information.

(6) An audit committee must be satisfied that adequate procedures are in place for the review of the issuer's public disclosure of financial information extracted or derived from the issuer's financial statements, other than the public disclosure referred to in subsection (5), and must periodically assess the adequacy of those procedures.

(7) An audit committee must establish procedures for:

(a) the receipt, retention and treatment of complaints received by the issuer regarding accounting, internal accounting controls, or auditing matters; and

(b) the confidential, anonymous submission by employees of the issuer of concerns regarding questionable accounting or auditing matters.

(8) An audit committee must review and approve the issuer's hiring policies regarding partners, employees and former partners and employees of the present and former external auditor of the issuer.

2.4 ***De Minimis*** **Non-Audit Services –** An audit committee satisfies the pre-approval requirement in subsection 2.3(4) if:

(a) the aggregate amount of all the non-audit services that were not pre-approved is reasonably expected to constitute no more than five per cent of the total amount of fees paid by the issuer and its subsidiary entities to the issuer's external auditor during the fiscal year in which the services are provided;

(b) the issuer or the subsidiary entity of the issuer, as the case may be, did not recognize the services as non-audit services at the time of the engagement; and

(c) the services are promptly brought to the attention of the audit committee of the issuer and approved, prior to the completion of the audit, by the audit committee or by one or more of its members to whom authority to grant such approvals has been delegated by the audit committee.

2.5 Delegation of Pre-Approval Function –

(1) An audit committee may delegate to one or more independent members the authority to pre-approve non-audit services in satisfaction of the requirement in subsection 2.3(4).

(2) The pre-approval of non-audit services by any member to whom authority has been delegated pursuant to subsection (1) must be presented to the audit committee at its first scheduled meeting following such pre-approval.

2.6 Pre-Approval Policies and Procedures – An audit committee satisfies the pre-approval requirement in subsection 2.3(4) if it adopts specific policies and procedures for the engagement of the non-audit services, if:

(a) the pre-approval policies and procedures are detailed as to the particular service;

(b) the audit committee is informed of each non-audit service; and

(c) the procedures do not include delegation of the audit committee's responsibilities to management.

PART 3
COMPOSITION OF THE AUDIT COMMITTEE

3.1 Composition –

(1) An audit committee must be composed of a minimum of three members.

(2) Every audit committee member must be a director of the issuer.

(3) Subject to sections 3.2, 3.3, 3.4, 3.5 and 3.6, every audit committee member must be independent.

(4) Subject to sections 3.5 and 3.8, every audit committee member must be financially literate.

3.2 Initial Public Offerings –

(1) Subject to section 3.9, if an issuer has filed a prospectus to qualify the distribution of securities that constitutes its initial public offering, subsection 3.1(3) does not apply for a period of up to 90 days commencing on the date of the receipt for the prospectus, provided that one member of the audit committee is independent.

(2) Subject to section 3.9, if an issuer has filed a prospectus to qualify the distribution of securities that constitutes its initial public offering, subsection 3.1(3) does not apply for a period of up to one year commencing on the date of the receipt for the prospectus, provided that a majority of the audit committee members are independent.

3.3 Controlled Companies –

(1) An audit committee member that sits on the board of directors of an affiliated entity is exempt from the requirement in subsection 3.1(3) if the member, except for being a director (or member of a board committee) of the issuer and the affiliated entity, is otherwise independent of the issuer and the affiliated entity.

(2) Subject to section 3.7, an audit committee member is exempt from the requirement in subsection 3.1(3) if:

(a) the member would be independent of the issuer but for the relationship described in paragraph 1.4(3)(g);

(b) the member is not an executive officer, general partner or managing member of a person or company that

(i) is an affiliated entity of the issuer, and

(ii) has its securities trading on a marketplace;

(c) the member is not an immediate family member of an executive officer, general partner or managing member referred to in paragraph (b), above;

(d) the member does not act as the chair of the audit committee; and

(e) the board determines in its reasonable judgement that

(i) the member is able to exercise the impartial judgement necessary for the member to fulfill his or her responsibilities as an audit committee member, and

(ii) the appointment of the member is required by the best interests of the issuer and its shareholders.

3.4 Events Outside Control of Member – Subject to section 3.9, if an audit committee member ceases to be independent for reasons outside the member's reasonable control, the member is exempt from the requirement in subsection 3.1(3) for a period ending on the later of:

(a) the next annual meeting of the issuer, and

(b) the date that is six months from the occurrence of the event which caused the member to not be independent.

3.5 Death, Disability or Resignation of Member – Subject to section 3.9, if the death, disability or resignation of an audit committee member has resulted in a vacancy on the audit committee that the board of directors is required to fill, an audit committee member appointed to fill such vacancy is exempt from the requirements in subsections 3.1(3) and (4) for a period ending on the later of:

(a) the next annual meeting of the issuer, and

(b) the date that is six months from the day the vacancy was created.

3.6 Temporary Exemption for Limited and Exceptional Circumstances – Subject to section 3.7, an audit committee member is exempt from the requirement in subsection 3.1(3) if:

(a) the member is not an individual described in paragraphs 1.4(3)(f)(i) or 1.4(3)(g);

(b) the member is not an employee or officer of the issuer, or an immediate family member of an employee or officer of the issuer;

(c) the board, under exceptional and limited circumstances, determines in its reasonable judgement that

(i) the member is able to exercise the impartial judgement necessary for the member to fulfill his or her responsibilities as an audit committee member, and

(ii) the appointment of the member is required by the best interests of the issuer and its shareholders;

(d) the member does not act as chair of the audit committee; and

(e) the member does not rely upon this exemption for a period of more than two years.

3.7 Majority Independent – The exemptions in subsection 3.3(2) and section 3.6 are not available to a member unless a majority of the audit committee members would be independent.

3.8 Acquisition of Financial Literacy – Subject to section 3.9, an audit committee member who is not financially literate may be appointed to the audit committee provided that the member becomes financially literate within a reasonable period of time following his or her appointment.

3.9 Restriction on Use of Certain Exemptions – The exemptions in sections 3.2, 3.4, 3.5 and 3.8 are not available to a member unless the issuer's board of directors has determined that the reliance on the exemption will not materially adversely affect the ability of the audit committee to act independently and to satisfy the other requirements of this Instrument.

PART 4
AUTHORITY OF THE AUDIT COMMITTEE

4.1 Authority – An audit committee must have the authority

(a) to engage independent counsel and other advisors as it determines necessary to carry out its duties,

(b) to set and pay the compensation for any advisors employed by the audit committee, and

(c) to communicate directly with the internal and external auditors.

PART 5
REPORTING OBLIGATIONS

5.1 Required Disclosure – Every issuer must include in its AIF the disclosure required by Form 52-110F1.

5.2 Management Information Circular – If management of an issuer solicits proxies from the security holders of the issuer for the purpose of electing directors to the issuer's board of directors, the issuer must include in its management information circular a cross-reference to the sections in the issuer's AIF that contain the information required by section 5.1.

PART 6
VENTURE ISSUERS

6.1 Venture Issuers – Venture issuers are exempt from the requirements of Parts 3 (*Composition of the Audit Committee*) and 5 (*Reporting Obligations*).

6.2 Required Disclosure –

(1) Subject to subsection (2), if management of a venture issuer solicits proxies from the security holders of the venture issuer for the purpose of electing directors to its board of directors, the venture issuer must include in its management information circular the disclosure required by Form 52-110F2.

(2) A venture issuer that is not required to send a management information circular to its security holders must provide the disclosure required by Form 52-110F2 in its AIF or annual MD&A.

PART 7
U.S. LISTED ISSUERS

7.1 U.S. Listed Issuers – An issuer that has securities listed or quoted on a U.S. marketplace is exempt from the requirements of Parts 2 (*Audit Committee Responsibilities*), 3 (*Composition of the Audit Committee*), 4 (*Authority of the Audit Committee*), and 5 (*Reporting Obligations*), if:

(a) the issuer is in compliance with the requirements of that U.S. marketplace applicable to a issuers, other than foreign private issuers, regarding the role and composition of audit committees; and

(b) if the issuer is incorporated, continued or otherwise organized in a jurisdiction in Canada, the issuer includes in its AIF the disclosure (if any) required by paragraph 5 of Form 52-110F1.

PART 8
EXEMPTIONS

8.1 Exemptions –

(1) The securities regulatory authority or regulator may grant an exemption from this rule, 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.

PART 9
EFFECTIVE DATE

9.1 Effective Date –

(1) This Instrument comes into force on March 30, 2004.

(2) Despite subsection (1), this Instrument applies to an issuer commencing on the earlier of:

(a) the first annual meeting of the issuer after July 1, 2004, and

(b) July 1, 2005.

FORM 52-110F1
AUDIT COMMITTEE INFORMATION REQUIRED IN AN AIF

1. The Audit Committee's Charter

Disclose the text of the audit committee's charter.

2. Composition of the Audit Committee

Disclose the name of each audit committee member and state whether or not the member is (i) independent and (ii) financially literate.

3. Relevant Education and Experience

Describe the education and experience of each audit committee member that is relevant to the performance of his or her responsibilities as an audit committee member and, in particular, disclose any education or experience that would provide the member with:

(a) an understanding of the accounting principles used by the issuer to prepare its financial statements;

(b) the ability to assess the general application of such accounting principles in connection with the accounting for estimates, accruals and reserves;

(c) experience preparing, auditing, analyzing or evaluating financial statements that present a breadth and level of complexity of accounting issues that are generally comparable to the breadth and complexity of issues that can reasonably be expected to be raised by the issuer's financial statements, or experience actively supervising one or more persons engaged in such activities; and

(d) an understanding of internal controls and procedures for financial reporting.

4. Reliance on Certain Exemptions

If, at any time since the commencement of the issuer's most recently completed financial year, the issuer has relied on

(a) the exemption in section 2.4 *(De Minimis Non-audit Services*),

(b) the exemption in section 3.2 (*Initial Public Offerings*),

(c) the exemption in section 3.4 (*Events Outside Control of Member*),

(d) the exemption in section 3.5 (*Death, Disability or Resignation of Audit Committee Member*) or

(e) an exemption from this Instrument, in whole or in part, granted under Part 8 (*Exemptions)*,

state that fact.

5. Reliance on the Exemption in Subsection 3.3(2) or Section 3.6

If, at any time since the commencement of the issuer's most recently completed financial year, the issuer has relied upon the exemption in subsection 3.3(2) (*Controlled Companies*) or section 3.6 (*Temporary Exemption for Limited and Exceptional Circumstances*), state that fact and disclose

(a) the name of the member, and

(b) the rationale for appointing the member to the audit committee.

6. Reliance on Section 3.8

If, at any time since the commencement of the issuer's most recently completed financial year, the issuer has relied upon section 3.8 (*Acquisition of Financial Literacy*), state that fact and disclose

(a) the name of the member,

(b) that the member is not financially literate, and

(c) the date by which the member expects to become financially literate.

7. Audit Committee Oversight

If, at any time since the commencement of the issuer's most recently completed financial year, a recommendation of the audit committee to nominate or compensate an external auditor was not adopted by the board of directors, state that fact and explain why.

8. Pre-Approval Policies and Procedures

If the audit committee has adopted specific policies and procedures for the engagement of non-audit services, describe those policies and procedures.

9. External Auditor Service Fees (By Category)

(a) Disclose, under the caption "Audit Fees", the aggregate fees billed by the issuer's external auditor in each of the last two fiscal years for audit services.

(b) Disclose, under the caption "Audit-Related Fees", the aggregate fees billed in each of the last two fiscal years for assurance and related services by the issuer's external auditor that are reasonably related to the performance of the audit or review of the issuer's financial statements and are not reported under clause (a) above. Include a description of the nature of the services comprising the fees disclosed under this category.

(c) Disclose, under the caption "Tax Fees", the aggregate fees billed in each of the last two fiscal years for professional services rendered by the issuer's external auditor for tax compliance, tax advice, and tax planning. Include a description of the nature of the services comprising the fees disclosed under this category.

(d) Disclose, under the caption "All Other Fees", the aggregate fees billed in each of the last two fiscal years for products and services provided by the issuer's external auditor, other than the services reported under clauses (a), (b) and (c), above. Include a description of the nature of the services comprising the fees disclosed under this category.

INSTRUCTION

The fees required to be disclosed by this paragraph 9 relate only to services provided to the issuer or its subsidiary entities by the issuer's external auditor.

FORM 52-110F2
DISCLOSURE BY VENTURE ISSUERS

1. The Audit Committee's Charter

Disclose the text of the audit committee's charter.

2. Composition of the Audit Committee

Disclose the name of each audit committee member and state whether or not the member is (i) independent and (ii) financially literate.

3. Audit Committee Oversight

If, at any time since the commencement of the issuer's most recently completed financial year, a recommendation of the audit committee to nominate or compensate an external auditor was not adopted by the board of directors, state that fact and explain why.

4. Reliance on Certain Exemptions

If, at any time since the commencement of the issuer's most recently completed financial year, the issuer has relied on

(a) the exemption in section 2.4 *(De Minimis Non-audit Services*), or

(b) an exemption from this Instrument, in whole or in part, granted under Part 8 (*Exemptions)*,

state that fact.

5. Pre-Approval Policies and Procedures

If the audit committee has adopted specific policies and procedures for the engagement of non-audit services, describe those policies and procedures.

6. External Auditor Service Fees (By Category)

(a) Disclose, under the caption "Audit Fees", the aggregate fees billed by the issuer's external auditor in each of the last two fiscal years for audit fees.

(b) Disclose, under the caption "Audit-Related Fees", the aggregate fees billed in each of the last two fiscal years for assurance and related services by the issuer's external auditor that are reasonably related to the performance of the audit or review of the issuer's financial statements and are not reported under clause (a) above. Include a description of the nature of the services comprising the fees disclosed under this category.

(c) Disclose, under the caption "Tax Fees", the aggregate fees billed in each of the last two fiscal years for professional services rendered by the issuer's external auditor for tax compliance, tax advice, and tax planning. Include a description of the nature of the services comprising the fees disclosed under this category.

(d) Disclose, under the caption "All Other Fees", the aggregate fees billed in each of the last two fiscal years for products and services provided by the issuer's external auditor, other than the services reported under clauses (a), (b) and (c), above. Include a description of the nature of the services comprising the fees disclosed under this category.

INSTRUCTION

The fees required to be disclosed by this paragraph 5 relate only to services provided to the issuer or its subsidiary entities by the issuer's external auditor.

7. Exemption

Disclose that the issuer is relying upon the exemption in section 6.1 of the Instrument.

COMPANION POLICY 52-110CP
TO MULTILATERAL INSTRUMENT 52-110
AUDIT COMMITTEES

Part One
General

1.1 **Purpose –** Multilateral Instrument 52-110 *Audit Committees* (the Instrument) is a rule in each of Québec, Alberta, Manitoba, Ontario, Nova Scotia and Newfoundland and Labrador, a Commission regulation in Saskatchewan and Nunavut, a policy in New Brunswick, Prince Edward Island and the Yukon Territory, and a code in the Northwest Territories. We, the securities regulatory authorities in each of the foregoing jurisdictions (the Jurisdictions), have implemented the Instrument to encourage reporting issuers to establish and maintain strong, effective and independent audit committees. We believe that such audit committees enhance the quality of financial disclosure made by reporting issuers, and ultimately foster increased investor confidence in Canada's capital markets.

This companion policy (the Policy) provides information regarding the interpretation and application of the Instrument.

1.2 **Application to Non-Corporate Entities.** The Instrument applies to both corporate and non-corporate entities. Where the Instrument or this Policy refers to a particular corporate characteristic, such as a board of directors, the reference should be read to also include any equivalent characteristic of a non-corporate entity.

E.g., for an income trust to comply with the Instrument, the trustees should appoint a minimum of three trustees who are independent of the trust and the underlying business to act as an audit committee and fulfil the responsibilities of the audit committee imposed by the Instrument. Similarly, in the case of a limited partnership, the directors of the general partner who are independent of the limited partnership (including the general partner) should form an audit committee which fulfils these responsibilities.

If the structure of an issuer will not permit it to comply with the Instrument, the issuer should seek exemptive relief.

1.3 **Management Companies.** The definition of "executive officer" includes any individual who performs a policy-making function in respect of the entity in question. We consider this aspect of the definition to include an individual who, although not employed by the entity in question, nevertheless performs a policy-making function in respect of that entity, whether through another person or company or otherwise.

1.4 **Audit Committee Procedures.** The Instrument establishes requirements for the responsibilities, composition and authority of audit committees. Nothing in the Instrument is intended to restrict the ability of the board of directors or the audit committee to establish the committee's quorum or procedures, or to restrict the committee's ability to invite additional parties to attend audit committee meetings.

Part Two
The Role of the Audit Committee

2.1 **The Role of the Audit Committee.** An audit committee is a committee of a board of directors to which the board delegates its responsibility for oversight of the financial reporting process. Traditionally, the audit committee has performed a number of roles, including

- helping directors meet their responsibilities,
- providing better communication between directors and the external auditors,
- enhancing the independence of the external auditor,
- increasing the credibility and objectivity of financial reports, and
- strengthening the role of the directors by facilitating in-depth discussions among directors, management and the external auditor.

The Instrument requires that the audit committee also be responsible for managing, on behalf of the shareholders, the relationship between the issuer and the external auditors. In particular, it provides that an audit committee must have responsibility for:

(a) overseeing the work of the external auditors engaged for the purpose of preparing or issuing an auditor's report or related work; and

(b) recommending to the board of directors the nomination and compensation of the external auditors.

Although under corporate law an issuer's external auditors are responsible to the shareholders, in practice, shareholders have often been too dispersed to effectively exercise meaningful oversight of the external auditors. As a result, management has typically assumed this oversight role. However, the auditing process may be compromised if the external auditors view their main responsibility as serving management rather than the shareholders. By assigning these responsibilities to an independent audit committee, the Instrument ensures that the external audit will be conducted independently of the issuer's management.

2.2 Relationship between External Auditors and Shareholders. Subsection 2.3(3) of the Instrument provides that an audit committee must be directly responsible for overseeing the work of the external auditors engaged for the purpose of preparing or issuing an auditor's report or performing other audit, review or attest services for the issuer, including the resolution of disagreements between management and the external auditors regarding financial reporting. Notwithstanding this responsibility, the external auditors are retained by, and are ultimately accountable to, the shareholders. As a result, subsection 2.3(3) does not detract from the external auditors' right and responsibility to also provide their views directly to the shareholders if they disagree with an approach being taken by the audit committee.

2.3 Public Disclosure of Financial Information. Issuers are reminded that, in our view, the extraction of information from financial statements that have not previously been reviewed by the audit committee and the release of that information into the marketplace is inconsistent with the issuer's obligation to have its audit committee review the financial statements. See also National Policy 51-201 *Disclosure Standards*.

Part Three
Independence

3.1 Meaning of Independence. The Instrument generally requires every member of an audit committee to be independent. Subsection 1.4(1) of the Instrument defines independence to mean the absence of any direct or indirect material relationship between the director and the issuer. In our view, this relationship may include commercial, charitable, industrial, banking, consulting, legal, accounting or familial relationships. However, only those relationships which could, in the view of the issuer's board of directors, reasonably interfere with the exercise of a member's independent judgement should be considered material relationships within the meaning of section 1.4.

Subsection 1.4(3) of the Instrument sets out a list of persons that we believe have a relationship with an issuer that would reasonably interfere with the exercise of the person's independent judgement. Consequently, these persons are not considered independent for the purposes of the Instrument and are therefore precluded from serving on the issuer's audit committee. Directors and their counsel should therefore consider the nature of the relationships outlined in subsection 1.4(3) as guidance in applying the general independence test set out in subsection 1.4(1).

3.2 Derivation of Definition. The definition of independence and associated provisions included in the Instrument have been derived from both the rules promulgated by the SEC in response to the *Sarbanes-Oxley Act* and the corporate governance rules issued by the NYSE. The SEC rules set out requirements for a member of the audit committee to be considered independent. The NYSE corporate governance rules define independence and outline conditions for a director to be considered independent and also require that audit committee members be independent directors as defined by both the SEC provisions and the NYSE rules. We have mirrored this composite approach to the definition of independence for audit committee members in the Instrument.

3.3 Safe Harbour. Subsection 1.3(1) of the Instrument provides, in part, that a person or company is an affiliated entity of another entity if the person or company controls the other entity. Subsection 1.3(4), however, provides that a person will not be considered to be an affiliated entity of an issuer if the person:

(a) owns, directly or indirectly, ten per cent or less of any class of voting equity securities of the issuer; and

(b) is not an executive officer of the issuer.

Subsection 1.3(4) is intended only to identify those persons who are not considered affiliated entities of an issuer. The provision is not intended to suggest that a person who owns more than ten percent of an issuer's voting equity securities is automatically an affiliated entity of the issuer. Instead, a person who owns more than ten percent of an issuer's voting equity securities should examine all relevant facts and circumstances to determine if he or she is an affiliated entity within the meaning of subsection 1.3(1).

Part Four
Financial Literacy, Financial Education and Experience

4.1 Financial Literacy. For the purposes of the Instrument, an individual is financially literate if he or she has the ability to read and understand a set of financial statements that present a breadth and level of complexity of accounting issues that are generally comparable to the breadth and complexity of the issues that can reasonably be expected to be raised by the issuer's financial statements. In our view, it is not necessary for a member to have a comprehensive knowledge of GAAP and GAAS to be considered financially literate.

4.2 Financial Education and Experience.

(1) Item 3 of Form 52-110F1 requires an issuer to disclose any education or experience of an audit committee member that would provide the member with, among other things, an understanding of the accounting principles used by the issuer to prepare its financial statements. In our view, for a member to have such an understanding, the member needs a detailed understanding of only those accounting principles that might reasonably be applicable to the issuer in question. For example, an individual would not be required to have a detailed understanding of the accounting principles relating to the treatment of complex derivatives transactions if the issuer in question would not reasonably be involved in such transactions.

(2) Item 3 of Form 52-110F1 also requires an issuer to disclose any experience that the member has, among other things, actively supervising persons engaged in preparing, auditing, analyzing or evaluating certain types of financial statements. The phrase active supervision means more than the mere existence of a traditional hierarchical reporting relationship between supervisor and those being supervised. A person engaged in active supervision participates in, and contributes to, the process of addressing (albeit at a supervisory level) the same general types of issues regarding preparation, auditing, analysis or evaluation of financial statements as those addressed by the person or persons being supervised. The supervisor should also have experience that has contributed to the general expertise necessary to prepare, audit, analyze or evaluate financial statements that is at least comparable to the general expertise of those being supervised. An executive officer should not be presumed to qualify. An executive officer with considerable operations involvement, but little financial or accounting involvement, likely would not be exercising the necessary active supervision. Active participation in, and contribution to, the process, albeit at a supervisory level, of addressing financial and accounting issues that demonstrate a general expertise in the area would be necessary.

Part Five
Non-Audit Services

5.1 Pre-Approval of Non-Audit Services. Section 2.6 of the Instrument allows an audit committee to satisfy, in certain circumstances, the pre-approval requirements in subsection 2.3(4) by adopting specific policies and procedures for the engagement of non-audit services. The following guidance should be noted in the development and application of such policies and procedures:

- Monetary limits should not be the only basis for the pre-approval policies and procedures. The establishment of monetary limits will not, alone, constitute policies that are detailed as to the particular services to be provided and will not, alone, ensure that the audit committee will be informed about each service.

- The use of broad, categorical approvals (*e.g.* tax compliance services) will not meet the requirement that the policies must be detailed as to the particular services to be provided.

- The appropriate level of detail for the pre-approval policies will differ depending upon the facts and circumstances of the issuer. The pre-approval policies must be designed to ensure that the audit committee knows precisely what services it is being asked to pre-approve so that it can make a well-reasoned assessment of the impact of the service on the auditor's independence. Furthermore, because the Instrument requires that the policies cannot result in a delegation of the audit committee's responsibility to management, the pre-approval policies must be sufficiently detailed as to particular services so that a member of management will not be called upon to determine whether a proposed service fits within the policy.

Part Six
Disclosure Obligations

6.1 Incorporation by Reference. National Instrument 51-102 permits disclosure required to be included in an issuer's AIF or information circular to be incorporated by reference, provided that the referenced document has already been filed

with the applicable securities regulatory authorities.[1] Any disclosure required by the Instrument to be included in an issuer's AIF or management information circular may also incorporated by reference, provided that the procedures set out in National Instrument 51-102 are followed.

[1] See Part 1, paragraph (f) of Form 51-102F2 (*Annual Information Form*) and Part 1, paragraph (c) of Form 51-102F5 (*Information Circular*).

5.1.9 Notice of National Instrument 52-108 Auditor Oversight

NOTICE OF NATIONAL INSTRUMENT 52-108
AUDITOR OVERSIGHT

Introduction

National Instrument 52-108 *Auditor Oversight* (the "Instrument") is an initiative of the Canadian Securities Administrators ("CSA" or "we"). The Instrument was first published for comment as a multilateral instrument. Since publication, however, British Columbia has decided to participate in this initiative and the Instrument is now being adopted as a national instrument and will take effect in all jurisdictions.

The Instrument is expected to be adopted as a rule in each of Alberta, British Columbia, Manitoba, Newfoundland and Labrador, Nova Scotia, Ontario and Québec, as a Commission regulation in Saskatchewan and Nunavut, as a policy in New Brunswick, Prince Edward Island and the Yukon Territory, and as a code in the Northwest Territories.

In Alberta, the Instrument and other materials were delivered to the Minister of Revenue. The Minister may approve or reject the Instrument. Subject to Ministerial approval, the Instrument will come into force on March 30, 2004. The Alberta Securities Commission will issue a separate notice advising whether the Minister has approved or rejected the Instrument.

In British Columbia, the Minister of Competition, Science and Enterprise gave his approval in principle of the Instrument on July 25, 2003. The Instrument will be adopted as a rule and come into force in British Columbia on March 30, 2004, subject to obtaining final Ministerial approval.

In Nova Scotia, the Instrument will be delivered to the Minister for non-objection by the Governor in Council in accordance with Nova Scotia securities law after it is adopted as a rule by the Commission. If the Instrument is not objected to by the Governor in Council, it will come into force on March 30, 2004.

In Ontario, the Instrument and other required materials were delivered to the Minister of Finance on January 14, 2004. The Minister may approve or reject the Instrument or return it for further consideration. If the Minister approves the Instrument or does not take any further action by March 15, 2004, the Instrument will come into force on March 30, 2004.

In Québec, the Instrument is a regulation made under section 331.1 of *The Securities Act* (Québec) and must be approved, with or without amendment, by the Minister of Finance. The Instrument will come into force on the date of its publication in the *Gazette officielle du Québec* or on any later date specified in the regulation. It must also be published in the Bulletin.

Provided all necessary ministerial approvals are obtained, we expect to implement the Instrument on March 30, 2004.

Substance and Purpose

The purpose of the Instrument is to contribute to public confidence in the integrity of financial reporting of reporting issuers by promoting high quality, independent auditing.

Where a reporting issuer files its financial statements accompanied by an auditor's report, the Instrument will require the reporting issuer to have the auditor's report signed by a public accounting firm that is:

- a participant in the Canadian Public Accountability Board ("CPAB") oversight program for public accounting firms that audit reporting issuers (the "CPAB Oversight Program"), and
- in compliance with any restrictions or sanctions imposed by the CPAB.

In addition, other than in Alberta, British Columbia and Manitoba, the Instrument will require a public accounting firm that prepares an auditor's report with respect to the financial statements of a reporting issuer to:

- be a participant in the CPAB Oversight Program;
- be in compliance with any sanctions or restrictions imposed by the CPAB, and
- provide notice, in certain situations, of any restrictions or sanctions imposed by the CPAB to their audit client and to the securities regulator in each jurisdiction in which the audit client is a reporting issuer.

Refer to the section of this notice dealing with "Application and Transition" for a discussion of situations in which public accounting firms in Alberta, British Columbia and Manitoba or elsewhere may still be required to follow the above requirements.

Background

The CPAB was created to address concerns relating to investor confidence in the credibility of auditors and audited financial information. Established in July 2002, a key mandate of the CPAB is to promote high quality external audits of reporting issuers. One of the ways it will achieve this is through registering and inspecting public accounting firms that prepare auditors' reports with respect to the financial statements of reporting issuers.

The CPAB has begun registering public accounting firms that prepare auditors' reports in connection with the financial statements of reporting issuers. To date, approximately 240 accounting firms have indicated they intend to participate in the CPAB Oversight Program and we expect that most of these will complete the registration process by February 29, 2004.

The CPAB registration process involves two phases. The first phase required public accounting firms to file an 'intent to participate form' and a 'quality control report' with the CPAB by December 31, 2003. The second phase requires public accounting firms (other than foreign public accounting firms) to file with the CPAB by February 29, 2004 an initial registration form and a signed participation agreement. Foreign public accounting firms will have until July 19, 2004 to file these documents. The participation agreement sets out requirements with which participating firms must comply, such as adhering to quality control standards established by the CPAB and submitting to regular inspections. A copy of the participation agreement, together with further information about the registration process, can be obtained from the CPAB website at www.cpab-ccrc.ca.

Summary of Written Comments Received by the CSA

The Instrument was first published for comment on June 27, 2003 by all CSA jurisdictions except British Columbia. It was published for comment on September 3, 2003 for 60 days in British Columbia. During the comment periods, we received submissions from 18 commenters. We have considered the comments received and thank all the commenters. The names of all the commenters are contained in Appendix A of this notice and a summary of their comments, together with the CSA responses, is contained in Appendix B of this notice. All of the changes made since the publication of the materials are reflected in the blacklined version of the Instrument contained in Appendix C of this notice.

After considering the comments, we have made amendments to the Instrument. However, as these changes are not material, we are not republishing the Instrument for a further comment period.

Summary of Changes to the Instrument

Set out below are notable changes made to the Instrument since it was published for comment.

1. National Instrument

As a result of British Columbia's decision to participate, the Instrument is now a national instrument and will take effect in all jurisdictions in Canada.

2. Part 1 - Definitions

(a) "Participant in Good Standing"

The definition of "participant in good standing" has been deleted from the Instrument. The substantive requirements of the definition have been incorporated into sections 2.1 and 2.2, and modified such that a public accounting firm must be a participating audit firm and be in compliance with any restrictions or sanctions imposed by the CPAB as of the date of the auditor's report.

(b) "Participating Audit Firm"

The definition of "participating audit firm" has been amended to ensure that a public accounting firm is a participant in the CPAB Oversight Program at each date on which it signs an auditor's report with respect to the financial statements of a reporting issuer. This change reflects the fact that even though a participating audit firm may have entered into a participation agreement, its status as a participant in the CPAB Oversight Program may be terminated by the CPAB in accordance with CPAB By-Law No. 1.

(c) "Public Accounting Firm"

The definition of "public accounting firm" has been amended to capture the various forms of legal entities under which public accountants may organize their business.

3. Part 1 - Application and Transition

Section 1.2 has been amended to clarify both the Instrument's application and transition.

With respect to the application of the Instrument, we note that section 2.2 is being adopted in each jurisdiction in Canada. Accordingly, this section applies to every issuer that is a reporting issuer and that files its financial statements in at least one Canadian jurisdiction.

In contrast, because the securities commissions in Alberta, British Columbia and Manitoba do not have authority to make rules imposing obligations directly on auditors, section 2.1 and Part 3 are not being adopted in Alberta, British Columbia and Manitoba.

It should be emphasized, however, that while section 2.1 and Part 3 do not apply in Alberta, British Columbia and Manitoba, a public accounting firm situated in one of these provinces or elsewhere may still be subject to the requirements in section 2.1 and Part 3 by virtue of the fact that one of its clients is a reporting issuer in one of the other jurisdictions in Canada. For example, a public accounting firm situated in British Columbia that prepares an auditor's report for a client situated in British Columbia that is a reporting issuer in British Columbia, Alberta, Ontario, and Quebec, would be subject to the requirements of each of the provinces in which its client is a reporting issuer. Under British Columbia and Alberta securities law, the public accounting firm would not be required to comply with section 2.1 and Part 3. However, because it is preparing an auditor's report with respect to the financial statements of an issuer that is also a reporting issuer in Ontario and Quebec, the public accounting firm would be required to comply with section 2.1 and Part 3 under Ontario and Quebec securities law. In other words, it is the client's reporting issuer status in a jurisdiction, not the physical location of a client or the physical location of a public accounting firm that determines whether the Instrument applies to a public accounting firm.

With respect to transition, subsection (3) makes it clear that once the Instrument takes effect it does not apply to either a public accounting firm or a reporting issuer unless:

(a) the deadline for that public accounting firm to register with the CPAB has expired, and

(b) the auditor's report prepared by the public accounting firm is dated on or after March 30, 2004.

For example, if a Canadian public accounting firm prepares an auditor's report dated March 29, 2004 respecting the financial statements of a reporting issuer, the Instrument will not apply. This is because, despite the fact that the February 29, 2004 registration deadline prescribed by the CPAB will have expired, the auditor's report is dated before March 30, 2004. The outcome will be the same even if the financial statements are filed on or after March 30, 2004.

If the auditor's report is dated March 31, 2004, then the Instrument will apply. As a result, the reporting issuer filing its financial statements will have to ensure that, as of March 31, 2004, the auditor's report accompanying those financial statements is signed by an auditor that has registered with the CPAB and is in compliance with any CPAB restrictions or sanctions.

In situations where a foreign public accounting firm has prepared the auditor's report, the Instrument will not apply until after the CPAB prescribed registration deadline of July 19, 2004 has expired.

4. Part 2 - Auditor Oversight

Part 2 of the Instrument has been amended to clarify which obligations are imposed on public accounting firms and which obligations are imposed on reporting issuers. We have also removed the references to "the time period prescribed by the CPAB." These references were intended to clarify that the Instrument did not apply to a public accounting firm or a reporting issuer until such time as the registration deadline set by the CPAB had expired. However, as a result of the transitional provision that is now built into subsection 1.2(3), these references are no longer necessary.

Subsections 2.1 and 2.2 have been amended to require that, as of the date of its auditor's report, a public accounting firm must be a participating audit firm and in compliance with any restrictions imposed on it by the CPAB. This change was made in response to a comment and is intended to remove any ambiguity as to when the conditions in paragraphs (a) and (b) have to be met.

Subsection 2.2 has also been amended to clarify that the requirements with respect to appointing a public accounting firm apply in connection with the reporting issuer's own financial statements only and not, for example, to financial statements of another

issuer that the reporting issuer might file as a condition of an exemptive relief order provided in connection with an exchangeable security transaction.

5. Part 3 - Notice

We have rearranged the provisions under Part 3 so that the sections on notice of restrictions appear before the sections on notice of sanctions.

We have also changed the references respecting the auditor having been "engaged" to now refer to the auditor being "appointed". We believe these changes better align the Instrument with the fact that auditors usually act as the auditors of reporting issuers until they either resign or are no longer re-appointed.

We have also increased the notice periods set out in subsection 3.2(3) and 3.3(3) from five to ten business days. These changes have been made in response to commenters' recommendations that the notice periods be extended to provide more time for public accounting firms to prepare and deliver the required notices.

Section 3.4 was amended to clarify that, before a public accounting firm can accept an appointment, it must ensure it has provided notice to a reporting issuer client and the regulator of (a) any failures to address defects in its quality control systems to the satisfaction of the CPAB if these failures occurred within the 12-month period immediately preceding the expected date of appointment, and (b) any sanctions imposed by the CPAB within the 12-month period immediately preceding the expected date of appointment.

Finally, the notice provisions in Part 3 were amended to clarify that where a reporting issuer does not have an audit committee, the applicable notice should be delivered to the issuer's board of directors or the person or persons responsible for reviewing and approving the reporting issuer's financial statements.

6. Part 5 - Effective Date

The effective date for the Instrument has been changed to March 30, 2004.

Questions

Please refer your questions to any of:

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National Instrument

The text of the Instrument follows.

January 16, 2004.

APPENDIX A

List of Commenters

BDO Dunwoody LLP
British Columbia Securities Commission
Canadian Council of Chief Executives
Certified General Accountants Association of Alberta
Certified General Accountants Association of Canada
Certified Management Accountants of Ontario
Deloitte & Touche LLP
EnCana Corporation
Ernst & Young LLP
Grant Thornton LLP
KPMG
Ontario Teachers' Pension Plan Board
Raymond Chabot Grant Thornton
Simon Romano
Telus Corporation
The Canadian Institute of Chartered Accountants
The Institute of Internal Auditors
TSX Group

APPENDIX B

Summary of Comments and Responses

National Instrument 52-108 *Auditor Oversight*

	Theme	Comment	Response
General Comments			
1.	Support for the CPAB and Instrument	Eight commenters expressed general support for the creation of the Canadian Public Accountability Board (CPAB) or indicated that they believed that the requirements outlined in the Instrument would contribute to the integrity of financial reporting by promoting high quality, independent auditing. One commenter encouraged adoption of the Instrument as soon as possible.	We agree and acknowledge the support of the commenters.
2.	CPAB - Structure and Independence	One commenter expressed support for the creation of the CPAB and noted that it was established within the constraints of the current Canadian constitutional framework and in the best of good faith. The commenter expressed concerns, however, about its structure and questioned its independence from the accounting profession and regulators. The commenter noted in particular that the CPAB's Council of Governors is composed of representatives from provincial securities commissions, the Superintendent of Financial Institutions Canada and The Canadian Institute of Chartered Accountants (CICA). In addition, three members of the Board of Directors will be selected from provincial institutes of chartered accountants.	Federal and provincial regulators and the CICA established the CPAB to be an independent public oversight body with respect to auditors of public companies. Having representatives from financial institutions and securities regulators play an active role in monitoring the activities of the board will ensure that the CPAB remains independent of the auditors that it oversees and acts in a manner consistent with the public interest. While representatives from the CICA participated in establishing the CPAB, and a representative of the CICA serves as a member of the Council of Governors (Council), the CPAB is and will remain dominated by members who are independent of the accounting profession. In this respect, we note that four out of the five members of the Council, as well as seven out of eleven members of the Board of Directors, will be independent of the accounting profession.
3.	CPAB - Structure and Independence	One commenter noted that the approach taken by the U.S. Public Company Accounting Oversight Board (PCAOB) and the CPAB with respect to fees are different, in that the fees collected by the PCAOB will be drawn from accounting firms and market participants while the fees collected by the CPAB will come solely from accounting firms. The commenter noted that this may result in the CPAB appearing less independent from the firms which it is overseeing.	The CPAB does not have authority to require fees from reporting issuers. However, we do not believe the CPAB is any less independent than the PCAOB since participation in the CPAB Oversight Program, and hence payment of fees, will be mandatory as a result of the Instrument. Further, participating accounting firms will not have the power to influence the budget established by the Board of Directors to provide the resources required to discharge the CPAB's mandate.
4.	CPAB - Structure and Independence	Two commenters felt that the CPAB is a flawed model of public policy and that it unfairly excludes Certified General Accountants (CGAs) and Certified Management Accountants (CMAs), who, in many jurisdictions, have the same rights to audit reporting issuers as	The national and provincial associations of CGAs and CMAs currently have no formal role within the CPAB structure. This reflects the fact that members of these associations audit fewer than 2% of all reporting issuers. The CPAB is aware of these commenters' views and is considering the best way to address

	Theme	Comment	Response
		Chartered Accountants. One commenter added that the CPAB is not independent of the accounting profession and suggested that CGAs should either be given Industry Member status in the CPAB structure or should be asked to develop a similar regulatory model.	their concerns. In any event, we believe the structure of the CPAB ensures its independence from the accounting profession (see response to comment no. 2). We also note that participation in the CPAB's program of inspection and oversight is open to all auditors of reporting issuers on the same terms and conditions, without regard to professional affiliation.
5.	CPAB - Oversight	One commenter asked whether the CSA should have the ability to set aside or reject proposed rules and regulations introduced by the CPAB, either generally or on appeal by participants that are directly affected.	We believe the CSA's representation on the Council will allow the CSA to remain informed on the CPAB's activities and monitor whether it acts in a manner consistent with the public interest. In addition, the rules and regulations introduced by the CPAB will be subject to a 60-day public comment period. As part of the public comment process, the CSA may monitor rules and regulations proposed by the CPAB and, where appropriate, may offer comments.
6.	CPAB - Rules and Regulations	Two commenters suggested that rules and regulations proposed by the CPAB, as well as the proposed participation agreement, should be published for public comment prior to being enacted. One commenter noted that the conditions for acceptance of a firm's application to participate in the CPAB Oversight Program are not set out in the Instrument or the CPAB by-laws and no terms and conditions or requirements of the participation agreement have been published. The commenter suggested that a standardized form of agreement should be published for comment, and that further details of the application process and participation agreement should be disclosed so that interested parties can review them and provide substantive comments.	CPAB's By-law No.1 (By-law) requires the board of the CPAB to provide public notice of any proposed rules and regulations, including proposed amendments to an existing rule or regulation, for at least 60 days before they can be prescribed in final form. Details of the CPAB's proposed registration system, including a proposed participation agreement, were published for comment on September 11, 2003. The 60-day comment period ended November 10, 2003. As a result of comments from interested parties, changes are being made to the proposed registration system and participation agreement. The final form of the participation agreement will be available on the CPAB website. The CPAB also published certain rules for public comment on December 24, 2003. These proposed rules are available on its website at www.cpab-ccrc.ca. The proposed rules will not be prescribed in final form until after the comment period has expired on February 23, 2004.
7.	CPAB - By-Law No. 1	One commenter noted that the first duty listed in the By-Law is to promote the importance of high quality external audits of public companies and expressed disappointment that the need to protect investors was not specifically included in the wording of the By-Law.	The mandate to protect investors in our capital markets rests primarily with the Canadian securities regulatory authorities. While not explicitly stated in the By-Law as part of its duties, the CPAB will contribute to the protection of investors by strengthening the integrity and reliability of financial statements through its efforts to promote high quality, independent auditing. The CPAB will carry out its mission by, among other things, designing and implementing a program for the inspection of auditors of reporting issuers, imposing sanctions on participating audit firms and referring matters to professional organizations that have a statutory responsibility to regulate

	Theme	Comment	Response
			their members.
8.	CPAB - By-Law No. 1	Given the public interest mandate of the CPAB, one commenter questioned whether s. 3.22 of the By-law (respecting confidentiality of information acquired by directors of the CPAB) is appropriate. In addition, the commenter questioned whether Governors and Industry Members should also benefit from Article 5 of the By-law (respecting limitation of liability of directors and officers of the CPAB).	Section 3.22 of the By-Law reflects the fiduciary obligations of directors at common law and is intended to buttress the confidentiality provisions contained in the participation agreement to be published by the CPAB. The provisions contained in Article 5 are standard provisions found in the by-laws of most corporations governed by the *Canada Business Corporations Act*. The Directors and Officers supervise or manage the operations and affairs of the corporation on a day-to-day basis and, consequently, have the greatest exposure to potential liability and the most need for protection and indemnification. Whether additional liability protection is required will be evaluated by the affected parties.
9.	CPAB - By-Law No. 1	A commenter asked whether we intended to limit the requirement to become a direct participant in the CPAB Oversight Program only to firms (including sole practitioners) or whether we also intended to capture individuals.	Only public accounting firms, including sole practitioners, will have to register with the CPAB and agree to participate in the CPAB Oversight Program. Individual accountants at these firms will not be required to register.
10.	CPAB - By-Law No.1	One commenter suggested that the CPAB should commit to provide disclosure in its annual report and MD&A to reflect allocation of costs and the CPAB's expenditures, as well as a comparison of actual expenditures of the CPAB to previously disclosed forecasts.	In keeping with its public mandate, the CPAB will ensure there is appropriate transparency in the conduct of its activities, and will report publicly on the means taken to oversee the audit of public companies and the results achieved.
11.	CPAB - By-Law No. 1	One commenter stated that, if the CPAB is going to provide comments and recommendations on accounting and assurance standards and governance practices, its mandate should state that it will publish such comments.	While not specifically set out in its mandate, the CPAB has indicated that it intends to describe its involvement with, and recommendations to, accounting and assurance standards-setting bodies in its annual report on the results of its activities.
12.	CPAB - By-Law No. 1	One commenter noted that it was unclear whether the CPAB will be working with provincial accounting organizations to inspect accounting firms and asked whether the CPAB will seek any special status for disclosure of, and/or intervening in, the disciplinary processes of provincial accounting organizations.	The CPAB has indicated that it intends to work with provincial accounting organizations with respect to inspections and disciplinary matters relating to participating audit firms. Whether the CPAB will seek special status for disclosure of, and/or intervening in, the disciplinary processes of provincial accounting organizations is a matter to be determined by the Board of Directors.
13.	CPAB - Reviews	One commenter asked whether the CPAB would keep the names of a public accounting firm's audit clients confidential when it inspects the firm.	The CPAB will not publicly disclose which audit client files it reviews when it inspects a participating audit firm. However, the CPAB will request information respecting the names of an audit firm's clients and this information will be made public at the time a participating audit firm files an initial registration form with the CPAB. We also note that the identity of a

	Theme	Comment	Response
			reporting issuer's auditor is publicly available on SEDAR.
14.	CPAB - Restrictions and sanctions	One commenter asked whether restrictions and sanctions imposed by the CPAB would be enforceable and whether the CSA should adopt a statutory model.	The CSA believe the participation agreement between the CPAB and auditors of reporting issuers will permit enforcement of restrictions and sanctions even without the benefit of a statutory model. The constraints imposed by the constitutional division of powers between the provincial and federal governments would present a significant challenge to establishing the CPAB in a timely manner. The participation agreement will contain a clause stating that the participating audit firm agrees to comply with any requirement, restriction or sanction that may be imposed by the CPAB in accordance with prescribed rules. Any failure to comply with requirements, restrictions or sanctions will result in a breach of the participation agreement. Apart from any contractual rights of action, the CPAB will have other remedies available to it, including terminating the participating audit firm's participant status under the By-law. In addition, the Instrument specifically contemplates that a participating audit firm must, as of the date of its auditor's report, be in compliance with any restrictions or sanctions imposed by the CPAB. Any non-compliance at that point in time will mean that a participating audit firm will in breach of securities law and (other than in British Columbia, Alberta and Manitoba) one or more securities regulatory authorities could take enforcement action directly against the participating audit firm.
15.	CPAB - Restrictions and sanctions	One commenter supported the need for the CPAB to impose restrictions and sanctions on wrongdoers, as well as the concept of having various levels of restrictions and sanctions depending on the severity of any wrongdoing.	We agree that it is appropriate for the CPAB to impose restrictions and sanctions and to have the flexibility to impose them in a manner that reflects the severity of any wrongdoing.
16.	CPAB - Restrictions and sanctions	One commenter suggested the CPAB disclose the due process measures it will adopt with respect to imposing sanctions.	The CPAB published for comment on December 24, 2003 proposals in connection with the process it intends to follow for imposing requirements, restrictions and sanctions. These proposals are available on its website at www.cpab-ccrc.ca. The 60-day comment period ends on February 23, 2004.
17.	CPAB - Restrictions and sanctions	One commenter noted that a reporting issuer may not know that its auditor failed to comply with any CPAB-imposed restrictions or sanctions, or that its participation in the CPAB Oversight Program had been suspended or terminated. The commenter also raised concerns that a reporting issuer may be indirectly penalized if, for example, its audit firm or audit partner is suspended	We expect that a public accounting firm's participation in the CPAB Oversight Program will not be suspended or terminated without advance warning. The CPAB's compliance and enforcement system is designed to consist of a series of graduated measures that will focus on correcting deficiencies and raising the quality of compliance with auditing standards. Suspension or termination will occur only after the CPAB has exhausted other measures,

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		or terminated from the CPAB Oversight Program just prior to it issuing an auditor's report with respect to financial statements that are due to be filed in a few days.	such as imposing restrictions or other sanctions on a participating audit firm in accordance with its rules. We also note that Part 3 of the Instrument requires (other than in Alberta, British Columbia and Manitoba) a participating audit firm to give a reporting issuer notice of any sanctions, and, in certain cases, of any restrictions imposed on it. In such circumstances, the reporting issuer will be able to determine in advance whether it should engage another auditor to ensure it meets filing deadlines under securities law.
18.	CPAB - Costs	Two commenters expressed concern that the CPAB Oversight Program be managed in a cost effective manner in order to minimize additional costs that may be passed on to reporting issuers.	The CSA agree and expect that the Board of Directors of the CPAB will ensure that the Oversight Program is managed in a cost effective manner consistent with fulfilling its mandate.
19.	CPAB - Costs	One commenter noted that discussions between the CPAB and the PCAOB may result in the PCAOB relying on the CPAB to perform oversight of auditors of Canadian-based SEC issuers. If this occurs, the commenter believes Canadian-based SEC issuers should receive some relief from the fees they would otherwise be required to pay to the PCAOB.	Representatives from the CPAB and PCAOB have met to discuss the possibility of developing cooperative arrangements with respect to the oversight of Canadian public accounting firms that audit SEC registrants and U.S. public accounting firms that audit Canadian reporting issuers. While we expect the CPAB to continue its discussions with the PCAOB on these issues, any alleviation of the amount of fees to be paid to the PCAOB by Canadian-based SEC registrants is a matter to be determined by the PCAOB and is not within the control of either the CSA or the CPAB.
20.	Definition – "In good standing"	A commenter questioned the amount of time that a failure to comply with restrictions or sanctions would impact on an auditor's ability to audit a reporting issuer's financial statements. The commenter also suggested that only suspension or termination from the CPAB Oversight Program (and not non-compliance with restrictions or sanctions) should impair a public accounting firm's ability to conduct audits of reporting issuers. Finally, the commenter suggested that if a reporting issuer does not have knowledge that its auditor had been suspended by the CPAB or had its participant status terminated, then it should be exempt from the requirement in subsection 2.3(1) [now section 2.2] to have a participating audit firm in good standing. The commenter added, however, that even where a reporting issuer knows about the suspension or termination, it should have 12 months to find another auditor.	The version of the Instrument published on June 27, 2003 contained a definition of "participant in good standing" such that, if a participating audit firm failed to comply with a restriction or sanction, it would be permanently prevented from auditing the financial statements of a reporting issuer. While we fully expect a participating audit firm to comply with all restrictions or sanctions imposed on it by the CPAB, we recognize that the effect of the definition was too far-reaching. For this and other reasons explained in the notice, we have deleted the definition of "in good standing" and amended the Instrument so that a participating audit firm must be in compliance with any restrictions or sanctions as of the date of the auditor's report. With respect to the commenter's second point, we believe that a failure to comply with restrictions or sanctions imposed by the CPAB, and not just suspension or termination, is a serious default that should impair the ability of a public accounting firm to issue an auditor's report in respect of the financial statements of a reporting issuer. Finally, we expect reporting issuers and their audit committees to be proactive and informed

	Theme	Comment	Response
			about their auditors' ability to conduct audits. In the jurisdictions where the notice provisions regarding restrictions and sanctions apply, the notices will provide clear signals to reporting issuers of any potential problems with their auditors. As a result, a reporting issuer should be able to remain informed about whether its auditor has been suspended or terminated by the CPAB. Therefore, we do not think it is necessary to provide reporting issuers with a period of time to find another auditor. In the event a reporting issuer believes it would suffer undue hardship as a result of a failure of its auditor, the reporting issuer could always apply for an exemption from the requirements of the Instrument. Applications will be considered on a case by case basis.
21.	Part 2 - Date an auditor's report is issued	Part 2 of the Instrument makes several references to circumstances that should exist when an auditor's report is "issued". One commenter recommended changing such references to "the date of the auditor's report" since different views might exist as to when an auditor's report is issued.	We agree and have amended the Instrument to clarify that a participating audit firm must be a participating audit firm and in compliance with any CPAB restrictions or sanctions as of the date of the auditor's report.
22.	Part 4 - Exemption	One commenter suggested that issuers of exchangeable securities and guaranteed securities should be exempt from the Instrument.	We note that Part 2 only applies where a participating audit firm prepares an auditor's report with respect to the reporting issuer's financial statements. Therefore, to the extent these types of issuers are exempt from having to file their own financial statements, the Instrument would not apply.
23.	Part 4 - Exemption	One commenter stated that the core principles of financial reporting, auditing and governance should apply universally to all Canadian public companies, irrespective of size or exchange listing. Flexibility should be permitted, however, in how these principles are applied to mitigate the relative cost burden on smaller companies.	We agree. It is a fundamental requirement of securities laws that all reporting issuers file financial statements prepared in accordance with generally accepted accounting principles and audited in accordance with generally accepted auditing standards. In carrying out its oversight and inspection responsibilities, the CPAB will be assessing compliance with these established principles and standards as well as any rules and regulations established by the CPAB to govern behaviour of participating firms. While the CSA is sensitive to the relative cost burden of requirements imposed on smaller companies in our capital markets, we agree that smaller companies should not be held to a different standard of financial reporting. We believe all reporting issuers should provide financial statements that have been audited by an audit firm that participates in the CPAB Oversight Program and complies with CPAB restrictions and sanctions. We also expect that any costs that arise from CPAB oversight will be determined and allocated fairly and will be proportionate to the revenues earned by a public accounting firm in connection with reporting issuer audits.

	Theme	Comment	Response
24.	Part 4 - Exemption	One commenter raised concerns about the impact on small reporting issuers. The commenter noted that smaller accounting firms with few public issuer clients may choose not to enter into a participation agreement with the CPAB given that it would not add value to the majority of their private issuer clients. As a result, smaller public issuers may have to retain new accounting firms at potentially higher costs. The commenter suggested that all TSX Venture Exchange issuers be exempted from the requirement to retain a participating audit firm in good standing with the CPAB. In addition, the commenter suggested that venture issuers be required to disclose whether or not their financial statements have been prepared and/or audited by a CPAB registered accounting firm and, if not, to explain why.	We believe all reporting issuers should provide financial statements that have been audited by a firm that participates in the CPAB Oversight Program and complies with CPAB restrictions and sanctions. We recognize that some smaller public accounting firms may chose to cease to audit reporting issuers and that there may be some incremental increases in auditing costs for reporting issuers. Nevertheless, we believe the benefits of a consistently high standard of auditing for financial statements filed by reporting issuers will outweigh the costs.
25.	Part 4 - Exemption	In addition to supporting the exemption of TSX Venture Exchange issuers from certain requirements of the Instrument, one commenter suggested that smaller, non-Venture Exchange issuers also be exempt from some requirements. The commenter suggested that the CSA monitor the effect of the Instrument on such issuers on a cost/benefit basis.	As indicated above, we believe all reporting issuers should be bound by the Instrument. Once the Instrument is implemented, the CSA will monitor its impact.
26.	Part 5 - Effective date	One commenter noted that the rule should not take effect until all public accounting firms are deemed eligible to participate in the CPAB Oversight Program.	According to the CPAB registration process announced in September 2003, all public accounting firms are immediately eligible to participate in the CPAB Oversight Program. A public accounting firm wishing to participate was required to submit by December 31, 2003, an intent to participate form and a quality control report. Public accounting firms that have filed the required documents will be invited to submit a registration form and signed participation agreement by February 29, 2004. Once the documents and the required fee are received by the CPAB, a public accounting firm will automatically be considered to be a participating audit firm. Details of the CPAB's registration process are available on CPAB's website at www.cpab-ccrc.ca.
Do you agree that public accounting firms in foreign jurisdictions should be required to participate in the CPAB Oversight Program? If not, what other alternatives should be considered? For example, should a public accounting firm based outside Canada that is subject to oversight by a comparable body in a foreign jurisdiction, such as the PCAOB, be treated differently?			
27.	CPAB Oversight of foreign auditors	Four commenters stated that public accounting firms in foreign jurisdictions should be required to participate in the CPAB Oversight Program. The commenters also suggested that if foreign auditors were subject to review	We agree that foreign auditors should be subject to CPAB oversight and, in the jurisdictions that have rule-making authority to impose requirements directly on auditors, the effect of section 2.1 will be that foreign audit firms will be required to participate in the

	Theme	Comment	Response
		by a comparable body in their home jurisdiction, e.g., the PCAOB in the U.S., then it would be preferable to have the CPAB enter into a reciprocal agreement with that oversight body. It was further suggested that any agreement should be structured to allow the CPAB to review and accept the results of the foreign oversight body rather than require public accounting firms to undergo reviews by two separate oversight bodies. Conversely, the commenter suggested that the foreign oversight body should accept the results of the quality assurance reviews performed by the CPAB.	CPAB Oversight Program (subject to any distinct registration deadlines established by the CPAB). We also acknowledge that the functions of similar auditor oversight organizations, such as the CPAB and the PCAOB should be coordinated and harmonized to the extent possible to prevent duplicative regulation. In this regard, we note that the CPAB has held discussions with the PCAOB and the PCAOB has stated that it intends to develop an efficient and effective cooperative arrangement where reliance may be placed on the home country system to the maximum extent possible (see PCAOB release number 2003-020 dated October 28, 2003 available on the PCAOB website at www.pcaobus.org)
28.	CPAB Oversight of foreign auditors	One commenter suggested that, in those situations where registration in the auditor's home jurisdiction is not sufficient, registration deadlines and other requirements should be aligned to the extent possible between countries requiring the auditor to register. This is especially relevant in relation to registration with the PCAOB due to the large number of Canadian public companies that are also public companies in the United States.	We agree that registration deadlines and other requirements should be aligned to the extent possible. We note that many of the requirements introduced by the CPAB are similar to those enacted in the United States. In addition, the CPAB has extended the registration deadline for foreign auditors in Canada until July 19, 2004 in order to align the registration deadline for foreign auditors with that in the U.S.
29.	CPAB Oversight of foreign auditors	One commenter supported the principle that the CPAB be given flexibility on how it oversees foreign auditors and stressed the need for establishing a "mutual reliance" system with the PCAOB in the U.S. to ensure we do not end up with a duplication of effort and costs.	We agree that the CPAB should be given sufficient flexibility to avoid unnecessary duplication of work carried out by its counterparts in foreign jurisdictions. As noted in our response to comment number 27, we understand that the CPAB and PCAOB are working together to develop a system of mutual recognition.
30.	CPAB Oversight of foreign auditors	Two commenters stated that it was not appropriate to require foreign accounting firms auditing reporting issuers to enter into participation agreements with the CPAB. One commenter noted it may discourage foreign companies from becoming reporting issuers in Canada. The other commenter thought requiring a foreign auditor with similar oversight rules to register with the CPAB was duplicative, and that such auditors should not be subject to oversight in Canada.	See responses to comments number 27, 28 and 29.

	Theme	Comment	Response
Do you think that five business days is an appropriate length of time for a public accounting firm to provide notice to its audit clients? Do you agree that an audit firm should only be required to provide notice to its audit clients when it fails to address defects within the time period prescribed by the CPAB? Are there other more effective means of having information about restrictions or sanctions communicated? For example, should the CPAB disclose to the public on a timely basis any restrictions or sanctions it imposes on a public accounting firm?			
31.	Notice	Two commenters stated that it would be easier to respond to the specific request for comment on the notice provisions if it had a fuller understanding of the process the CPAB intends to follow with respect to imposing restrictions and sanctions. The commenter asked, for example, whether a firm would be given the chance to rectify deficiencies.	The CPAB has begun publishing for public comment proposed rules respecting practice inspections and compliance requirements. These rules explain the process the CPAB intends to follow in imposing requirements, restrictions and sanctions. A firm will generally be given a reasonable opportunity to rectify any deficiencies in its practices and procedures before any restrictions or sanctions are imposed by the CPAB.
32.	Notice	Nine commenters commented specifically on the time periods for giving notice. One commenter concurred with the notice proposals as drafted in the Instrument published on June 27, 2003. Another commenter stated that a public accounting firm should be required to provide notice immediately when the CPAB imposes sanctions on it. Seven commenters suggested that five business days would not be an adequate amount of time to provide notice. Some commenters suggested that the notice periods under section 3.1 [now section 3.3] and/or section 3.4 [now section 3.2] should be extended to 10 or 30 business days.	We believe it would not be feasible to impose an immediate notice requirement on auditing firms that have a large number of reporting issuer clients, as firms will need time to identify their clients and organize delivery of the notice. On the other hand, we do not believe that this process will take more than a few days. In light of the fact that the majority of commenters on this issue recommended a 10 day notice requirement, we have amended the Instrument to require that notices under subsections 3.1(3) [now subsection 3.3(3)] and 3.4(3) [now subsection 3.2(3)] be provided within 10 business days. We believe this strikes an appropriate balance between the public interest in ensuring reporting issuers receive timely notice and the practicalities of disseminating information quickly.
33.	Notice	One commenter noted that the current inspection process used by provincial institutes of chartered accountants has due process safeguards and disciplinary notices are only published at the conclusion of this due process. The commenter added that, if information regarding restrictions and sanctions is not properly communicated to the public, it could result in potentially unwarranted fear in the investment community. The commenter concluded that any information regarding restrictions and sanctions should be communicated by the audit firm to its clients only, since the public could misunderstand publication of this information by the CPAB.	The Instrument requires a public accounting firm to provide notice of restrictions (in certain situations) and notice of sanctions to its clients only, not to the public generally. Any determination to require further transparency will be a matter to be considered by the CPAB.
34.	Notice	Four commenters agreed that an audit firm should be required to provide notice to its audit clients when it fails to address defects in its quality control systems	We agree and acknowledge the support of the commenters.

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		within the time period prescribed by the CPAB.	
35.	Notice	One commenter asked how much time an accounting firm will be given to address deficiencies in its quality control systems. For example will it match the 12 month time period under paragraph 104(g)(2) of the *Sarbanes Oxley Act of 2002*.	The CPAB has proposed that firms be given 180 days in which to address any deficiencies in their quality control systems, and that this information will be clearly communicated to the participating audit firm.
36.	Notice	Three commenters suggested that information about participating audit firms should be a matter of public record. One commenter added that the CPAB should promptly disclose the details of restrictions or sanctions to the public. Another commenter suggested that the CPAB could either have securities regulators make the information public or it could publicize the information itself.	Information about a participating firm submitted with the initial registration form, other than information respecting fees earned by the public accounting firm from specific clients, will be made public. With respect to disclosing restrictions and sanctions, the CPAB will determine whether it will disclose publicly on a timely basis any restrictions or sanctions it imposes on a public accounting firm.
37.	Notice	One commenter noted that it is not clear from section 3.2 [now paragraph (a) of subsection 3.4(1)] when the 12-month period for reporting sanctions to a potential audit client would end. The commenter suggested that the requirement should be to include notification of any sanction in any proposal presented to a reporting issuer within 12 months of the date the sanction was imposed.	We agree and have amended the Instrument to clarify that, prior to accepting an appointment by a new audit client, a participating audit firm must provide notice of any sanctions imposed within the 12 months immediately preceding the expected date of appointment. We have also added a requirement that a participating audit firm provide notice of any failures to address defects in its quality control systems if it was notified of any such failure by the CPAB within the 12 months immediately preceding the expected date of appointment.
38.	Notice	One commenter stated that the proposal in section 3.1 [now section 3.3] should be reconsidered since it is impossible to assess the reaction of a firm's clients to such a communication and, as a result, the impact of the sanction may be much more severe than intended by the CPAB. The commenter stated that for a system of restrictions or sanctions to be equitable, the affected firm should be able to reasonably assess the outcome or cost of the restriction or sanction. The commenter noted that a firm should be required to communicate a sanction directly to its issuer audit clients only when the sanction imposed by the CPAB results in a firm being ineligible to issue future audit reports to reporting issuers. Also, assuming that sanctions may be imposed on individual members of a firm rather than the firm in its entirety, any required notices should depend on the scope of the sanctions imposed. For	We disagree and believe the notice requirements respecting sanctions strike the appropriate balance between the interests of a participating audit firm and its reporting issuer audit clients. Furthermore, we believe participating audit firms will be able to manage the relationship with clients and it is reasonable to expect them to be able to assess clients' reactions to the imposition of sanctions on an audit firm. We disagree that the notice requirement should not apply unless the sanction imposed by the CPAB results in a firm being ineligible to issue future audit reports to reporting issuers. In our view, it is important that a participating audit firm's reporting issuer clients be made aware of CPAB-imposed sanctions to assess whether they need to take specific action regarding their auditor or their financial statements. While we considered requiring the notice of sanctions to be provided to those clients that were directly impacted only, we concluded it

	Theme	Comment	Response
		example, a sanction prohibiting a member of the firm from participating in the audit of an issuer should only be required to be communicated to those clients the member has been involved in auditing, rather than all issuer audit clients of the firm.	would be too complex to try to define which clients of a participating audit firm would be affected by sanctions in different circumstances. Therefore, we have left it up to the accounting firm to explain the scope of the sanctions imposed on it within the notice it provides to all of its audit clients.
39.	Notice	One commenter noted that not all reporting issuers have audit committees and questioned to whom the notice should be delivered.	We agree and have amended the Instrument to clarify that, when a reporting issuer does not have an audit committee, the notice should be provided to the person or persons responsible for reviewing and approving the financial statements before they are filed.
40.	Notice	One commenter noted that the terms "sanctions", "restrictions" and the failure "to address, to the satisfaction of the CPAB, the defects in its quality control systems" are not defined or commonly understood. The commenter observed that notification of such issues to audit clients, prospective clients and regulators are serious matters and it would need a better understanding of the relationship between the CPAB and participating audit firms, as well as the means the CPAB will use to classify inspection findings, specify remedial actions and otherwise take action against auditors with which the CPAB has quality concerns. The commenter recommended that the CSA and the CPAB consult with audit firms that are expected to become participating firms on these matters before this Instrument is finalized.	We agree that these are matters that warrant consultation and public feedback. Details of the CPAB's compliance and enforcement system are set out in rules that the CPAB began publishing on its website (www.cpab-ccrc.ca) on December 24, 2003. The published rules, among other things, outline membership requirements, the investigation process and the types of requirements, restrictions and sanctions the CPAB may impose. Participating audit firms and the public have the opportunity to provide comments on these rules. In addition, we expect the CPAB will keep securities regulators and audit firms informed about the development of its compliance and enforcement system.

APPENDIX C

~~MULTILATERAL~~NATIONAL INSTRUMENT 52-108
AUDITOR OVERSIGHT

PART 1 DEFINITIONS AND APPLICATION

1.1 Definitions - In this Instrument

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

~~"participant in good standing" means a participating audit firm that meets the following conditions: (a) its participation agreement is not suspended or terminated by the CPAB, and (b) it has complied with, and, if applicable, continues to comply with, any sanctions or restrictions imposed by the board of directors of the CPAB;~~ "participation agreement" means ~~an~~a written agreement between the CPAB and a public accounting firm in connection with ~~an oversight program of public accounting firms established by the CPAB~~the CPAB's program of practice inspections and the establishment of practice requirements;

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

"public accounting firm" means a sole proprietorship, partnership ~~of individuals~~, corporation or other legal entity engaged in the business of providing services as public accountants ~~and includes, where the context permits, an individual carrying on business as a sole proprietor and any professional corporation through which either a partner or a sole proprietor carries on its business;~~.

1.2 Application ~~- Sections 2.1, 2.2~~**and Transition –**

(1) This Instrument applies to reporting issuers and public accounting firms.

(2) Section 2.1 and Part 3 do not apply in Alberta ~~or~~, British Columbia and Manitoba.

(3) Part 2 does not apply unless

(a) the CPAB's prescribed time period for the public accounting firm to submit a participation agreement has expired, and

(b) the auditor's report prepared by the public accounting firm is dated on or after March 30, 2004.

PART 2 AUDITOR OVERSIGHT

~~2.1~~ ~~2.1~~ ~~Participation Agreement with the CPAB~~ - Public accounting firms – A public accounting firm that **~~issues~~prepares** an auditor's report with respect to the financial statements of a reporting issuer must **~~enter into a participation agreement within the time period prescribed by the CPAB.~~be, as of the date of its auditor's report,**

(a) a participating audit firm, and

~~**2.2 Participant in Good Standing** - A participating audit firm must be a participant in good standing when it issues an auditor's report with respect to the financial statements of a reporting issuer.~~

(b) in compliance with any restrictions or sanctions imposed by the CPAB.

~~**2.3 Auditor's report filed with Financial Statements** - (1)~~**2.2 Reporting Issuers –** A reporting issuer that files its financial statements accompanied by an auditor's ~~report with financial statements may only file an auditor's report issued by~~ 's report must have the auditor's report prepared by a public accounting firm that is, as of the date of the auditor's report,

(a) a participating audit firm ~~that is a participant in good standing at the time the auditor's report is issued.~~, and

~~(2) A reporting issuer is exempt from the requirement in subsection (1) if, at the date on which an auditor's report is issued with respect to the issuer's financial statements by a public accounting firm, the time period prescribed by the CPAB within which that public accounting firm must enter into a participation agreement has not expired.~~

(b) in compliance with any restrictions or sanctions imposed by the CPAB.

PART 3 NOTICE

3.1 Notice of ~~Sanctions~~Restrictions -

(1) A participating audit firm ~~must, if the board of directors of the CPAB imposes sanctions on it, notify~~ that is appointed to prepare an auditor's report with respect to the financial statements of a reporting issuer must, if the CPAB imposes restrictions on the participating audit firm intended to address defects in its quality control systems, provide notice to the regulator.

(2) The notice required under subsection (1) must be in writing and include a complete description of

(a) the defects in the quality control systems identified by the CPAB, and

(b) the restrictions imposed by the CPAB, including the date the restrictions were imposed and the time period within which the participating audit firm agreed to address the defects.

(3) The notice required under subsection (1) must be delivered within 2 business days of the restrictions being imposed.

3.2 Idem -

(1) A participating audit firm that is subject to CPAB restrictions intended to address defects in its quality control systems and that is informed by the CPAB that it failed to address defects in its quality control systems, to the satisfaction of the CPAB, within the agreed upon time period, must provide notice to

(a) the audit committee of each reporting issuer for which it is appointed to prepare an auditor's report, or, if a reporting issuer does not have an audit committee, the board of directors or the person or persons responsible for reviewing and approving the reporting issuer's financial statements before they are filed, and

(b) the regulator, if the participating audit firm is appointed to prepare an auditor's report with respect to the financial statements of a reporting issuer.

(2) The notice required under subsection (1) must be in writing and include a complete description of

(a) the defects in the quality control systems identified by the CPAB,

(b) the restrictions imposed by the CPAB that were intended to address defects in its quality control systems, including the date the restrictions were imposed and the time period within which the participating audit firm agreed to address the defects, and

(c) the reasons it was unable to address the defects to the satisfaction of the CPAB.

(3) The notice required under subsection (1) must be delivered within 10 business days of the participating audit firm being informed by the CPAB that it has failed to address the defects in its quality control systems.

3.3 Notice of Sanctions –

(1) A participating audit firm that is subject to sanctions imposed by the CPAB must provide notice to

(a) the audit committee of ~~a~~each reporting issuer for which it ~~has been engaged to issue an auditor's report and~~ is appointed to prepare an auditor's report, or, if a reporting issuer does not have an audit committee, the board of directors or the person or persons responsible for reviewing and approving the reporting issuer's financial statements before they are filed, and

(b) the regulator ~~if the issuer is~~, if the participating audit firm is appointed to prepare an auditor's report with respect to the financial statements of a reporting issuer ~~in the local jurisdiction.~~ .

(2) The notice required under subsection (1) must be in writing and include a complete description of the sanctions imposed by the ~~board of directors of the~~ CPAB, including the date the sanctions were imposed.

~~(3)~~ The notice required under subsection (1) must be delivered within ~~5~~10 business days of the sanctions being imposed.

~~**3.2 Idem** - A participating audit firm must, if it is making a proposal to undertake an audit of a reporting issuer, advise the reporting issuer's audit committee of any sanctions that have been imposed by the board of directors of the CPAB within the preceding 12 months.~~

~~**3.3 Notice of Restrictions** -~~

~~(1) A participating audit firm must, if the board of directors of the CPAB imposes restrictions on it in order to address defects in the participating audit firm's quality control systems, notify the regulator if it has been engaged to issue an auditor's report with respect to the financial statements of a reporting issuer in the local jurisdiction.~~

~~(2) The notice required under subsection (1) must be in writing and include a complete description of (a) the defects in the quality control systems identified by the CPAB and (b) the restrictions imposed by the board of directors of the CPAB, including the date the restrictions were imposed and the time period within which the participating audit firm agreed to address the defects.~~

3.4 Notice of Restrictions and Sanctions Prior to Appointment –

(1) Prior to accepting an appointment to prepare an auditor's report with respect to the financial statements of a reporting issuer, a participating audit firm must provide notice in accordance with

~~(3) The notice required under subsection (1) must be delivered within 2 business days of the restrictions being imposed.~~

(a) subsections 3.2(1) and 3.2(2), if the CPAB informed the participating audit firm within the 12-month period immediately preceding the expected date of appointment that it failed to address defects in its quality control systems to the satisfaction of the CPAB, and

~~**3.4 Idem** -~~

~~(1) If a participating audit firm is informed by the CPAB that it failed to address, to the satisfaction of the CPAB, the defects in its quality control systems within the time period agreed to between the participating audit firm and the CPAB, it must notify (a) the audit committee of a reporting issuer for which it has been engaged to issue an auditor's report with respect to the issuer's financial statements, and (b) the regulator if it has been engaged to issue an auditor's report with respect to the financial statements of a reporting issuer in the local jurisdiction.~~

(b) subsections 3.3(1) and 3.3(2), if the CPAB imposed sanctions on the participating audit firm within the 12-month period immediately preceding the expected date of appointment.

~~(2) The notice required under subsection (1) must be in writing and include a complete description of (a) the defects in the quality control systems identified by the CPAB, (b) the restrictions imposed by the board of directors of the CPAB, including the date the restrictions were imposed and the time period within which the participating audit firm agreed to address the defects, and (c) the reasons it was unable to address the defects to the satisfaction of the CPAB.~~

(2) For the purposes of subsection (1), the references to "is appointed" contained in subsections 3.2(1) and 3.3(1) shall mean "is expected to be appointed."

~~(3) The notice required under subsection (1) must be delivered within 5 business days of the public accounting firm being informed by the CPAB that it has failed to address the defects in its quality control systems.~~

(3) A participating audit firm is not required to provide notice under subsection (1) if, pursuant to a notice provided under sections 3.2 or 3.3, the reporting issuer and regulator have been provided notice of the participating

audit firm's failure to address the defects in its quality control systems to the satisfaction of the CPAB and of the sanctions imposed by the CPAB.

PART 4 EXEMPTION

4.1 Exemption –

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

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

PART 5 EFFECTIVE DATE

5.1 Effective Date ~~of Instrument~~ – This Instrument comes into force on **~~[January 1, 2004]~~**.March 30, 2004.

5.1.10 National Instrument 52-108 Auditor Oversight

NATIONAL INSTRUMENT 52-108
AUDITOR OVERSIGHT

PART 1 DEFINITIONS AND APPLICATION

1.1 Definitions - In this Instrument

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

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

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

"public accounting firm" means a sole proprietorship, partnership, corporation or other legal entity engaged in the business of providing services as public accountants.

1.2 Application and Transition –

(1) This Instrument applies to reporting issuers and public accounting firms.

(2) Section 2.1 and Part 3 do not apply in Alberta, British Columbia and Manitoba.

(3) Part 2 does not apply unless

(a) the CPAB's prescribed time period for the public accounting firm to submit a participation agreement has expired, and

(b) the auditor's report prepared by the public accounting firm is dated on or after March 30, 2004.

PART 2 AUDITOR OVERSIGHT

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

(a) a participating audit firm, and

(b) in compliance with any restrictions or sanctions imposed by the CPAB.

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

(a) a participating audit firm, and

(b) in compliance with any restrictions or sanctions imposed by the CPAB.

PART 3 NOTICE

3.1 Notice of Restrictions -

(1) A participating audit firm that is appointed to prepare an auditor's report with respect to the financial statements of a reporting issuer must, if the CPAB imposes restrictions on the participating audit firm intended to address defects in its quality control systems, provide notice to the regulator.

(2) The notice required under subsection (1) must be in writing and include a complete description of

(a) the defects in the quality control systems identified by the CPAB, and

(b) the restrictions imposed by the CPAB, including the date the restrictions were imposed and the time period within which the participating audit firm agreed to address the defects.

(3) The notice required under subsection (1) must be delivered within 2 business days of the restrictions being imposed.

3.2 Idem -

(1) A participating audit firm that is subject to CPAB restrictions intended to address defects in its quality control systems and that is informed by the CPAB that it failed to address defects in its quality control systems, to the satisfaction of the CPAB, within the agreed upon time period, must provide notice to

(a) the audit committee of each reporting issuer for which it is appointed to prepare an auditor's report, or, if a reporting issuer does not have an audit committee, the board of directors or the person or persons responsible for reviewing and approving the reporting issuer's financial statements before they are filed, and

(b) the regulator, if the participating audit firm is appointed to prepare an auditor's report with respect to the financial statements of a reporting issuer.

(2) The notice required under subsection (1) must be in writing and include a complete description of

(a) the defects in the quality control systems identified by the CPAB,

(b) the restrictions imposed by the CPAB that were intended to address defects in its quality control systems, including the date the restrictions were imposed and the time period within which the participating audit firm agreed to address the defects, and

(c) the reasons it was unable to address the defects to the satisfaction of the CPAB.

(3) The notice required under subsection (1) must be delivered within 10 business days of the participating audit firm being informed by the CPAB that it has failed to address the defects in its quality control systems.

3.3 Notice of Sanctions –

(1) A participating audit firm that is subject to sanctions imposed by the CPAB must provide notice to

(a) the audit committee of each reporting issuer for which it is appointed to prepare an auditor's report, or, if a reporting issuer does not have an audit committee, the board of directors or the person or persons responsible for reviewing and approving the reporting issuer's financial statements before they are filed, and

(b) the regulator, if the participating audit firm is appointed to prepare an auditor's report with respect to the financial statements of a reporting issuer.

(2) The notice required under subsection (1) must be in writing and include a complete description of the sanctions imposed by the CPAB, including the date the sanctions were imposed.

(3) The notice required under subsection (1) must be delivered within 10 business days of the sanctions being imposed.

3.4 Notice of Restrictions and Sanctions Prior to Appointment –

(1) Prior to accepting an appointment to prepare an auditor's report with respect to the financial statements of a reporting issuer, a participating audit firm must provide notice in accordance with

(a) subsections 3.2(1) and 3.2(2), if the CPAB informed the participating audit firm within the 12-month period immediately preceding the expected date of appointment that it failed to address defects in its quality control systems to the satisfaction of the CPAB, and

(b) subsections 3.3(1) and 3.3(2), if the CPAB imposed sanctions on the participating audit firm within the 12-month period immediately preceding the expected date of appointment.

(2) For the purposes of subsection (1), the references to “is appointed” contained in subsections 3.2(1) and 3.3(1) shall mean “is expected to be appointed.”

(3) A participating audit firm is not required to provide notice under subsection (1) if, pursuant to a notice provided under sections 3.2 or 3.3, the reporting issuer and regulator have been provided notice of the participating audit firm’s failure to address the defects in its quality control systems to the satisfaction of the CPAB and of the sanctions imposed by the CPAB.

PART 4 EXEMPTION

4.1 Exemption –

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

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

PART 5 EFFECTIVE DATE

5.1 Effective Date – This Instrument comes into force on March 30, 2004.

5.1.11 Notice of Multilateral Instrument 52-109 Certification of Disclosure in Issuers' Annual and Interim Filings

NOTICE OF MULTILATERAL INSTRUMENT 52-109
CERTIFICATION OF DISCLOSURE IN ISSUERS' ANNUAL AND INTERIM FILINGS

Introduction

Multilateral Instrument 52-109 - *Certification of Disclosure in Issuers' Annual and Interim Filings*, Form 52-109F1, Form 52-109FT1, Form 52-109F2 and Form 52-109FT2 (collectively, the Instrument) and Companion Policy 52-109CP - *Certification of Disclosure in Issuers' Annual and Interim Filings* (the Companion Policy) are initiatives of certain members of the Canadian Securities Administrators (the CSA or we). The Instrument and the Companion Policy are collectively referred to as the Materials.

The Instrument has been made or is expected to be made by each member of the CSA participating in this initiative and will be implemented as:

- a rule in each of Québec, Alberta, Manitoba, Ontario, Nova Scotia and Newfoundland and Labrador,
- a Commission regulation in Saskatchewan and Nunavut,
- a policy in each of New Brunswick, Prince Edward Island and in the Yukon Territory, and
- a code in the Northwest Territories.

It is expected that the Companion Policy will be implemented as a policy in Québec, Alberta, Saskatchewan, Manitoba, Ontario, Nova Scotia, Newfoundland and Labrador, New Brunswick, Prince Edward Island, Nunavut, the Yukon Territory and the Northwest Territories.

In Ontario, the Instrument and other required materials were delivered to the Minister of Finance on January 14, 2004. The Minister may approve or reject the Instrument or return it for further consideration. If the Minister approves the Instrument or does not take any further action by March 15, 2004, the Instrument will come into force on March 30, 2004. The Companion Policy will come into force on the date that the Instrument comes into force.

In Québec, the Instrument is a regulation made under section 331.1 of *The Securities Act* (Québec) and must be approved, with or without amendment, by the Minister of Finance. The Instrument will come into force on the date of its publication in the *Gazette officielle du Québec* or on any later date specified in the regulation. It must also be published in the Bulletin.

In Alberta, the Instrument and other materials were delivered to the Minister of Revenue. The Minister may approve or reject the Instrument. Subject to Ministerial approval, the Instrument and Companion Policy will come into force on March 30, 2004. The Alberta Securities Commission will issue a separate notice advising of whether the Minister has approved or rejected the Instrument.

Provided all necessary ministerial approvals are obtained, we expect to implement the Instrument and Companion Policy on March 30, 2004.

Substance and Purpose

The purpose of the Materials is to improve the quality and reliability of reporting issuers' annual and interim disclosure. We believe that this, in turn, will help to maintain and enhance investor confidence in the integrity of our capital markets. The Materials require chief executive officers (CEOs) and chief financial officers (CFOs) (or persons performing functions similar to a CEO or CFO) of reporting issuers to personally certify that, among other things:

- their issuers' annual filings and interim filings do not contain any misrepresentations or omit to state any material facts;
- the financial statements and other financial information in the annual filings and interim filings fairly present the financial condition, results of operations and cash flows of their issuers for the relevant time period;
- they have designed disclosure controls and procedures and internal control over financial reporting (or caused them to be designed under their supervision);
- they have evaluated the effectiveness of such disclosure controls and procedures and caused their issuers to disclose their conclusions regarding their evaluation; and

- they have caused their issuers to disclose certain changes in internal control over financial reporting.

The filings required to be certified by CEOs and CFOs (or persons performing functions similar to a CEO or CFO) include:

- annual information forms;
- annual financial statements;
- annual MD&A;
- interim financial statements; and
- interim MD&A.

The requirement that senior executives certify that they have designed and implemented disclosure controls and procedures and internal control over financial reporting is intended to provide reasonable assurance that an issuer's senior management is aware of material information that is filed with securities regulators and released to investors and is held accountable for the fairness and accuracy of this information.

The Materials do not require a report of management on an issuer's internal control over financial reporting or auditor attestation on management's assessment of an issuer's internal control over financial reporting as envisaged by subsections 404(a) and (b) of the *Sarbanes-Oxley Act of 2002* (SOX). The Securities and Exchange Commission (the SEC) recently adopted rules to implement the requirements of section 404.[1] As a separate CSA initiative, we are currently developing a proposed instrument which will require a report on management's assessment of an issuer's internal control over financial reporting. We are also evaluating the extent to which auditor attestation of such report should be required.

Background

In July 2002, SOX was enacted in the United States. SOX introduces numerous accounting, disclosure and corporate governance reforms with a view to restoring the public's faith in the U.S. capital markets in the wake of several U.S. financial reporting scandals. These reforms include the requirement for CEO and CFO certification of financial and other disclosure. Since our markets are connected to and affected by the U.S. markets, they are not immune from erosion of investor confidence in the U.S. Therefore, we have initiated domestic measures, including the certification requirements set out in the Materials, to address the issue of investor confidence and to maintain the reputation of our markets internationally.

The Materials closely parallel the SEC's current certification requirements implementing section 302 of SOX[2] and will require CEOs and CFOs (or persons performing functions similar to a CEO or CFO) of all reporting issuers in Canada, other than investment funds, to certify their issuers' annual filings and interim filings in the manner prescribed by Forms 52-109F1 and 52-109F2 (subject to certain transition provisions which are discussed below).

Summary of Written Comments Received by the CSA

The Materials were published for comment on June 27, 2003. During the subsequent 90-day comment period, we received submissions from 41 commenters. We have considered the comments received and thank all the commenters. The names of all the commenters are contained in Appendix A of this notice and a summary of their comments, together with the CSA responses, are contained in Appendix B of this notice.

After considering the comments, we have made several amendments to the Materials. However, as these changes are not material, we are not republishing the Materials for a further comment period. All of the changes that have been made since the publication of the Materials on June 27, 2003 are reflected in the blacklined versions of the Materials contained in Appendix C of this notice.

Summary of Changes to the Materials

Set out below are notable changes made to the Materials since those materials were published for comment on June 27, 2003.

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1 See SEC Release Nos. 33-8238, 34-47986: Final Rule: Management's Report on Internal Control Over Financial Reporting and Certification of Disclosure in Exchange Act Periodic Reports (published June 18, 2003).

2 See SEC Release 33-8124: Final Rule: Certification of Disclosure in Companies' Quarterly and Annual Reports (published August 29, 2002) and SEC Release Nos. 33-8238, 34-47986: Final Rule: Management's Report on Internal Control Over Financial Reporting and Certification of Disclosure in Exchange Act Periodic Reports (published June 18, 2003).

1. Terminology used in Certification

(a) "Disclosure Controls and Procedures"

The term "disclosure controls and procedures" is now defined in section 1.1 of the Instrument. This definition is similar to the definition of "disclosure controls and procedures" under the SEC rules implementing section 302 of SOX. The definition clarifies that this term is intended to embody controls and procedures addressing the quality and timeliness of disclosure.

(b) "Internal Control over Financial Reporting"

The term "internal controls" has been replaced by the term "internal control over financial reporting" which is defined in section 1.1 of the Instrument. This definition is similar to the definition of "internal control over financial reporting" under the SEC rules implementing section 302 of SOX. This definition clarifies that the certification regarding internal controls is intended to focus on financial reporting.

In addition, the Companion Policy now includes a discussion regarding the distinction between disclosure controls and procedures and internal control over financial reporting.

(c) "Fair Presentation"

Additional guidance regarding the meaning of "fair presentation" has been provided in Part 8 of the Companion Policy.

(d) "Financial Condition"

Guidance regarding the meaning of "financial condition" has been provided in Part 9 of the Companion Policy.

(e) "Subsidiary"

The term "subsidiary" is now defined in section 1.1 of the Instrument. The definition clarifies that "subsidiary" has the meaning ascribed to it under the CICA Handbook for the purposes of the Instrument. Under this definition, "subsidiary" includes non-corporate entities.

2. Evaluation and Disclosure of Effectiveness of Internal Control over Financial Reporting

The requirement under paragraph 4(c) of Form 52-109F1 (as published on June 27, 2003) for an evaluation of, and disclosure regarding the certifying officers' conclusions about, the effectiveness of internal control over financial reporting has been deleted.

The representation required under paragraph 5 of Forms 52-109F1 and 52-109F2 (as published on June 27, 2003) regarding disclosure of significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting and fraud has been deleted. This representation was based upon an evaluation of the effectiveness of internal control over financial reporting.

These amendments have been made to harmonize the certification required under the Instrument with the certification required pursuant to the SEC rules implementing section 302 of SOX.

As noted above, we are developing, as a separate CSA initiative, a proposed instrument which will require a report on management's assessment of an issuer's internal control over financial reporting. We are also evaluating the extent to which auditor attestation of such report should be required.

3. Effective Date and Transition

The effective date of the Instrument is March 30, 2004.

(a) Annual Certificates

The provisions of the Instrument concerning annual certificates apply for financial years beginning on or after January 1, 2004. Notwithstanding the foregoing, issuers may file a "bare" certificate using Form 52-109FT1 (which excludes the representations in paragraphs 4 and 5 of Form 52-109F1) in respect of financial years ending on or before March 30, 2005.

(b) Interim Certificates

The provisions of the Instrument concerning interim certificates apply for interim periods beginning on or after January 1, 2004. Notwithstanding the foregoing, an issuer may file a "bare" interim certificate using Form 52-109FT2 (which excludes the representations in paragraphs 4 and 5 of Form 52-109F2) in respect of any interim period that occurs prior to the end of the first financial year in respect of which an issuer is required to file a "full" annual certificate (which includes the representations in paragraphs 4 and 5 of Form 52-109F1).

For illustration purposes only, Appendix A to the Companion Policy includes a table setting out the filing requirements for annual certificates and interim certificates for issuers with financial years beginning on the first day of a month.

4. New CEOs and CFOs

The Companion Policy now clarifies that CEOs and CFOs (or persons performing functions similar to a CEO or CFO) holding such offices at the time that annual certificates and interim certificates are required to be filed are the persons who must sign those certificates. Certifying officers are required to file annual certificates and interim certificates in the specified form (without any amendment) and failure to do so will be a breach of the Instrument. There may be situations where an issuer's disclosure controls and procedures and internal control over financial reporting have been designed and implemented prior to the certifying officers assuming their respective offices. We recognize that in these situations the certifying officers may have difficulty in representing that they have designed or caused to be designed these controls and procedures. The Companion Policy now provides that, in our view, where:

- these controls and procedures have been designed prior to the certifying officers assuming their respective offices;
- the certifying officers have reviewed the existing controls and procedures upon assuming their respective offices; and
- the certifying officers have designed (or caused to be designed under their supervision) any modifications or enhancements to these controls and procedures determined to be necessary following their review,

the certifying officers will have designed (or caused to be designed under their supervision) these controls and procedures for the purposes of paragraphs 4(a) and (b) of Forms 52-109F1 and 52-109F2.

5. Certificates to be Filed by Income Trusts

Under the Instrument, income trusts are subject to the same certification requirements as other reporting issuers. We are not requiring the CEO and CFO of the underlying business entity to deliver annual certificates and interim certificates in addition to the certificates delivered by executives of the income trust. We may consider imposing such a requirement, however, upon concluding our review of the comments received on proposed National Policy 41-201 *Income Trusts and Other Indirect Offerings* and upon further consideration of this issue.

Authority for the Instrument – Ontario

In those adopting jurisdictions in which the Instrument is to be adopted or made as a rule or regulation, the securities legislation in each of those jurisdictions provides the securities regulatory authority with rule-making or regulation-making authority regarding the subject matter of the Instrument.

The following provisions of the *Securities Act* (Ontario) (the Act) provide the Ontario Securities Commission (the OSC) with authority to adopt the Instrument.

Paragraphs 143(1) 58 and 59 authorize the OSC to make rules requiring reporting issuers to devise and maintain systems of disclosure controls and procedures and internal control over financial reporting, the effectiveness and efficiency of their operations, including financial reporting and assets control.

Paragraph 143(1) 60 and 61 authorize the OSC to make rules requiring CEOs and CFOs of reporting issuers to provide certification relating to the establishment, maintenance and evaluation of the systems of disclosure controls and procedures and internal control over financial reporting.

Paragraph 143(1) 22 authorizes the OSC to make rules prescribing requirements in respect of the preparation and dissemination and other use, by reporting issuers, of documents providing for continuous disclosure that are in addition to requirements under the Act.

Paragraph 143(1) 25 authorizes the OSC to prescribe requirements in respect of financial accounting, reporting and auditing for the purposes of the Act, the regulations and the rules.

Paragraph 143(1) 39 authorizes the OSC to make rules requiring or respecting the media, format, preparation, form, content, execution, certification, dissemination and other use, filing and review of all documents required under or governed by the Act, the regulations or the rules and all documents determined by the regulations or the rules to be ancillary to the documents, including financial statements, proxies and information circulars.

Related Instruments

The Instrument is related to proposed National Instrument 51-102 *Continuous Disclosure Obligations,* proposed National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers*, and proposed National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency.*

Anticipated Costs and Benefits

The anticipated costs and benefits of implementing the Instrument and the Companion Policy are discussed in the paper entitled, *Investor Confidence Initiatives: A Cost-Benefit Analysis* (the Cost-Benefit Analysis), which was published on June 27, 2003 and which is incorporated by reference into this notice. A response to comments received on the Cost-Benefit Analysis has been published together with this notice and is incorporated by reference into this notice.

Alternatives Considered

We did consider proposing an instrument or policy which would contain less onerous requirements than those found in the Instrument; however, because an aim of the Instrument is to help foster and maintain investor confidence in Canada's capital markets, we determined that it was necessary to propose requirements that closely parallel the SEC rules implementing section 302 of SOX.

Reliance on Unpublished Studies, Etc.

In developing the Instrument and Companion Policy, we did not rely upon any significant unpublished study, report or other written materials.

Questions

Please refer your questions to any of:

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Instrument and Companion Policy

The text of the Instrument and Companion Policy follows.

January 16, 2004.

APPENDIX A

LIST OF COMMENTERS
WHO PROVIDED SUBMISSIONS DURING COMMENT PERIOD

The Advisory Group on Corporate Responsibility Review
Association of Chartered Certified Accountants
BDO Dunwoody LLP
Bennett Jones LLP
Blake, Cassels & Graydon LLP
British Columbia Securities Commission
Canadian Bankers Association
Canadian Council of Chief Executives
The Canadian Institute of Chartered Accountants
Certified General Accountants Association of Canada
CIBC World Markets Inc.
Davies Ward Phillips & Vineberg LLP
Deloitte & Touche LLP, Calgary
Deloitte & Touche LLP, Toronto
Electrohome Limited
Empire Company Limited
EnCana Corporation
Ernst & Young LLP
Financial Executives International Canada, Committee on Corporate Reporting
Grant Thornton LLP
John A. Hunt
Imperial Oil Limited
Institute of Corporate Directors
The Institute of Internal Auditors
KPMG
Henry R. Lawrie
Mendelsohn
Robert W.A. Nicholls and Robert F.K. Mason
Ogilvy Renault, Securities Law Group
Ontario Teachers' Pension Plan Board
Osler, Hoskin & Harcourt LLP
Power Corporation of Canada
PricewaterhouseCoopers LLP
Raymond Chabot Grant Thornton
Shoppers Drug Mart Corporation
Simon Romano
Sobeys Inc.
TELUS Corporation
Torys LLP
Trizec Canada
TSX Group

APPENDIX B

SUMMARY OF COMMENTS AND CSA RESPONSES

Table of Contents

#	Theme	Comments	Responses
	1. GENERAL COMMENTS		
1.	General Support for Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (the Certification Instrument)	Fifteen commenters express general support for the Certification Instrument. Reasons cited include the following: • the importance of confidence in the integrity of an issuer's financial statements to the continued recovery of our capital markets; • the need to ensure that our capital markets remain attractive to both foreign and Canadian investors; • the need to maintain the reputation of Canadian markets internationally; • the relationship between the credibility of our markets to the cost of capital for Canadian companies; and • the perception that the Certification Instrument is both reasonable and fair to shareholders. One such commentator, while generally supportive of the Certification Instrument, suggested that the Certification Instrument does not add significant additional liability in the event of a misrepresentation than what is currently available under corporate and securities laws in Canada, but that the Certification Instrument may help in the enforcement of penalties for misrepresentation.	We acknowledge the support of the commenters. We agree with the commenter that existing securities law together with Ontario's statutory civil liability regime (still unproclaimed) place responsibility for the accuracy and completeness of disclosure, and liability for failure to satisfy disclosure requirements, on corporate management and directors. In this regard, we do not believe that the proposed certification requirement would create an unacceptable risk of increased liability for an issuer's chief executive officer (CEO) and chief financial officer (CFO). The Certification Instrument would reinforce the responsibility of these corporate officers to securities holders for the content of issuers' annual and interim disclosures. We do note, however, that the Certification Instrument does require certifying officers to make representations about the fair presentation of the issuer's financial statements and certain representations regarding the issuer's internal and disclosure controls. To the extent these disclosures are new requirements they do provide another potential cause of action in the event that there is a misrepresentation in the certification.

[1] References to paragraphs in the form of certificate in this summary are references to the paragraphs in the form of certificate as published on June 27, 2003. As discussed below, the form of certificate has been amended by modifying paragraph 4 and deleting paragraph 5.

#	Theme	Comments	Responses
		One commenter expresses sympathy for the principles underlying the model proposed by the BCSC. Another commenter notes that it believes the UK response to the crisis in confidence in capital markets has worked well.	
2.	Review of *Sarbanes-Oxley Act of 2002* (SOX)	One commenter suggests that a Canadian task force be established to critically review and revise the requirements under SOX for the Canadian context.	We do not believe that such a task force review is necessary at this time. We have studied the U.S. Securities and Exchange Commission's (SEC) rules implementing sections 302 and 404 of SOX extensively during the drafting of the Certification Instrument and the public, many of whom are familiar with both the provisions of SOX and the unique aspects of the Canadian market, have had an opportunity to review and comment on the Certification Instrument.
3.	Harmonization with SOX	Five commenters agree that the Certification Instrument should be harmonized with the analogous certification requirements under SOX. Reasons cited include: • minimization of additional costs of compliance and confusion for cross-border issuers; • preservation of the Multijurisdictional Disclosure System; • demonstration to market participants and others that Canada's corporate governance regime is no less rigorous than the regime in the United States; and • avoidance of the imposition of more onerous requirements on reporting issuers in Canada (who are not able to rely upon the exemptions set out in Part 4 of the Certification Instrument) than those imposed on their US counterparts. In light of the harmonization objective: • Four commenters suggest that recent changes made to the certification requirements under SOX should be reflected in the next draft of the Certification Instrument. • Three commenters specifically suggest that the wording used in the certificate (both during and after the transition period) should be harmonized with the wording used in the certificate required under SOX. One commenter suggests that the Certification Instrument reflects aspects of the certification requirements under SOX that for the most part also make sense in the Canadian context.	We acknowledge the support of the commenters. It has always been our approach to harmonize the Certification Instrument with the analogous requirements under the SEC rules implementing section 302 of SOX in light of the integration of the U.S. and Canadian capital markets and economies. We have reviewed recent amendments to the requirements under the SEC rules implementing section 302 of SOX and the Certification Instrument now reflects the amendments that we believe are appropriate in the Canadian context. In particular, the wording of the certificate now conforms substantially to the current form of certificate required under the SEC rules implementing section 302 of SOX.

#	Theme	Comments	Responses
4.	Distinction between Small and Large Issuers	Six commenters agree that the Certification Instrument should not differentiate between larger and smaller issuers. Reasons cited include: • The core principles of financial reporting, auditing and governance should be universally applied across all Canadian issuers, irrespective of size or exchange listing. • The Certification Instrument does not prescribe the degree or complexity of policies or procedures that make up an issuer's internal controls or disclosure controls and procedures. Smaller issuers can use their discretion to determine the appropriate level of controls based upon their size, nature of business and complexity of operations. Four commenters suggest that there is a reason to differentiate between smaller and larger issuers. Reasons cited include: • Smaller issuers may have simple office routines, limited activities, limited staff and limited resources and as a result, there is no need or time to document formally disclosure controls and procedures and internal controls. • Smaller issuers will have to rely on auditors for review of their disclosure controls and procedures which in turn may increase their costs. • It should be sufficient that an auditor reviews quarterly and annual financial statements and examines internal controls. • Internal controls for smaller issuers are generally controls exercised by the issuers' key management, rather than a large group of people. In particular: • One such commenter suggests in particular that the review of disclosure controls and procedures and internal controls is not required for smaller issuers. • One commenter suggests that form of certificate should be modified for a "venture issuer" (meaning an issuer that does not have any of its securities listed or quoted on any of the Toronto Stock Exchange, the New York Stock	We agree that the Certification Instrument should not differentiate between larger and smaller issuers. Our reasons include: • The objective of the Certification Instrument is to improve the quality and reliability of reporting issuers' annual and interim disclosures with a view to restoring and maintaining investor confidence in the integrity of such disclosures and consequently in the integrity of our capital markets. We do not believe that it is consistent with that objective to exempt smaller issuers from the certification requirements. Therefore, we believe that the certification requirements should apply to all reporting issuers who participate in the Canadian capital markets (other than investment funds). • The Certification Instrument does not mandate specific disclosure controls and procedures and internal controls that an issuer must implement. Rather it allows an issuer's management to determine the appropriate level of such controls as determined by factors, including the issuer's size, nature of business and complexity of operations. Similarly, the Certification Instrument does not prescribe the nature of the review that certifying officers must undertake in respect of its disclosure controls and procedures. This flexibility enables small and large issuers to develop controls and procedures and evaluation processes that are appropriate to their circumstances. We believe that the commentary in the companion policy to the Certification Instrument (the Companion Policy) adequately addresses the fact that internal controls and disclosure controls and procedures are partly dependent upon the size of the issuer. • It is not sufficient in the case of smaller issuers that auditors review quarterly and annual financial statements. The certification requirement applies to an issuer's annual filings and interim filings, which include documents and financial information in addition to the issuer's financial statements.

#	Theme	Comments	Responses
		Exchange, the American Stock Exchange, the Nasdaq National Market, the Nasdaq SmallCap Market, the Pacific Exchange or a marketplace outside of Canada or the United States) to (i) delete the representations in paragraphs 5 and 6 and (ii) amend the representation in paragraph 4 to delete paragraph (a) through (d) and replace it with a description of the issuer's disclosure controls and procedures and internal controls. One commenter suggests that if the Certification Instrument differentiates between smaller and larger issuers, it will be difficult to determine the threshold below which an issuer is exempt from all or some of the certification requirements. One commenter suggests that the CSA acknowledge that the disclosure controls and procedures and internal controls required by a smaller issuer may be very different than those required by a larger issuer.	
5.	Need for Educational and Support Materials	One commenter suggests that the CSA should develop educational and supporting materials in conjunction with professional associations like the Canadian Institute of Chartered Accountants and the Canadian Institute of Corporate Directors.	We believe that the Certification Instrument now provides guidance in the principal areas identified by commenters. Definitions of disclosure controls and procedures and internal controls have been provided. Guidance regarding the meaning of fair presentation and financial condition is set out in the Companion Policy. The requirement for an evaluation and disclosure of the effectiveness of internal controls has been removed from the Certification Instrument and as a result, guidance regarding such evaluation is not included in the Certification Instrument.
6.	National Response	Two commenters express disappointment with the lack of unanimity among the CSA regarding the Certification Instrument. The commenters are concerned that it will make securities regulation more complicated, fragmented and costly for issuers and damage the credibility of our markets.	We recognize the benefits of a harmonized corporate governance regime and continue to pursue a national response to SOX. The Certification Instrument reflects the views of 12 of the 13 CSA jurisdictions.
7.	Interaction between Corporate Law and the Certification Instrument	One commenter suggests that the Certification Instrument places responsibility for financial statements on the CEO and CFO and as a result, questions whether the Certification Instrument contradicts corporate law.	We agree that the board of directors of an issuer is required to approve an issuer's financial statements under corporate law. The Certification Instrument does not diminish the board's responsibility for the financial statements, but rather provides additional assurance regarding the quality and reliability of financial disclosure.

#	Theme	Comments	Responses
	2. THE CERTIFICATION INSTRUMENT AND BILL 198		
1.	Claims against CEOs and CFOs under Common Law	The existence of personal certification substantially lowers the bar for plaintiffs who will seek to pursue claims under common law against the CEO and CFO for allegedly false certifications. In this regard, the commenter notes that while plaintiffs who pursue such common law proceedings will not benefit from the deemed reliance provisions in Bill 198, they will also not need to contend with the protections against frivolous and vexatious lawsuits included in Bill 198.	We continue to believe that it is important both to the quality of disclosure and investor confidence for senior executive officers to provide assurance that they have reviewed and evaluated information contained in their issuers' annual and interim disclosures. While the Certification Instrument requires the filing of a new document (i.e., the certificate), the Certification Instrument does not affect in any way existing common law bases for liability for CEOs and CFOs.
2.	Interaction between Bill 198 and the Certification Instrument	Two commenters have concerns respecting the potential interaction between certification and statutory civil liability as contemplated in Bill 198. The personal nature of responsibility for the matters certified does not fit well with the collective responsibility of those who may be held responsible for a responsible issuer's continuous disclosure statements. The commenters note that liability for a false certificate will also lie against not only the officer who provided the certificate, but also against the responsible issuer and each director of the responsible issuer, subject only to the burdens of proof and defences contemplated in Bill 198. One commenter is concerned that there is the strong potential for multiple misrepresentations and the doubling or tripling of caps on liability contemplated in Bill 198 arising (i) from a misrepresentation in a certificate and in the document referenced in the certificate; and (ii) from the fact that the Certification Instrument contemplates separate certificates being provided by the CEO and CFO, each of which would constitute a "document" under Bill 198. The commenter doubts whether a court would treat claims based on all such documents as a single misrepresentation, especially considering the distinction between the personal nature of the CEOs' and CFOs' responsibility for the matters certified versus the collective responsibility of those who may be held responsible for a responsible issuer's continuous disclosure statements.	We acknowledge that under Bill 198 liability for a false certification will also lie against not only the officer who provided the certificate, but also against other persons, including the responsible issuer and each director of the responsible issuer. We do not believe that this is an inappropriate result as the potential defendants noted in Bill 198 are all persons who might reasonably bear responsibility for the accuracy of a responsible issuer's continuous disclosure filings and the adequacy of an issuer's internal controls and disclosure controls and procedures. As part of the general due diligence defence available under Bill 198, it will be open to these other defendants, however, to show that they took all reasonable steps and put the appropriate procedures in place to permit the CEO and CFO to make the required certifications. It should also be emphasized, however, that under Bill 198 the liability of defendants is proportionate to their respective faults so that a court would likely factor into any potential damage award made against a group of defendants the personal nature of the certification given by the CEO and CFO. As noted in the Companion Policy, we continue to believe that under the multiple misrepresentation provision (section 138.3(6) of the *Securities Act* (Ontario), still unproclaimed) it would be open to a court in appropriate cases to treat a misrepresentation in an underlying disclosure document and a misrepresentation made by the CEO or CFO in an annual certificate or interim certificate that relate to the underlying disclosure document as a single misrepresentation thus preserving the integrity of the damage caps. We also believe, however, that there will be cases where it would be inappropriate for a court to make such a finding. For example, there might not be enough commonality between a misrepresentation relating to the design or evaluation of disclosure controls and procedures (as made in an annual certificate) with a misrepresentation that is also alleged to

#	Theme	Comments	Responses
			exist in an issuer's continuous disclosure filings so that the two misrepresentations should be treated as two separate causes of action.
3.	Interaction between Bill 198 and the Certification Instrument	One commenter notes that the Companion Policy addresses certain matters relating to possible liability of CEOs and CFOs for certifications made under the Certification Instrument; however, it does not expressly consider the interaction of the Certification Instrument and the proposed introduction of statutory civil liability as contemplated in Ontario Bill 198. Bill 198 was drafted prior to the Certification Instrument so the potential civil liability consequences of a personal certification requirement for CEOs and CFOs could not have been fully considered. The commenter is concerned that unless Bill 198 is further amended, or additional protections are otherwise made available to CEOs and CFOs, the combined effect of Bill 198 and the Certification Instrument could result in unintended, inappropriate and disproportionate potential liability.	We acknowledge that the civil liability provisions were drafted prior to the Certification Instrument. We do not believe, however, that the consequences flowing from a false certification under Bill 198 are inappropriate. The Companion Policy is simply intended to provide guidance to market participants about how the civil liability regime could apply in the wake of the Certification Instrument.
4.	Characteriza-tion of Annual Certificates and Interim Certificates as "Core Documents"	One commenter suggests that the characterization in the Companion Policy of the interim certificates and annual certificates as not being "core" documents under the secondary market civil liability provisions (assuming a court shares that view) seems to be premised on the treatment of the certificates as free-standing or separate documents. If Part 2 of the Companion Policy were to continue to require the SEDAR filing to include the document associated with the certificate in order for the US compliance exemption to apply, the filing would fall within the Bill 198's definition of a "core document". This would put inter-listed issuers in the position of having prepared US documents that were consistent with US secondary market civil liability standards (proof of "scienter" for 10b-5 claims and proof of reliance for s.18 claims), only to find that the same disclosure documents were vulnerable to Bill 198's far more plaintiff friendly liability standards and burden of proof provisions.	Section 4.1 of the Certification Instrument now clarifies that issuers relying upon these exemptions only have to file the equivalent U.S. certificate and that the certificate does not need to be accompanied by the underlying document to which the certificate applies.
	3. REQUIREMENTS NOT CURRENTLY CONTEMPLATED BY THE CERTIFICATION INSTRUMENT		
1.	Auditor Review of Quarterly Reports	One commenter suggests that auditor reviews of interim financial statements, together with the MD&A relating thereto, should be mandated and some form of public reporting by the auditor of these reviews should be developed.	Auditor reviews of interim financial statements are beyond the scope of the Certification Instrument. Please refer to the proposed NI 51-102 *Continuous Disclosure Obligations* (NI 51-102).

#	Theme	Comments	Responses
2.	Corporate Governance Principles	One commenter suggests that listed issuers be required to adopt a standard set of governance principles.	General corporate governance practices are beyond the scope of the Certification Instrument and are being considered as part of a separate investor confidence initiative.
3.	Independent Internal Auditing Function	One commenter suggests that all public corporations should be required to establish and maintain an independent internal auditing function to provide management and the audit committee with ongoing assessments of the corporation's risk management processes and internal control systems.	We believe that it should be left to management's discretion to determine its staffing needs insofar as they relate to the establishment, maintenance and evaluation of disclosure controls and procedures and internal controls.
4.	Auditor Attestation of Evaluation of Disclosure Controls and Procedures and Internal Controls	Three commenters suggest that a requirement for auditor attestation of the CEO's and CFO's evaluation of disclosure controls and procedures and internal controls similar to the analogous requirement under SOX should be adopted. One of the commenters suggests that this requirement should only be imposed on larger issuers. Another commenter suggests that without an auditor attestation requirement, the Certification Instrument falls short of the requirements under SOX. Another commenter questions why the CSA has chosen not to require auditor attestation.	We are reviewing the auditor attestation requirement under the SEC rules implementing section 404 of SOX and will consider this requirement as a separate CSA initiative.
	4. PART 1 – APPLICATION		
1.	Application to Issuers of Asset-Backed Securities (Section 1.2)	One commenter suggests reporting issuers of asset-backed securities should not be subject to the Certification Instrument as these issuers are special purpose vehicles which do not carry on an active business and which must continually file reports on the performance of the asset portfolio that secures the asset-backed securities with rating agencies and on SEDAR to maintain their ratings.	We believe that the certification requirements should apply to all reporting issuers (other than investment funds). Issuers of asset-backed securities (ABS issuers) will be subject to the continuous disclosure obligations set out in NI 51-102. As a result, we believe that the annual filings and interim filings of ABS issuers should be subject to the same certification requirements imposed on other reporting issuers. ABS issuers (and other types of reporting issuers) will have flexibility, however, in determining the appropriate level of disclosure controls and procedures and internal controls required and the nature of the review of disclosure controls and procedures to be undertaken. This will allow them to address the unique nature of their business.
2.	Application to Issuers such as Income Trusts (Section 1.2)	Several commenters express views on how the Certification Instrument should apply to issuers such as income trusts: 1. <u>Income Trusts to deliver Certificates</u> Four commenters suggest that issuers such as income trusts should be subject to the same certification requirements as issuers that	We agree that reporting issuers such as income trusts should be subject to the same certification requirements as other issuers as they are subject to the same continuous disclosure obligations. We are not requiring the underlying business entity of an income trust reporting issuer to deliver certificates in respect of the underlying

#	Theme	Comments	Responses
		offer securities directly to the public. Another commenter suggests that issuers such as income trusts should be subject to the same certification requirements provided that ownership of the subsidiary entity exceeds a predetermined level. One such commenter suggests that the financial statements of the income trust may consolidate the financial statements of the operating subsidiary and as a result, the certificates of the CEO and CFO of the income trust extend to the financial statements of the operating subsidiary. One commenter suggests that the Companion Policy or Forms 52-109F1 or 52-109F2 should be amended to clarify that the certification should be on a consolidated basis. 2. Operating Entity to deliver Certificates One commenter suggests that the CEO and CFO of the operating entity be required to provide the certificates in respect of the operating entity in lieu of certificates in respect of the income trust and that such certificates in respect of the operating entity be filed with the income trust's filings. The commenter suggests that similar procedures could be adopted for holding companies where all or substantially all of the business is carried on by a subsidiary. 3. Both Income Trust and Operating Entity to deliver Certificates Two commenters suggest that the certification requirements should apply to both the reporting issuer and to the operating entity, whether it is a subsidiary or another issuer which is materially controlled or directed by the reporting issuer. One commenter suggests that where the income trust's financial statements do not consolidate those of the operating entity, the operating entity should be subject to the same certification requirements as the parent income trust. One commenter suggests that having separate certificates in respect of the operating entity's financial statements and controls is just an additional administrative burden which provides little additional protection to investors.	business entity's financial disclosures, disclosure controls and procedures and internal controls. We may consider imposing such a requirement, however, upon concluding our review of the comments received on proposed National Policy 41-201 *Income Trusts and Other Indirect Offerings* and upon further consideration of this issue. The Certification Instrument now includes a definition of "subsidiary" which can accommodate non-corporate entities and the Companion Policy states that financial statements are to be prepared on a consolidated basis. The CEO and CFO of the income trust will be required to certify the income trust's consolidated financial statements and as a result, the certificates will extend to the financial disclosures of the underlying business entity. The CEO and CFO of the income trust will be required to certify that they have designed (or caused to be designed) disclosure controls and procedures which provide reasonable assurance that material information relating to the income trust, including its consolidated subsidiary entities, is made known to the CEO and CFO. This is consistent with the approach set out in proposed National Policy 41-201 *Income Trusts and Other Indirect Offerings*. We recognize that there are circumstances where the income trust does not have direct access to the financial information of the underlying business entity, nor does it have the authority to design the disclosure controls and procedures and internal controls of the underlying business entity. For example, where the income trust holds less than a 50% interest in the underlying business entity it may not be able to certify the underlying business entity's financial disclosures or represent that the disclosure controls and procedures provide reasonable assurance that material information relating to the underlying business entity is made known to the CEO and CFO of the income trust. The Companion Policy now clarifies that if a CEO or CFO is not satisfied with an issuer's controls and procedures insofar as they relate to consolidated subsidiaries, the CEO or CFO should cause the issuer to disclose in its MD&A his or her concerns regarding such controls and procedures.

#	Theme	Comments	Responses
		General One commenter suggests that the application of the certification requirement should take into consideration the structure of the issuer.	
	5. PARTS 2 AND 3 – CERTIFICATION OF ANNUAL FILINGS AND INTERIM FILINGS		
1.	Timing Gap Between Filing of the AIF, Annual Financial Statements, MD&A and Annual Certificate (Section 2.2)	Eight commenters do not believe that it is problematic if there is a gap between the time that the earliest of an issuer's AIF, annual financial statements and MD&A is filed and the time the annual certificate is filed. Reasons cited include: • The deadline for AIFs has been amended to be substantially the same as for annual financial statements under NI 51-102. • Investors and management know that certification will be required and forthcoming and that should be sufficient interim assurance of the integrity of documents filed in advance of the annual certificate. Two commenters suggest that the timing gap is not problematic provided that it does not exceed a specified period of time (such as 30 or 45 days). One commenter suggests the annual certificate should be filed with the first document that is filed and be written such that all future annual filings will be incorporated by reference to avoid the situation where the entire management team has changed and the new CEO and CFO are required to certify financial statements in which they had no knowledge or responsibility in preparing. Three commenters believe that the timing gap may be problematic where the financial statements are filed in advance of the certificate. Reasons cited include: • The CEO and CFO may be exposed to unnecessary risk if there is a material change in the issuer's disclosure controls and procedures and internal controls during the intervening period. • It is unclear what actions management would be required to take should they become aware of new information relevant to the previous filings in the intervening period. • An issuer may not be able to obtain financing during the intervening period as the underwriters and securities regulators	We agree with the view that the timing gap between the filing of the documents included in an issuer's "annual filings" and the annual certificate is not problematic for the reasons cited by the commenters. In light of the filing deadlines under NI 51-102 for the filing of AIFs, annual financial statements and MD&A, we do not anticipate a significant timing gap, particularly in the case of issuers that are not venture issuers. In the event that the certifying officers become aware of new information relevant to the previous filings in the intervening period, we would expect the certifying officers to cause the issuer to disclose such information in the AIF, or depending on the nature of the information, file amended and restated financial statements and MD&A. We disagree with the approach of filing the annual certificate with the first document included in the annual filings and requiring the annual certificate to incorporate by reference documents filed subsequent to the filing of the annual certificate. We believe that this approach may be unfair to the certifying officers who have personal liability for this information and would be called to certify this information in advance of when it would be available or filed. We are also of the view that any gap between the filing of documents comprising the issuer's annual filings and the annual certificate will not affect an issuer's ability to obtain financing during the intervening period. We will not refuse to accept the financial statements filed as part of the offering document where such financial statements have been filed in compliance with securities legislation. Underwriters may or may not require comfort regarding the annual financial statements filed in advance of the annual certificate, but we believe that is a consideration to be negotiated between the issuer and the underwriters.

#	Theme	Comments	Responses
		may not accept the financial statements as part of the offering document without the certification. One such commenter suggests that the timing gap problems may be averted if certification is required in respect of an issuer's fourth interim period or by not requiring certification of the financial statements if they are filed in advance of the other documents included in an issuer's annual and interim filings.	
2.	Certification of Interim Filings (Section 3.1)	One commenter notes that the interim financial statements are not stand-alone documents and cannot fairly present the financial condition and results of an issuer without the information set out in the annual financial statements being considered.	We agree that it is implicit that interim financial statements should be read in conjunction with annual financial statements. The certification of interim filings will, as a result, be inherently based upon the certification of annual filings.
3.	Certifying Officers of Limited Partnership (Sections 2.1 and 3.1)	Two commenters suggest that it be expressly set out that the delivery of certificates by the CEO and CFO of a general partner should satisfy the certification requirements of an issuer which is a limited partnership.	The Companion Policy clarifies that where an issuer does not have a CEO or CFO, it is left to the discretion of the issuer to determine who the appropriate certifying officers are. The Companion Policy also provides that in the case of a limited partnership reporting issuer with no CEO or CFO, we would generally consider the CEO or CFO of its general partner to be persons performing functions in respect of the limited partnership reporting issuer similar to a CEO or CFO.
4.	Certifying Officers of Income Trust (Sections 2.1 and 3.1)	Two commenters suggest that income trusts should expressly be entitled to satisfy the certification requirements by delivering certificates of the CEO and CFO of the underlying operating company, provided that they reference the trust on a consolidated basis. One commenter suggests that where executive management in respect of an income trust's business resides at the operating entity level or in an external management company, the CEO and CFO of the operating entity or the management company are persons who perform similar functions in respect of the income trust as a CEO or CFO and under sections 2.1 and 3.1 of the Certification Instrument should be entitled to deliver the required certificates.	The Companion Policy clarifies that where an issuer does not have a CEO or CFO, it is left to the discretion of the issuer to determine who the appropriate certifying officers are. The Companion Policy also provides that in the case of an income trust reporting issuer where executive management resides at the underlying business entity level or in an external management company, we would generally consider the CEO or CFO of the underlying business entity or the external management company to be persons performing functions in respect of the income trust similar to a CEO or CFO.
	6. PART 4 – EXEMPTIONS		
1.	Exemption for Issuers complying with US Laws – General Support (Section 4.1)	Three commenters support the proposed exemption from the certification requirements in the Certification Instrument for issuers that are in compliance with the U.S. federal securities laws implementing the certification requirements in section 302(a) of SOX.	We acknowledge the support of the commenters.

#	Theme	Comments	Responses
2.	Exemption for Issuers complying with US Laws – Process for Filing Certificates (Section 4.1)	One commenter notes that the process for filing certificates by foreign private issuers in the U.S. has not been specifically addressed by the Certification Instrument.	As a condition to being exempt from the certification requirements under section 4.1 of the Certification Instrument, issuers must file, through SEDAR, the certificates of their CEOs and CFOs that they filed with the SEC. Guidance regarding the manner in which these documents should be filed is set out in the Companion Policy.
3.	Exemption from Issuers complying with US Laws – Impact on Use of Canadian GAAP (Section 4.1)	Five commenters suggest that the exemption in section 4.1 will have the effect of discouraging issuers that prepare their financial statements in accordance with U.S. GAAP from preparing and filing Canadian GAAP financial statements since the exemption in section 4.1 will not be available to an interlisted issuer that has certified its US GAAP based financial statements if it also produces Canadian GAAP based financial statements that it has not filed with the SEC. Two commenters suggest that the exemption in section 4.1 will not impact the decisions of issuers to prepare and file Canadian GAAP financial statements as other business decisions impact the reporting standards used. One commenter suggests that if an issuer has chosen to prepare financial statements in accordance with U.S. GAAP, it is likely doing so in order to avoid having to prepare them also in accordance with Canadian GAAP and that it is unlikely for an issuer to choose to prepare both a set of financial statements and a reconciliation to such financial statements indefinitely under both U.S. and Canadian GAAP unless they are required to do so pursuant to NI 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency*. Another commenter does not believe that the impact on the use of Canadian GAAP financial statements is an issue as Canadian corporations are required to file income tax returns based on Canadian GAAP and the commenter believes that the number of corporations that would likely avail themselves of the opportunity to prepare only one set of U.S. GAAP based financial statements is small. One commenter believes that it is difficult to predict whether section 4.1 will have the effect of discouraging issuers that prepare their financial statements in accordance with US GAAP from preparing and filing Canadian GAAP financial statements.	We agree with the view that it is difficult to predict whether section 4.1 will have a significant impact on the decision of issuers to prepare and file financial statements in accordance with Canadian GAAP where they have already prepared and filed financial statements in accordance with U.S. GAAP as other factors (such as compliance with continuous disclosure requirements and tax return requirements) may also be considered. Regardless, we believe that all sets of financial statements filed should be certified by the CEO and CFO. In other words, if Canadian GAAP based financial statements are filed, they should be certified. We do not believe that the certification of Canadian GAAP based financial statements (where the U.S. GAAP based financial statements have been certified under the SEC rules implementing section 302 of SOX), however, will impose a substantial additional burden on issuers as the certificates required under the Certification Instrument and the SEC rules implementing section 302 of SOX are substantially similar and the certifying officers will generally be able to rely upon the same due diligence and analysis when giving both certifications.

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		Two commenters suggest that the certification requirements under U.S. federal securities laws and the Certification Instrument are similar enough that if an issuer prepares both Canadian and U.S. GAAP based financial statements for business reasons, certification of both sets of financial statements would not require significant additional effort. One commenter suggests that providing two certificates in relation to the same set of filings may impose additional liability on the certifying officers.	
4.	Exemption for Issuers complying with US Laws – Voluntary Filing of Interim Certificates (Section 4.1)	Two commenters suggest clarifying that a foreign private issuer who voluntarily files certificates of the CEO and CFO with its quarterly reports is entitled to rely upon the exemption in section 4.1(2) of the Certification Instrument.	Section 4.1(2) provides, in effect, that a foreign private issuer which voluntarily files its quarterly reports with the SEC may only rely on the exemption from the certification requirements under the Certification Instrument if it has filed certificates by the CEO and CFO in respect of those reports. A foreign private issuer which voluntarily files its quarterly reports, but does not file certificates in respect of them, will be subject to the certification requirements under the Certification Instrument. The exemptions in section 4.1 adopt a "single certification" approach. We believe that this approach is appropriate as the certification requirements under the Certification Instrument and U.S. federal securities legislation are substantially similar such that market participants in Canada will be able to rely upon the certificates filed with the SEC. The purpose of section 4.1, however, is not to allow foreign private issuers to avoid the certification requirements in respect of quarterly reports.
5.	Exemption for Issuers complying with US Laws – Certifications under both SOX and the Certification Instrument (Section 4.1)	One commenter notes that foreign private issuers are not required to certify their interim filings under U.S. federal securities legislation and as a result, these issuers may file interim certificates under the Certification Instrument, while filing their annual certificates under U.S. federal securities legislation.	We do not believe that it is problematic if an issuer's interim certificates are filed under the Certification Instrument and its annual certificates are filed under U.S. federal securities legislation as the form of certificates under both regimes are substantially similar.
6.	Exemption for Issuers complying with US Laws – Meaning of "Most Recent" (Section 4.1)	One commenter suggest that the term "most recent" in sections 4.1(1)(b) and 4.1(2)(b) may refer to the preceding annual report or quarterly report as opposed to the report in respect of which the signed certificate is being filed and suggested inserting the language "with respect to which such certificates relate" immediately following "report".	Sections 4.1(1)(b) and 4.1(2)(b) now provide that an issuer only need file the certificates filed with the SEC and not the relevant annual report or quarterly report in order to be able to rely upon these exemptions. This is a result of recent changes to U.S. federal securities legislation which require the certificates to be attached to these reports as exhibits (rather than actually being included in these reports). These reports, however, are required to be

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			filed under NI 51-102.
7.	Exemption for Issuers complying with US Laws – Meaning of "Annual Report" (Section 4.1)	One commenter suggests that the term "annual report" in section 4.1(1)(b) be clarified to mean the annual report in the prescribed form.	We believe that it is implicit that the annual report required to be filed under U.S. federal securities legislation must be in the prescribed form.
8.	Exemption for Issuers complying with US Laws – Filing of Annual and Interim Reports (Section 4.1)	One commenter suggests that where an issuer is relying upon the exemption in section 4.1, the issuer should not be required to file the annual report or interim report with the associated certificate on SEDAR as these reports are typically filed on SEDAR and this would result in a repetitive bulk of material on SEDAR.	We agree. As noted above, sections 4.1(1)(b) and 4.1(2)(b) now provide that an issuer only need file the certificates filed with the SEC and not the relevant annual report or quarterly report in order to be able to rely upon these exemptions.
9.	Exemption for Issuers complying with US Laws – Drafting Clarification (Section 4.1)	One commenter requests clarification if it was intentional not to include the qualification "subject to subsection (5)" in section 4.1(3).	It was intentional not to include the qualification "subject to subsection (5)" in section 4.1(3). Section 4.1(3) relates to current reports filed under cover of Form 6-K. While foreign private issuers may submit interim financial information under cover of Form 6-K, they do so pursuant to their home country requirements. As a result, the SEC does not believe that a Form 6-K constitutes a "periodic" report analogous to a quarterly report on Form 10-Q or 10QSB for which certification is required.
10.	Exemption for Issuers of Guaranteed Securities (Section 4.4)	One commenter suggests that the exemption for issuers of guaranteed securities should be amended to apply to an issuer that is a reporting issuer solely by virtue of having qualified for distribution pursuant to a prospectus as the exemption currently excludes an issuer with common shares outstanding.	The Certification Instrument now provides that an issuer is exempt from the requirements of the Certification Instrument so long as it qualifies for the relief contemplated by, and is in compliance with the requirements and conditions set out in, section 13.4 (Exemption for Certain Credit Support Issuers) of NI 51-102. As the certificates relate to an issuer's continuous disclosure filings, we believe that it is appropriate to link the exemption from the certification requirements to the exemption provided from the continuous disclosure requirements.
11.	Exemptive Relief following Major Transactions	One commenter suggests that there be relief from the timing or the usual content of the certificates in respect of periods following a major transaction such as a significant business acquisition.	Section 4.5 permits an issuer to apply to the regulator or securities regulatory authority for an exemption from the Certification Instrument, in whole or in part. However, we expect that cases where exemptive relief is appropriate to be infrequent.
	7. PART 5 – EFFECTIVE DATE AND TRANSITION PERIOD		
1.	Effective Date – Clarification (Sections 5.1 and 5.2)	Four commenters suggest that it is not clear when the Certification Instrument will take effect.	The Certification Instrument now provides that: • The Certification Instrument will come into force on March 30, 2004.

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			• Issuers must file annual certificates in respect of financial years beginning on or after January 1, 2004. Notwithstanding the foregoing, issuers will be permitted to exclude paragraphs 4 and 6 from their annual certificates in respect of financial years ending on or before March 30, 2005. • Issuers must file interim certificates in respect of interim periods beginning on or after January 1, 2004. Notwithstanding the foregoing, issuers will be permitted to exclude paragraphs 4 and 6 from their interim certificates filed before an annual certificate containing those paragraphs is filed.
2.	Effective Date – Coinciding with NI 51-102 (Sections 5.1 and 5.2)	One commenter suggests implementing the Certification Instrument and NI 51-102 could result in a significant burden on the certifying officers.	As noted above, an issuer will now have at least one year following the effective date of the Certification Instrument before it is required to file its first annual certificate. We believe that the extended transition period will ease the burden on certifying officers.
3.	Effective Date – Certifying Periods Pre-Dating Certification Instrument (Sections 5.1 and 5.2)	Two commenters suggest that certifying officers should not be required to certify matters relating to fiscal periods ending prior to the implementation of the Certification Instrument (i.e. before January 1, 2004).	We acknowledge that, as disclosures covered by the certification include prior period comparative financial information, certifying officers will be required to certify matters relating to fiscal periods ending prior to January 1, 2004. We do not believe that this is problematic since issuers will have a minimum of 15 months following the effective date of the Certification Instrument before they are required to file a certificate containing paragraphs 4 and 6 (full certificates). We believe that this will provide certifying officers with an appropriate amount of time to conduct the due diligence necessary to give the certification. The Companion Policy also now clarifies that we do not expect the representations in paragraph 4 to extend to the prior period comparative information included in the annual filings or interim filings if the Certification Instrument did not require an annual certificate or interim certificate in respect of the prior period to be filed.
4.	Transition Period for Interim Certificates (Section 5.2)	One commenter suggests that a transitional period for filing interim certificates may be appropriate. One commenter suggests that interim certificates should not be required for a period not covered by an annual certificate requirement.	Interim certificates excluding paragraphs 4 and 6 will be required before an issuer's first annual certificate is required. An issuer is permitted, however, to exclude paragraphs 4 and 6 from the interim certificates filed before an annual certificate containing those paragraphs is required to be filed. We believe that this is appropriate as the annual certificate containing those paragraphs

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			discussing the issuer's disclosure controls and procedures and internal controls will serve as the basis for the interim certificates containing those paragraphs.
5.	Section 1.3 – Transition Period for Certification as to Internal Controls and Disclosure Controls and Procedures	Two commenters are supportive of a transition period before issuers are required to certify as to internal controls and disclosure controls and procedures for the following reasons: Four commenters agree that the proposed one year transition period is appropriate for inclusion of paragraphs 4 through 6 in annual and interim certificates for reasons including the following: • it recognizes that issuers may need to establish more formal disclosure controls and procedures and internal controls; • it provides issuers with time to consider the implications of the Certification Instrument and seek professional advice; and • it provides the CSA with time to clarify the requirements of paragraphs 4 through 6. One such commenter notes that CEOs and CFOs should be able to provide the representations in paragraphs 1 through 3 during the transition period as these representations are knowledge-based. One commentator suggests that a transition period of a minimum of one year is appropriate. Three commenters suggest that the one year transition period may not be sufficient time for large corporations with complex operations to document and implement appropriate procedures. One such commenter suggests a two year transition period would be more appropriate. One commenter suggests that the one year transition period may not be sufficient time for issuers having a market capitalization of less than $25 million. Two commenters suggest that an interim certificate containing paragraphs 4 through 6 should not be required for any period that is part of a financial year to which a transition period or "bare" annual certificate requirement applies. One such commenter suggests that to do otherwise will imply that an issuer must perform either an interim evaluation as at the interim period to which the first full certification	We acknowledge the support for a transition period before issuers are required to certify as to internal controls and disclosure controls and procedures. As noted above, issuers will only have to provide a full certificate including paragraphs 4 and 6 regarding internal controls and disclosure controls and procedures for financial years ending after March 30, 2005. Issuers will not be required to include paragraphs 4 and 6 in interim certificates until after the first annual certificate containing those paragraphs is filed. As a result, issuers will have a minimum of 15 months following the effective date of the Certification Instrument before they must file their first certificate containing paragraphs 4 and 6. We believe that all reporting issuers should and already have disclosure controls and procedures and internal controls in place. As a result, we believe that the transition period provided in the Certification Instrument should provide issuers with sufficient time to implement those controls and procedures that their CEOs and CFOs believe are appropriate for the purpose of making all of the representations required of them.

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		applies (which is inconsistent with not requiring formal evaluations) or an annual evaluation as at the end of the fiscal year that ends prior to January 1, 2005 (which is inconsistent with providing a transition period before issuers must perform an evaluation).	
6.	Section 1.3 – Transition Period Harmonization with SOX	Five commentators suggest that the effective date for certifications relating to internal controls should be harmonized with (or at least not prior to) the effective date of the corresponding requirements under SOX, which require certification regarding internal control over financial reporting for fiscal years ending after April 15, 2005 for foreign private issuers.	The requirement to evaluate and disclose the effectiveness of an issuer's internal controls has been removed from the Certification Instrument and as a result, the effective date of April 15, 2005 for the corresponding requirement under the SEC rules implementing section 404 of SOX is no longer relevant.
	8. FORM OF CERTIFICATE – GENERAL CONTENT		
1.	Inclusion of Representations 4 through 6	Four commenters agree that it was appropriate to include representations 4 through 6. Reasons cited include: • It would be difficult for a CEO or CFO to make representations 2 and 3, without having satisfied, at a minimum that representations 4 through 6 have been met and that without representations 4 through 6, it would be difficult to enforce representations 2 and 3 as there are likely many potential defences or justifications raised by the CEO or CFO to explain any failure to comply. • Representations 4 through 6 enhance the credibility of representations 2 and 3. One such commenter suggests that it is only appropriate to do so if the appropriate time to implement and document the appropriate processes and procedures is provided. One issuer suggests that issuers with a market capitalization of less than $25 million should not be required to include these representations.	We acknowledge the support of the commenters. As noted above, issuers will have a minimum of 15 months following the effective date of the Certification Instrument prior to filing their first certificate containing representations 4 and 6. We believe that this is a sufficient amount of time for both larger and smaller issuers to implement and document the appropriate controls and procedures. As noted below, representation 5 has been deleted from the form of certificate as it is predicated on an evaluation and disclosure of the effectiveness of internal controls, which is no longer required under the Certification Instrument.
2.	Inclusion of Certification of Form 40 Executive Compensation	Eight commenters suggest that the annual certificate not include certification of Form 40 executive compensation disclosure for reasons including: • the potential to unduly delay the filing of the annual certificate; • the potential for unfairness to the officers who might be called upon to certify information in advance of when it would be available or filed; and • concern that the certification could be	We agree that the annual certificate should not include certification of Form 40 executive compensation disclosure. We are of the view that it may be unfair to require the certifying officers, who are subject to personal liability, to certify this information prior to the filing of the proxy circular containing the Form 40 disclosure. In addition, we do not wish to delay the filing of the annual certificate until after the proxy circular has been filed as the proxy circular may not be filed until several months after the

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		construed to cover the entire proxy statement which contains the executive compensation disclosure. One such commenter suggests that in order for the annual certificate to cover Form 40 disclosure, the annual certificate would have to be filed after the issuer's proxy circular is filed. Two commenters suggest that the annual certificate should include certification of Form 40 executive compensation disclosure since the disclosure forms part of an issuer's continuous disclosure records and it is not audited. One commenter suggests that the Form 40 executive compensation disclosure should only be included in the annual certificate if it is filed at the time that the certificate is filed. Another such commenter suggests that if the objective is to ensure that reporting issuers in Canada are certifying the same information as their US counterparts, the executive compensation disclosure should be in included in the AIF. One commenter suggests that a separate Form 40 certification could be provided.	annual filings have been filed. This would render the annual certificate less timely and would create a potentially lengthy gap between the filing of the annual filings and the filing of the annual certificate during which a material change in the issuer's disclosure controls and procedures and internal controls may occur. At this time, we do not believe that a separate Form 40 certification is required, nor do we think that it is necessary to include Form 40 disclosure in the AIF; however, we may consider this issue as a separate initiative.
	9. FORM OF CERTIFICATE – TERMINOLOGY		
1.	"Disclosure Controls and Procedures"	Nine commenters agree with the decision not to formally define "disclosure controls and procedures" but rather frame the definition of such controls and procedures in terms of outcomes. Reasons cited include: • No single definition of disclosure controls and procedures may be appropriate for all corporations. • A more prescriptive definition may lead to the imposition of inappropriate and costly controls and procedures on smaller issuers where they are not required. • One commenter does not believe that the definition of this term under SOX assists issuers in understanding the standards of performance expected of them. One such commenter suggests that the CSA consult with the CA profession to develop practical guidance in this area. Six commenters suggest that "disclosure controls and procedures" be defined for reasons including:	We agree that that the term "disclosure controls and procedures" should be clarified to ensure that the term does not take on a broader meaning than intended. The term "disclosure controls and procedures" is now defined as follows: "controls and other procedures of an issuer that are designed to ensure that information required to be disclosed by the issuer in its annual filings, interim filings or other reports filed or submitted it by it under provincial and territorial securities legislation is recorded, processed, summarized and reported within the time periods specified in the provincial and territorial securities legislation and include, without limitation, controls and procedures designed to ensure that information required to be disclosed by an issuer in its annual filings, interim filings or other reports filed or submmitted under provincial and territorial securities legislation is accumulated and communicated to the issuer's management, including its CEOs and CFOs (or persons who perform similar functions to a CEO or CFO), as appropriate to allow timely decisions regarding required disclosure".

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		• to ensure that such term does not take on or become subject to a broader definition; • to emphasize the distinction between disclosure controls and procedures and internal controls; and • to ensure consistency and comparability among issuers. Four commenters suggest using a definition similar to the definition of "disclosure controls and procedures" under SOX. One commenter states that definitions, examples or guidelines as to the meaning of "disclosure controls and procedures" would assist issuers in complying with the Certification Instrument, provided, however, that such definitions, examples or guidance are not too restrictive or actual requirements as controls will differ based on an issuer's size, nature of business and complexity of operations. One commenter suggests that guidance on the extent of work that may be normally required in documenting the design and assessing the operating effectiveness of disclosure controls and procedures would be helpful. One commenter suggests that guidance regarding the distinction between disclosure controls and procedures and internal controls be included in the Companion Policy.	We have chosen this definition for the following reasons: • It clarifies the scope of the certification regarding disclosure controls and procedures. It makes it explicit that the controls and procedures contemplated are intended to embody controls and procedures addressing the quality and timeliness of disclosure. • It is not prescriptive regarding the nature, type and extent of the controls and procedures to be implemented. We recognize that disclosure controls and procedures will vary based upon an issuer's size, nature of business and complexity of operations and it is left to the CEO and CFO to determine and implement controls and procedures which are appropriate for an issuer's circumstances. • This definition harmonizes with the definition of "disclosure controls and procedures" under the SEC rules implementing section 302 of SOX. In addition, the Companion Policy now includes a discussion regarding the distinction between disclosure controls and procedures and internal controls.
2.	"Fair Presentation"	One commenter supports the concept that the certification states that the applicable documents present fairly the financial condition of the issuer without reference to GAAP. Two commenters suggest that guidance as to the meaning of "fair presentation" be provided. One commenter suggests that the CA profession should develop guidance on this matter. One commenter suggests a formal definition of "fair presentation" be provided to ensure consistency and comparability among issuers. Two commenters note that the language in the Companion Policy regarding "fair presentation" is helpful, but suggest that it would not bind any court or commission and that the meaning of "fair presentation" should be set out in the Certification Instrument.	The Certification Instrument requires the certifying officers to certify that the financial statements *and the other financial information* included in the annual filings and interim filings fairly present the issuer's financial condition, results of operation and cash flows. The certification statement regarding the fair presentation of financial statements and other information is not limited to a representation that the financial statements and other financial information have been presented in accordance with GAAP. We believe that this is appropriate as the certification is intended to provide assurances that the financial information disclosed in the annual filings and interim filings, viewed in their entirety, meets a standard of overall material accuracy and completeness that is broader than financial reporting requirements under GAAP. As a result, issuers are not entitled to limit the representation to Canadian GAAP, US GAAP or any other source of GAAP. We do not believe that a formal definition of fair presentation is appropriate as it

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		Four commenters suggest that "fair presentation" should be qualified by "in accordance with Canadian GAAP". Reasons cited include: • Without such qualifier, the certification is open to uncertain interpretation. • The fundamental tenet of GAAP is proper accounting and reporting of any matter which could affect the overall financial condition of a company. • GAAP is the standard to which auditors attest in their financial statement audit report. • There are virtually no circumstances where following GAAP will result in misleading financial statements. • CICA standards and corporate statutes require financial statements to be presented fairly in accordance with GAAP. One commenter suggests that the qualifier "in all material respects" suggests that "fair presentation" is implicitly qualified by "in accordance with GAAP". One such commenter notes that Section 1400 of the CICA Handbook sets out the meaning of fair presentation in accordance with GAAP. One commenter suggests that the reference to *Kripps v. Touche Ross and Co.* in the Companion Policy be replaced with a reference to Section 1400 of the CICA Handbook. Two commenters suggest that the CSA should indicate what standard the certifying officers may rely upon. One commenter questions whether the certifying officers will be entitled to look to U.S. GAAP if they are not entitled to rely on Canadian GAAP. One commenter suggests inserting the following language: "The appropriate application of GAAP will be presumed to result in financial position, results of operations and cash flows being fairly presented. However, this is a refutable presumption and issuers should make every reasonable effort to consider situations where the application of GAAP might not so result and, if so, to provide appropriate supplemental	encompasses a number of qualitative and quantitative factors that may not be applicable to all issuers. Guidance regarding the meaning of "fair presentation" is set out in Part 8 of the Companion Policy. We acknowledge that the guidance on the meaning of "fair presentation" in the Companion Policy is not binding upon a court; however, it is our hope that a court would look to this guidance in making any determinations in respect of certifications. We have not amended this guidance to refer to Section 1400 of the CICA Handbook as that provision sets out the meaning of fair presentation in accordance with GAAP and as discussed above, the certification is not intended to be limited to GAAP. The Companion Policy clarifies that the "fair presentation" certification applies to the entire filings, and not merely the financial statements included therein. As a result, we do not believe that the certification requirement will result in issuers including MD&A and other financial information in the financial statements. If the certifying officers do not believe that the annual filings and interim filings fairly present the financial condition, results of operations and cash flows of the issuer, the certifying officers should cause the issuer to disclose in its MD&A the reasons for this belief. Certifying officers are required to represent that there are internal controls that provide reasonable assurance that the issuer's financial statements are fairly presented in accordance with GAAP. We believe that the reference to GAAP in this representation is appropriate as it only refers to the financial statements being presented fairly.

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		information. The appropriate application of the requirements for "Management Discussion and Analysis" and for prospectus and related disclosure as outlined in securities regulation will be presumed to result in financial condition being fairly presented. However, this is also a refutable presumption and issuers should make every reasonable effort to consider situations where the application of such requirements might not so result and, if so, to provide appropriate supplemental information." Two commenters suggest that it should be clarified that "fair presentation" does not only apply to the financial statements and that it is not intended to apply to the financial statements on a stand-alone basis. One of the commenters is concerned that to imply otherwise may force MD&A disclosure and other information into the financial statements. One commenter suggests that GAAP is the appropriate benchmark relative to the financial statements for the purposes of the Certification Instrument. One commenter agrees with the decision to exclude the reference to GAAP in the definition of "fair presentation" but notes that there is a reference to GAAP in the certification of internal controls in paragraph 4(b) of Forms 52-109F1 and 52-109F2 and suggests that the scope of the internal controls representation should be the same as that contemplated by the "fair presentation" representation in paragraph 3 of the Forms.	
3.	"Financial Condition"	Two commenters suggest that guidance as to the meaning of "financial condition" should be included in the Certification Instrument. One commenter suggests that a formal definition of "financial condition" be provided. One commenter suggests that the vagueness of the term "financial condition" could increase the exposure of the CEO and CFO to potential unwarranted litigation. One commenter notes that GAAP-based financial statements do not present the "financial condition" of an issuer, but rather the "financial position".	We do not believe that a formal definition of "financial condition" is appropriate or required. We believe that issuers are aware of the term "financial condition" as that is the term used in the CICA's MD&A Guidelines and NI 51-102. In addition, the term "financial condition" encompasses a number of qualitative and quantitative factors which would be difficult to enumerate in a comprehensive list applicable to all issuers. In order to provide guidance for issuers, however, the Companion Policy has been amended to clarify that the financial condition of an issuer includes considerations such as liquidity, solvency, capital resources, overall financial health of the issuer's business and current and future considerations, events, risks or uncertainties that might impact the financial health of the issuer's business. We note that GAAP-based financial statements present the financial position of an issuer. The certification extends beyond the

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			financial statements, however, to documents such as MD&A and AIFs. As a result, we believe that certification of an issuer's financial condition is appropriate.
4.	"Internal Controls"	Nine commenters agree with the decision not to formally define "internal controls" but rather frame the definition of internal control in terms of outcomes. Reasons cited include: • No single definition of disclosure controls and procedures may be appropriate for all issuers. • A more prescriptive definition may lead to the imposition of inappropriate and costly controls and procedures on smaller issuers where they are not required. • One commenter does not believe that the definition of this term under SOX assists issuers in understanding the standards of performance expected of them. One such commenter suggests that the CSA consult with the CA profession to develop practical guidance in this area. Eight commenters suggest that "internal controls" be defined. Reasons cited include: • To ensure that such term does not take on or become subject to a broader definition; • To emphasize the distinction between disclosure controls and procedures and internal controls; and • To ensure consistency and comparability among issuers. Four commenters suggest using a definition similar to the definition of "internal controls" under SOX in order to ensure that there is no confusion for cross-border issuers. This definition is limited to internal controls over financial reporting. One such commenter suggests using a wider definition such as used in COSO, CoCo and Turnbull rather than the narrower definition adopted by the SEC. Another such commenter proposes the following definition of "internal controls" set out in Section 5200 of the CICA Handbook: "Internal controls consist of the policies and procedures established and maintained by management to assist in achieving its objective of ensuring, as far as practical, the	We agree that that the term "internal controls" should be clarified to ensure that the term does not take on a broader meaning than intended. The term "internal controls" has been replaced by the term "internal control over financial reporting" which is defined as follows: "a process designed by, or under the supervision of, the issuer's CEOs or CFOs, or persons performing similar functions, and effected by the issuer's board of directors, management and other personnel, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with the issuer's GAAP and includes those policies and procedures that: (a) pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of the issuer, (b) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with the issuer's GAAP, and that receipts and expenditures of the issuer are being made only in accordance with authorizations of management and directors of the issuer, and (c) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the issuer's assets that could have a material effect on the annual financial statements or interim financial statements". We have chosen this definition for the following reasons: • It clarifies that the scope of the certification regarding internal controls is intended to focus on financial reporting. • It is not prescriptive regarding the nature, type and extent of the controls to be implemented. We recognize that internal controls will vary based upon an issuer's size, nature of business and complexity of operations and it is left to the CEO and CFO to determine and implement internal controls which are appropriate for an

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		orderly and efficient conduct of the entity's business." Another such commenter suggests adopting the following definition established by the CICA's Criteria of Control Board (now reconstituted as the Risk Management and Governance Board): "Control comprises those elements of an organization (including its resources, systems, processes, culture, structure and tasks) that, taken together, support people in the achievement of the organization's objectives. These objectives may fall into one or more of the following general categories: effectiveness and efficiency of operations; reliability of internal and external reporting; and compliance with applicable laws and regulations and internal policies." Two commenters suggest that reference to a recognized internal control framework, such as the model developed by The Committee of Sponsoring Organizations of the Treadway Commission, would provide a consistent standard and guidance to issuers. One commenter suggests that definitions, examples or guidelines as to the meaning of "internal controls" would assist issuers in complying with the Certification Instrument, provided, however, that such definitions, examples or guidance are not too restrictive or actual requirements as controls will differ based on an issuer's size, nature of business and complexity of operations. One commenter suggests that guidance on the extent of work that may be normally required in documenting the design and assessing the operating effectiveness of internal controls would be helpful. One commenter suggests that guidance regarding the distinction between disclosure controls and procedures and internal controls be included in the Companion Policy.	issuer's circumstances. • We are of the view that adopting a more expansive definition of "internal controls" will impose substantial reporting and cost burdens on issuers. • This definition harmonizes with the definition of "internal control over financial reporting" under the SEC rules implementing section 302 of SOX. In addition, the Companion Policy now includes a discussion regarding the distinction between disclosure controls and procedures and internal controls.
5.	"Knowledge"	One commenter questions whether "knowledge" meant "actual knowledge" and suggested that some standard of investigation or inquiry should be required.	The term "knowledge" is intended to refer to actual knowledge of the certifying officers. Therefore, as stated earlier, it is important to have the representations in paragraphs 4 and 6 of the certificate to serve as the information foundation for the other representations in the certificate.
6.	"Material Fact"	One commenter suggests that a formal definition of "material fact" be provided.	Securities legislation already includes a definition of "material fact". In addition, guidance regarding the materiality standard is provided in National Policy 51-201 *Disclosure Standards*. Given the foregoing, we do not

#	Theme	Comments	Responses
			think that it is necessary to include a formal definition of "material fact" in the Certification Instrument.
7.	"Significant Deficiency" and "Material Weakness"	One commenter suggests that the terms "significant deficiency" and "material weakness" should be defined.	References in the form of certificate to "significant deficiencies" and "material weaknesses" have been deleted as the requirement for an evaluation of, or disclosure regarding the certifying officers' conclusions about, the effectiveness of internal controls is no longer required under the Certification Instrument.
	10. FORM OF CERTIFICATE – EVALUATION OF INTERNAL CONTROLS AND DISCLOSURE CONTROLS AND PROCEDURES		
1.	Interim Evaluation of Internal controls and Disclosure Controls and Procedures	Thirteen commenters agree that formal evaluations of internal controls and disclosure controls and procedures should not be required on a quarterly basis. Two commenters note that paragraph 5 of both Forms 52-109F1 and 52-109F2 states "based on my most recent evaluation" and suggests that this implies that the evaluation of internal controls should be conducted on an interim basis. One such commenter suggests that clarification that a formal interim evaluation is not necessary should be added to the Companion Policy. One commenter believes that the evaluation requirement should be harmonized with SOX and as a result, include quarterly and annual evaluations of disclosure controls and procedures and annual evaluations of internal controls (with any material changes disclosed on a quarterly basis).	We agree that certifying officers should not have to formally evaluate, or disclose their conclusions about, the effectiveness of disclosure controls and procedures on a quarterly basis. While we acknowledge that this approach differs from that taken under the SEC rules implementing section 302 of SOX (which requires quarterly evaluations of disclosure controls and procedures), we believe that from a cost-benefit standpoint, formal interim evaluations are not justified for Canadian issuers. In our view maintaining disclosure controls and procedures will require some form of on-going evaluation process and as a result, it is not necessary to require issuers to formally evaluate these controls and procedures on an interim basis. The requirement for an evaluation of, or disclosure regarding the certifying officers' conclusions about, the effectiveness of internal controls is no longer required under the Certification Instrument. As a result, paragraph 5 of the form of certificate has been deleted and it is no longer necessary to clarify that a formal interim evaluation of internal controls is not required. As noted below, we are currently developing a proposed instrument which will require a report on management's assessment of an issuer's internal control over financial reporting as a separate CSA initiative and these comments will be considered in the context of that initiative.
2.	Scope of Evaluation (Paragraph 4(c))	Two commenters suggest that the evaluation initially be limited to those internal controls over disclosure procedures and financial statements.	The requirement for an evaluation of, or disclosure regarding the certifying officers' conclusions about, the effectiveness of internal controls is no longer required under the Certification Instrument.

#	Theme	Comments	Responses
		Another commenter suggests that the Certification Instrument should provide guidance regarding management's evaluation of the effectiveness of internal controls and the potential impact of significant deficiencies and material weaknesses identified in the evaluation on their conclusion.	This amendment has been made to harmonize the certificates required under the Certification Instrument with the certificates required pursuant to the SEC rule implementing section 302 of SOX. We are currently developing a proposed instrument which will require a report on management's assessment of an issuer's internal control over financial reporting as a separate CSA initiative.
3.	Standard of Evaluation (Paragraph 4(c))	Two commenters note that unlike the requirements under SOX, the requirements in the Certification Instrument do not require that the evaluation be performed against the standard of a generally accepted framework. One such commenter suggests that the Certification Instrument include at a minimum guidance on (i) the objectives of internal control, (ii) what reasonable assurance means from an evaluator's perspective and (iii) how reporting thresholds of significant deficiencies and material weaknesses are to be interpreted. The commenter cautions against the use of elements of the CICA's Criteria of Control Board (now reconstituted as the Risk Management and Governance Board) which is not designed with a focus on financial reporting or for results to be used in a public reporting forum. Another commenter suggests that guidance regarding the criteria for the evaluation of effectiveness should be provided.	As noted above, the requirement for an evaluation of, or disclosure regarding the certifying officers' conclusions about, the effectiveness of internal controls is no longer required under the Certification Instrument. The requirement for an evaluation of internal control over financial reporting will be considered as a separate CSA initiative and the standard of evaluation will be considered at that time.
4.	Appropriate Persons to Conduct Evaluations (Paragraph 4(c))	One commenter questions whether a non-accountant can evaluate the effectiveness of internal controls, but noted that disclosure controls are properly the responsibility of the certifying officers. One commenter suggests that the CEO or CFO of an issuer will be relying upon other staff members to evaluate these controls and procedures.	We agree that disclosure controls and procedures are properly the responsibility of the certifying officers. As noted above, the requirement for an evaluation of internal controls has been removed from the Certification Instrument. While we acknowledge that the certifying officers may engage experts or other staff members to assist them in conducting the evaluation of these controls and procedures, the evaluation is ultimately the responsibility of the certifying officers.
5.	Timing of Evaluation of Disclosure Controls and Procedures and Internal Controls (Paragraph 4(c))	One commenter suggests that it is more appropriate to certify that the disclosure controls and procedures and internal controls are effective during the relevant period and not merely at the end of the period given that Canada has a continuous disclosure regime which requires issuers to make timely disclosure of material changes on a continuous basis.	We believe that it is appropriate to certify the effectiveness of the disclosure controls and procedures "as of the end of the period". We believe that the differences between the Canadian continuous disclosure regime and the U.S. periodic reporting regime are not significant enough to justify different certification language.

#	Theme	Comments	Responses
6.	Content of Management's Report on Evaluation of Disclosure Controls and Procedures and Internal Controls (Paragraph 4(c))	One commenter agrees with the decision not to specify the contents of the report of management on its evaluation of disclosure controls and procedures and internal controls; however, such commenter suggests that the CSA consult with the CA profession to develop practical guidance in this area.	We agree that the contents of the report on the evaluation of disclosure controls and procedures should not be prescribed. The Companion Policy has been amended to clarify that the disclosure controls and procedures are designed to provide at a minimum reasonable assurance of achieving their objectives and as a result, management's report should set forth, at a minimum, the conclusions of the certifying officers as to whether the controls and procedures are, in fact, effective at the "reasonable assurance" level.
	11. FORM OF CERTIFICATE – OTHER COMMENTS		
1.	Public Subsidiaries	Three commenters suggest that, where an issuer's financial results and MD&A consolidate those of another public company, the CEO and CFO of the issuer should be able to rely on the certification by the CEO and CFO of the public subsidiary. The commenters suggest amending the certification to provide that the CEO and CFO have reviewed the public subsidiary's certifications, have taken reasonable steps to confirm that they may rely on those certifications and that they know of no reason that they should not be able to rely on those certifications.	We acknowledge that an issuer's financial results and MD&A may consolidate those of a subsidiary which is also a reporting issuer. The Companion Policy now provides that in these circumstances it should be left to the business judgment of the certifying officers of the issuer to determine the level of due diligence required in respect of the consolidated subsidiary in order to provide the issuer's certification.
2.	Subsidiaries over which an Issuer does not have control over management	One commenter expresses concern that a CEO or CFO of an issuer may not have control over the management of entities being consolidated into the issuer's financial statements and suggests that CEOs and CFOs be required to conduct due diligence on controls put in place by the subsidiary's management and be permitted to rely in good faith on that due diligence.	We recognize that there may be circumstances where an issuer may not have control over the management of entities being consolidated into the issuer's financial statements. The Companion Policy now clarifies that if a certifying officer is not satisfied with an issuer's controls and procedures insofar as they relate to consolidated subsidiaries, the certifying officer should cause the issuer to disclose in its MD&A his or her concerns regarding such controls and procedures.
3.	Certification of Annual and Interim Filings (Paragraph 2)	One commenter suggests that the entire annual filings (including any information which covers any period of time subsequent to the date of the fiscal year being reported on) be certified and suggested deleting the reference to the fiscal period covered by the filings.	We do not believe that paragraph 2 should be amended. The annual filings include the annual financial statements which contain disclosure regarding subsequent events. As a result, certification of the annual filings covering a particular financial year will extend to subsequent events.
4.	Certification of Annual and Interim Filings (Paragraph 2)	Two commenters suggest that paragraph 2 be amended to clarify if the certification of annual filings applies to prior year or prior period comparative financial information included in the interim and annual financial statements.	The Companion Policy has been amended to clarify that upon completion of the transition period (discussed above), issuers must file full certificates, which will include the representations in paragraph 4. For further clarification, we do not expect the representations in paragraph 4 to extend to the prior period comparative information

#	Theme	Comments	Responses
			included in the annual filings or interim filings if: • the prior period comparative information was previously the subject of bare certificates; or • the Certification Instrument did not require an annual certificate or interim certificate in respect of the prior period to be filed.
5.	Certification of Annual and Interim Financial Statements (Paragraph 3)	One commenter suggests clarification that the phrase "as of the date" as used in paragraph 3 means as of the date of the balance sheet.	The phrase "as of the date" means as of the date of the annual filings or interim filings, as the case may be, and not necessarily as of the date of the balance sheet.
6.	Design of Disclosure Controls and Procedures and Internal Controls (Paragraphs 4(a) and (b))	One commenter suggests replacing the term "subsidiary" with the term "subsidiary entity" as defined in the proposed MI 52-110 *Audit Committees* which includes non-corporate entities. Another commenter suggested that guidance on the definition of consolidated subsidiary be provided as it is unclear whether joint ventures are to be included as consolidated subsidiaries.	As noted above, we agree that a broader definition of subsidiary is appropriate, particularly in the context of issuers structured as partnerships and income trusts. A definition of "subsidiary" has been included in the Certification Instrument.
7.	Design of Disclosure Controls and Procedures and Internal Controls (Paragraphs 4(a) and (b))	Two commenters suggest that a new CEO or CFO may not be able to provide the representation that he or she has designed or caused to be designed the applicable disclosure controls and procedures and internal controls.	The Companion Policy now clarifies that CEOs and CFOs (or persons performing functions similar to a CEO or CFO) holding such offices at the time that annual certificates and interim certificates are required to be filed are the persons who must sign those certificates. Certifying officers are required to file annual certificates and interim certificates in the specified form (without any amendment) and failure to do so will be a breach of the Certification Instrument. There may be situations where an issuer's disclosure controls and procedures and internal controls have been designed and implemented prior to the certifying officers assuming their respective offices. We recognize that in these situations the certifying officers may have difficulty in representing that they have designed or caused to be designed these controls and procedures. The Companion Policy now provides that, in our view, where: • these controls and procedures have been designed prior to the certifying officers assuming their respective offices; • the certifying officers have reviewed the existing controls and procedures upon assuming their respective offices; and

#	Theme	Comments	Responses
			• the certifying officers have designed (or caused to be designed under their supervision) any modifications or enhancements to these controls and procedures determined to be necessary following their review, the certifying officers will have designed (or caused to be designed under their supervision) these controls and procedures for the purposes of paragraphs 4(a) and (b) of Forms 52-109F1 and 52-109F2.
8.	Design of Disclosure Controls and Procedures and Internal Controls (Paragraphs 4(a) and (b))	One commenter notes that such controls are normally designed in conjunction with an issuer's auditors and expresses concern that certifying officers who are not accountants may not be capable of designing or supervising the design of internal controls. One commenter suggests that it is likely to be staff members other than the CEO or CFO who design or supervise the design and implementation of these controls.	We acknowledge that the certifying officers may engage experts or other staff members to assist them in the design of disclosure controls and procedures and internal controls; however, such controls and procedures are ultimately the responsibility of the certifying officers.
9.	Design of Disclosure Controls and Procedures and Internal Controls (Paragraphs 4(a) and (b))	One commenter suggests that the attestation in paragraph 4(a) should be similar to the attestation regarding design of disclosure controls and procedures and internal controls required under SOX and delete the phrase "within the time periods specified under applicable provincial and territorial securities legislation".	Paragraph 4(a) has been amended as requested by the commenter.
10.	Disclosure regarding Significant Deficiencies and Material Weaknesses (Paragraph 5(a))	One commenter suggests that the concept of internal controls and disclosure controls are mixed in paragraph 5(a) and suggested replacing the paragraph with the following: "all significant deficiencies and material weaknesses in the design or operation of internal controls that are reasonably likely to adversely affect the issuer's ability to record, process, summarize and report financial information".	Paragraph 5 has been deleted as the requirement for an evaluation of, or disclosure regarding the certifying officers' conclusions about, the effectiveness of internal controls is no longer required under the Certification Instrument.
11.	Disclosure regarding Significant Deficiencies and Material Weaknesses (Paragraph 5(a))	One commenter suggests that the attestation in paragraph 5(a) should be similar to the attestation regarding internal controls required under SOX and delete the phrase "within the time periods specified under applicable provincial and territorial securities legislation". One commenter suggests that paragraph 5(a) should be modified to reference all significant deficiencies or material weaknesses in the design of operation of internal controls *known* to the CEO or CFO that could adversely affect the issuer's ability to disclose information required to be disclosed within the requisite time frames.	Paragraph 5 has been deleted as the requirement for an evaluation of, or disclosure regarding the certifying officers' conclusions about, the effectiveness of internal controls is no longer required under the Certification Instrument.

#	Theme	Comments	Responses
12.	Disclosure Regarding Fraud involving Management or Certain Other Employees (Paragraph 5(b))	One commenter suggests that the words "or suspected fraud or any negligence or material failure to conform to internal controls or procedures" be inserted after the word "fraud" in paragraph 5(b). One commenter questions why the representation in paragraph 5(b) was limited to fraud involving management or other specific employees and notes that there may be other employees or consultants who do not have a significant role in the issuer's internal controls but who can perpetrate fraud. One commenter suggests that paragraph 5(b) should be modified to reference all fraud, whether or not material, *known* to the CEO or CFO that involves management or other employees with a significant role in the issuer's internal controls.	Paragraph 5 has been deleted as the requirement for an evaluation of, or disclosure regarding the certifying officers' conclusions about, the effectiveness of internal controls is no longer required under the Certification Instrument.
13.	Disclosure in the MD&A (Paragraph 6)	One commenter suggests that it is not the certifying issuer who discloses in the MD&A, but rather is the issuer. One commenter suggests that the issuer should be able to include such disclosure in documents other than the MD&A provided that the location of such disclosure is specified in the certificate.	Paragraph 6 has been amended as requested by the commenter to state that the certifying officer has caused the issuer to disclose in the MD&A the significant changes specified. We believe that it is preferable to require such disclosure to be contained in the MD&A in order to ensure consistency among issuers.
	12. OTHER COMMENTS		
1.	Drafting Comments	Some commenters have provided technical drafting comments on the Certification Instrument, the forms of certificate and the Companion Policy.	We have reviewed these technical drafting comments and amended the Certification Instrument, the forms of certificate and the Companion Policy where appropriate.

APPENDIX C

COMPARISON TO THE MATERIALS PUBLISHED ON JUNE 27, 2003

Multilateral Instrument 52-109
Certification of Disclosure in ~~Companies~~Issuers' Annual and Interim Filings

Part 1 – Definitions~~,~~ and Application ~~and Transition~~

1.1 Definitions[1] - In this Instrument,

"AIF" has the meaning ascribed to it in NI 51-102;

"annual certificate" means the certificate required to be filed pursuant to Part 2 ~~of this Instrument;~~;

"annual filings" means the issuer's ~~annual information form~~AIF, if any, and annual financial statements and annual MD&A~~, that have been most recently~~ filed under provincial and territorial securities legislation for the most recently completed financial year, including for greater certainty all documents and information that are incorporated by reference in the ~~annual information form~~AIF;

~~*"annual*~~

"annual financial statements" means the annual financial statements required to be filed under ~~National Instrument~~NI 51-102 ~~*Continuous Disclosure Obligation*~~[2];

~~"annual information form" means the AIF as defined under National Instrument 51-102 *Continuous Disclosure Obligations*[3];~~

~~"filings" means annual filings and interim filings;~~

"disclosure controls and procedures" means controls and other procedures of an issuer that are designed to provide reasonable assurance that information required to be disclosed by the issuer in its annual filings, interim filings or other reports filed or submitted by it under provincial and territorial securities legislation is recorded, processed, summarized and reported within the time periods specified in the provincial and territorial securities legislation and include, without limitation, controls and procedures designed to ensure that information required to be disclosed by an issuer in its annual filings, interim filings or other reports filed or submitted under provincial and territorial securities legislation is accumulated and communicated to the issuer's management, including its chief executive officers and chief financial officers (or persons who perform similar functions to a chief executive officer or a chief financial officer), as appropriate to allow timely decisions regarding required disclosure;

"interim certificate" means the certificate required to be filed pursuant to Part 3 ~~of this Instrument;~~;

"interim filings" means the issuer's interim financial statements and interim MD&A~~, that have been most recently~~ filed under provincial and territorial securities legislation for the most recently completed interim period;

"interim financial statements" means the interim financial statements required to be filed under ~~National Instrument~~NI 51-102 ~~*Continuous Disclosure Obligations*~~[4];

~~1 National Instrument 14-101 *Definitions* defines certain terms that are used in more than one national or multilateral Instrument.~~

~~2 *Section 4.1 of NI 51-102 states:*~~

~~*4.1 Annual Financial Statements and Auditor's Report*~~
~~(1) Subject to subsection 4.8(6), a reporting issuer must file annual financial statements that include:~~
~~(a) an income statement, a statement of retained earnings, and a cash flow statement for:~~
~~(i) the most recently completed financial year; and~~
~~(ii) the period covered by the financial year immediately preceding the most recently completed financial year, if any;~~
~~(b) a balance sheet as at the end of each of the periods referred to in paragraph (a); and~~
~~(c) notes to the financial statements.~~
~~(2) Comparative annual financial statements filed under subsection (1) must be accompanied by an auditor's report.~~

~~3 In NI 51-102, "AIF" means a completed Form 51-102F1 *Annual Information Form* or, in the case of an SEC issuer, either a completed Form 51-102F1 or an annual report or transition report under the 1934 Act on Form 10-K, Form 10-KSB or on Form 20-F~~

~~4 *NI 51-102 states:*~~

~~*4.3 Interim Financial Statements*~~

"interim period" has the meaning ascribed to it in ~~the definition of interim period under National Instrument 51-102 *Continuous Disclosure Obligations*[5];~~NI 51-102;

"internal control over financial reporting" means a process designed by, or under the supervision of, the issuer's chief executive officers and chief financial officers, or persons performing similar functions, and effected by the issuer's board of directors, management and other personnel, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with the issuer's GAAP and includes those policies and procedures that:

(a) pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of the issuer,

(b) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with the issuer's GAAP, and that receipts and expenditures of the issuer are being made only in accordance with authorizations of management and directors of the issuer, and

(c) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the issuer's assets that could have a material effect on the annual financial statements or interim financial statements;

"investment fund"[6] ~~means a mutual fund, a non-redeemable investment fund or a scholarship plan;~~ has the meaning ascribed to it in NI 51-102;

~~"MD&A~~

"issuer's GAAP" has the meaning ascribed to it in ~~the definition of MD&A under National Instrument 51-102 *Continuous Disclosure Obligations*[7];~~NI 52-107;

~~"non-redeemable investment fund"[8] means an issuer:~~

"MD&A" has the meaning ascribed to it in NI 51-102;

~~(a) whose primary purpose is to invest money provided by its securityholders;~~

~~(1) A reporting issuer must file:~~
~~(a) if it has not completed its first financial year, interim financial statements for the interim periods of the reporting issuer's current financial year other than a period that is less than three months in length; or~~
~~(b) if it has completed its first financial year, interim financial statements for the interim periods of the reporting issuer's current financial year.~~
~~(2) Subject to subsections 4.7(4), 4.8(7) and (8), the interim financial statements required to be filed under subsection (1) must include:~~
~~(a) a balance sheet as at the end of the interim period and a balance sheet as at the end of the immediately preceding financial year, if any;~~
~~(b) an income statement, a statement of retained earnings and a cash flow statement, all for the year-to-date interim period and comparative financial information for the corresponding interim period in the immediately preceding financial year, if any;~~
~~(c) for interim periods other than the first interim period in a reporting issuer's financial year, an income statement and cash flow statement for the three month period ending on the last day of the interim period and comparative financial information for the corresponding period in the preceding financial year, if any; and~~
~~(d) notes to the financial statements.~~

~~[5] In NI 51-102, "interim period" means:~~

~~(a) a period commencing on the first day of a financial year and ending nine, six or three months before the end of a financial year, or~~
~~(b) in the case of a reporting issuer's transition year, a period commencing on the first day of the transition year and ending either:~~
~~(i) three, six, nine or twelve months, if applicable, after the end of its old financial year, or~~
~~(ii) twelve, nine, six or three months, if applicable, before the end of the transition year,~~
~~and in the case of (b)(ii), the first interim period must not exceed four months~~

~~[6] This definition is taken from subsection 1.1 of proposed National Instrument 81-106 *Investment Fund Continuous Disclosure*.~~

~~[7] In NI 51-102, "MD&A" means a completed Form 51-102F2 *Management's Discussion & Analysis* or, in the case of an SEC issuer, either a completed Form 51-102F2 or management's discussion and analysis prepared in accordance with Item 303 of Regulation S-K or item 303 of Regulation S-B under the 1934 Act~~

~~[8] This definition is taken from OSC Rule 14-501 *Definitions*.~~

"NI 51-102" means National Instrument 51-102 *Continuous Disclosure Obligations*;

~~(b) that does not invest for the purpose of exercising effective control, seeking to exercise effective control, or being actively involved in the management of the issuers in which it invests, other than other mutual funds or non-redeemable investment funds; and~~

"NI 52-107" means National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency*;

~~(c) that is not a mutual fund;~~

"Sarbanes-Oxley Act" means the Sarbanes-Oxley Act of 2002, Pub.L. 107-204, 116 Stat. 745 (2002);~~ and~~

~~"~~"SEDAR~~"~~" means the computer system for the transmission, receipt, acceptance, review and dissemination of documents filed in electronic format known as the System for Electronic Document Analysis and Retrieval~~.~~;

"subsidiary" has the meaning ascribed to it in Section 1590 of the CICA Handbook; and

"US GAAP" has the meaning ascribed to it in NI 52-107.

1.2 Application – This Instrument applies to all reporting issuers other than investment funds.

~~**1.3 Transition Period** – Notwithstanding Parts 2 and 3 of this Instrument, issuers may exclude paragraphs 4, 5 and 6 from any annual and interim certificates required to be filed prior to **[January 1, 2005]**.~~

Part 2 – Certification of Annual Filings

2.1 Every issuer must file a separate annual certificate, in ~~the form specified in~~ Form 52-109F1, in respect of and personally signed by each ~~of the following persons~~person who, at the time of filing the annual certificate:

1. ~~each~~is a chief executive officer;
2. ~~each~~is a chief financial officer; and
3. in the case of an issuer that does not have a chief executive officer or chief financial officer, ~~each person who~~ performs similar functions to a chief executive officer or a chief financial officer, as the case may be.

2.2 The annual ~~certificate~~certificates must be filed by the issuer ~~at the same time as it files the last~~separately but concurrently with the latest of the following ~~annual filings~~:

1. ~~its annual information form~~if it files an AIF, the filing of its AIF; and
2. the filing of its annual financial statements and annual MD&A.

Part 3 - Certification of Interim Filings

3.1 Every issuer must file for each interim period a separate interim certificate, in ~~the form specified in~~ Form 52-109F2, in respect of and personally signed by each ~~of the following persons~~person who, at the time of the filing of the interim certificate:

1. ~~each~~is a chief executive officer;
2. ~~each~~is a chief financial officer; and
3. in the case of an issuer that does not have a chief executive officer or chief financial officer, ~~each person who~~ performs similar functions to a chief executive officer or a chief financial officer, as the case may be.

3.2 The interim ~~certificate~~certificates must be filed by the issuer ~~at the same time as it files~~separately but concurrently with the filing of its interim filings.

Part 4 - Exemptions

4.1 Exemption for Issuers that ~~comply~~Comply with U.S. ~~laws~~Laws –

(1) Subject to subsection (4), an issuer is exempt from Part 2 ~~of this Instrument~~ with respect to the ~~relevant period~~most recently completed financial year if:

(a) the issuer is in compliance with U.S. federal securities laws[9] implementing the annual report certification requirements in section 302(a) of the Sarbanes-Oxley Act; and

(b) the issuer's ~~most recent annual report and~~ signed certificates relating to its annual report for its most recently completed financial year are filed ~~on~~through SEDAR as soon as reasonably practicable after they are filed with the SEC.

(2) Subject to subsection (5), an issuer is exempt from Part 3 ~~of this Instrument~~ with respect to the ~~relevant~~most recently completed interim period if:

(a) the issuer is in compliance with U.S. federal securities laws implementing the quarterly report certification requirements in section 302(a) of the Sarbanes-Oxley Act; and

(b) the issuer's ~~most recent quarterly report and~~ signed certificates relating to its quarterly report for its most recently completed quarter are filed ~~on~~through SEDAR as soon as reasonably practicable after they are filed with the SEC.

(3) An issuer is exempt from Part 3 ~~of this Instrument~~ with respect to the ~~relevant~~most recently completed interim period if:

(a) the issuer furnishes to the SEC a current report on Form 6-K containing the issuer's quarterly financial statements and MD&A;

(b) the Form 6-K is accompanied by signed certificates that are furnished to the SEC in the same form required by U.S. federal securities laws implementing the quarterly report certification requirements in section 302(a) of the Sarbanes-Oxley Act; and

(c) the ~~Form 6-K and~~ signed certificates relating to the quarterly report filed under cover of the Form 6-K are filed ~~on~~through SEDAR as soon as reasonably practicable after they are furnished to the SEC.

(4) Notwithstanding subsection 4.1(1), Part 2 of this Instrument applies to an issuer with respect to the ~~relevant period~~most recently completed financial year if the issuer files annual financial statements prepared in accordance with Canadian ~~generally accepted accounting principles~~GAAP, unless the issuer files those statements with the SEC in compliance with U.S. federal securities laws implementing the annual report certification requirements in section 302(a) of the Sarbanes-Oxley Act.

(5) Notwithstanding subsection 4.1(2), Part 3 of this Instrument applies to an issuer with respect to the ~~relevant~~most recently completed interim period if the issuer files interim financial statements prepared in accordance with Canadian ~~generally accepted accounting principles~~GAAP, unless the issuer files those statements with the SEC in compliance with U.S. federal securities laws implementing the quarterly report certification requirements in section 302(a) of the Sarbanes-Oxley Act.

4.2 Exemption for Foreign Issuers – An issuer is exempt from the requirements in this Instrument so long as it qualifies for the relief contemplated by, and is in compliance with the requirements and conditions set out in, sections 5.4[10] and 5.5[11] of National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers.*

~~9~~ ~~"U.S. federal securities laws" is defined in National Instrument 14-101 *Definitions.*~~

~~10~~ ~~NI 71-102 states:~~

~~*5.4 - Financial Statements*~~

~~*A designated foreign issuer satisfies securities legislation requirements relating to the preparation, filing and delivery of its interim financial statements, annual financial statements and auditor's reports on annual financial statements if it:*~~

~~(a) complies with the foreign disclosure requirements relating to interim financial statements, annual financialstatements and auditor's reports on annual financial statements;~~

~~(b) files the interim financial statements, annual financial statements and auditor's reports on annual financial statements required to be filed with or furnished to the foreign regulatory authority;~~

~~(c) sends each document filed under paragraph (b) to securityholders in the local jurisdiction, in the manner and at thetime such documents are required to be sent to securityholders of the issuer by the foreign disclosure requirements; and~~

~~(d) complies with NI 52-107 as it relates to financial statements of the issuer that are included in any documents specified in paragraph (b).~~

4.3 Exemption for ~~Issuers of~~Certain Exchangeable ~~Securities~~Security Issuers – An issuer is exempt from the requirements in this Instrument so long as it qualifies for the relief contemplated by, and is in compliance with the requirements and conditions set out in, section 13.3[12] ~~of National Instrument 51-102 *Continuous Disclosure Obligations.*~~ of NI 51-102.

4.4 Exemption for Certain Credit Support Issuers ~~of Guaranteed Securities~~ – An issuer is exempt~~, in a jurisdiction,~~ from the requirements in this Instrument ~~if:~~

~~(a) it does not have any securities outstanding other than debt securities or preferred shares, and all payments to be made in respect of those securities are fully and unconditionally guaranteed by another issuer (the guarantor issuer); and~~

~~(b) it has been granted an exemption in that jurisdiction (the exemption order) from filing its annual financial statements, annual MD&A, interim financial statements, and interim MD&A on the condition that, among other things, the equivalent annual and interim disclosure documents of the guarantor issuer be filed;~~so long as ~~at the time that the issuer would otherwise be required to comply with this Instrument the exemption order is in effect and the parties to the exemption order are in compliance with its~~it qualifies for the relief contemplated by, and is in compliance with the requirements and conditions~~.~~ set out in, section 13.4 of NI 51-102.

4.5 General Exemption –

(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.

Part 5 - Effective Date and Transition

5.1 Effective Date - This Instrument comes into force on **~~[January 1, 2004].~~**March 30, 2004.

5.2 Transition –

(1) **Annual Certificates** –

(a) Subject to paragraph (1)(b), the provisions of this Instrument concerning annual certificates apply for financial years beginning on or after January 1, 2004.

(b) Notwithstanding Part 2 or paragraph (1)(a), an issuer may file annual certificates in Form 52-109FT1 in respect of any financial year ending on or before March 30, 2005.

(2) **Interim Certificates** –

(a) Subject to paragraph (2)(b), the provisions of this Instrument concerning interim certificates apply for interim periods beginning on or after January 1, 2004.

(b) Notwithstanding Part 3 or paragraph (2)(a), an issuer may file interim certificates in Form 52-109FT2 in respect of any interim period that occurs prior to the end of the first financial year in respect of which the issuer is required to file an annual certificate in Form 52-109F1.

~~11 *NI 71-102 states:*~~

~~*5.5 Annual Reports, AIFs, Business Acquisition Reports & MD&A*~~

~~A designated foreign issuer satisfies securities legislation requirements relating to the preparation, filing and delivery of annual reports, AIFs, business acquisition reports and MD&A if it:~~

~~(a) complies with the foreign disclosure requirements relating to annual reports, quarterly reports, business acquisitions andmanagement's discussion and analysis;~~

~~(b) files each annual report, quarterly report, report in respect of a business acquisition and management's discussion and analysis required to be filed with the foreign regulatory authority;~~

~~(c) sends each document filed under paragraph (b) to securityholders in the local jurisdiction, in the manner and at the time such documents are required to be sent to securityholders of the issuer by the foreign disclosure requirements; and~~

~~(d) complies with NI 52-107 as it relates to financial statements of the issuer that are included in any documents specified in paragraph (b).~~

~~12 Section 13.3 of NI 51-102 provides relief for certain exchangeable security issuers.~~

Form 52-109F1 - Certification of Annual Filings

I, ***‹identify the certifying officer, the issuer, and his or her position at the issuer›***, certify that:

1. I have reviewed the annual filings (as this term is defined in Multilateral Instrument 52-109 *Certification of Disclosure in ~~Companies~~Issuers' Annual and Interim Filings*) of ***‹identify issuer›*** (the issuer) for the period ending ***‹state the ~~reporting period covered by the annual filings~~relevant date›***;

2. Based on my knowledge, the annual filings do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make a statement not misleading in light of the circumstances under which it was made, with respect to the period covered by the annual filings;

3. Based on my knowledge, the annual financial statements together with the other financial information included in the annual filings fairly present in all material respects the financial condition, results of operations and cash flows of the issuer, as of the date and for the periods presented in the annual filings;

4. The issuer's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures and internal ~~controls~~control over financial reporting for the issuer, and we have:

   (a) designed ~~those~~such disclosure controls and procedures, or caused them to be designed under our supervision, ~~and implemented those disclosure controls and procedures,~~ to provide reasonable ~~assurances~~assurance that material information relating to the issuer, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which the annual filings are being prepared~~, and that such material information is disclosed within the time periods specified under applicable provincial and territorial securities legislation~~;

   (b) designed ~~those~~such internal ~~controls~~control over financial reporting, or caused ~~them~~it to be designed under our supervision, ~~and implemented those internal controls,~~ to provide reasonable ~~assurances that the issuer's~~assurance regarding the reliability of financial reporting and the preparation of financial statements ~~are fairly presented~~for external purposes in accordance with ~~generally accepted accounting principles;~~the issuer's GAAP; and

   (c) evaluated the effectiveness of the issuer's disclosure controls and procedures ~~and internal controls~~ as of the end of the period covered by the annual filings~~;~~ and~~(d) disclosed~~ have caused the issuer to disclose in the annual MD&A our conclusions about the effectiveness of the disclosure controls and procedures ~~and internal controls, in each case based on our evaluation~~ as of the end of the period covered by the annual filings~~;~~ based on such evaluation; and

5. I have ~~disclosed, based on my most recent evaluation, to the issuer's auditors and the audit committee of the issuer's board of directors or persons performing the equivalent function:~~

   ~~(a) all significant deficiencies and material weaknesses in the design or operation of internal controls that could adversely affect the issuer's ability to disclose information required to be disclosed by the issuer under applicable provincial and territorial securities legislation, within the time periods specified under applicable provincial and territorial securities legislation; and~~

   ~~(b) any fraud, whether or not material, that involves management or other employees who have a significant role in the issuer's internal controls; and6. I have disclosed in the annual MD&A whether there were significant changes~~caused the issuer to disclose in the annual MD&A any change in the issuer's internal ~~controls or in other factors that could significantly affect internal controls, made during the period covered by the annual filings, including any actions taken to correct significant deficiencies and material weaknesses in the issuer's internal controls~~control over financial reporting that occurred during the issuer's most recent interim period that has materially affected, or is reasonably likely to materially affect, the issuer's internal control over financial reporting.

Date: .....

_____

[Signature]
[Title]

Form 52-109FT1 - Certification of Annual Filings during Transition Period

I, ***‹identify the certifying officer, the issuer, and his or her position at the issuer›***, certify that:

1. I have reviewed the annual filings (as this term is defined in Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*) of ***‹identify issuer›*** (the issuer) for the period ending ***‹state the relevant date›***;

2. Based on my knowledge, the annual filings do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make a statement not misleading in light of the circumstances under which it was made, with respect to the period covered by the annual filings; and

3. Based on my knowledge, the annual financial statements together with the other financial information included in the annual filings fairly present in all material respects the financial condition, results of operations and cash flows of the issuer, as of the date and for the periods presented in the annual filings.

Date: .....

_____

[Signature]
[Title]

Form 52-109F2 - Certification of Interim Filings

I ***‹identify the certifying officer, the issuer, and his or her position at the issuer›***, certify that:

1. I have reviewed the interim filings (as this term is defined in Multilateral Instrument 52-109 *Certification of Disclosure in ~~Companies~~Issuers' Annual and Interim Filings*) of ***‹identify the issuer›***, (the issuer) for the interim period ending ***‹state the ~~reporting period covered by the interim filings~~relevant date›***;

2. Based on my knowledge, the interim filings do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make a statement not misleading in light of the circumstances under which it was made, with respect to the period covered by the interim filings;

3. Based on my knowledge, the interim financial statements together with the other financial information included in the interim filings fairly present in all material respects the financial condition, results of operations and cash flows of the issuer, as of the date and for the periods presented in the interim filings;

4. The issuer's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures and internal ~~controls~~control over financial reporting for the issuer, and we have:

   (a) designed ~~those~~such disclosure controls and procedures, or caused them to be designed under our supervision, ~~and implemented those disclosure controls and procedures,~~ to provide reasonable ~~assurances~~assurance that material information relating to the issuer, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which the interim filings are being prepared~~, and that such material information is disclosed within the time periods specified under applicable provincial and territorial securities legislation~~; and

   (b) designed ~~those~~such internal ~~controls~~control over financial reporting, or caused ~~them~~it to be designed under our supervision, ~~and implement those internal controls,~~ to provide reasonable ~~assurances that the issuer's~~assurance regarding the reliability of financial reporting and the preparation of financial statements ~~are fairly presented~~for external purposes in accordance with ~~generally accepted accounting principles;~~the issuer's GAAP; and

5. I have ~~disclosed, based on my most recent evaluation, to the issuer's auditors and the audit committee of the issuer's board of directors or persons performing the equivalent function:~~

   ~~(a) all significant deficiencies and material weaknesses in the design or operation of internal controls that could adversely affect the issuer's ability to disclose information required to be disclosed by the issuer under applicable provincial and territorial securities legislation, within the time periods specified under applicable provincial and territorial securities legislation; and~~

   ~~(b) any fraud, whether or not material, that involves management or other employees who have a significant role in the issuer's internal controls; and6. I have disclosed in the interim MD&A whether there were significant changes~~caused the issuer to disclose in the interim MD&A any change in the issuer's internal ~~controls or in other factors that could significantly affect internal controls, made during the period covered by the interim filings, including any actions taken to correct significant deficiencies and material weaknesses in the issuer's internal controls~~control over financial reporting that occurred during the issuer's most recent interim period that has materially affected, or is reasonably likely to materially affect, the issuer's internal control over financial reporting.

Date: .....

_____
[Signature]
[Title]

Form 52-109FT2 - Certification of Interim Filings during Transition Period

I ***‹identify the certifying officer, the issuer, and his or her position at the issuer›***, certify that:

1. I have reviewed the interim filings (as this term is defined in Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*) of ***‹identify the issuer›***, (the issuer) for the interim period ending ***‹state the relevant date›***;

2. Based on my knowledge, the interim filings do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make a statement not misleading in light of the circumstances under which it was made, with respect to the period covered by the interim filings; and

3. Based on my knowledge, the interim financial statements together with the other financial information included in the interim filings fairly present in all material respects the financial condition, results of operations and cash flows of the issuer, as of the date and for the periods presented in the interim filings.

Date: .....

_____

[Signature]
[Title]

Companion Policy 52-109CP – To Multilateral Instrument 52-109 Certification of Disclosure in ~~Companies~~Issuers' Annual and Interim Filings

Part 1 – General

This Companion Policy provides information about how the ~~Canadian~~provincial and territorial securities regulatory authorities interpret Multilateral Instrument 52-109, and should be read in conjunction with it.

Part 2 – Form and Filing of Certificates

The annual certificates and interim certificates must be filed in the exact language prescribed in Forms 52-109F1 and ~~F2.~~52-109F2 (subject to Part 3 – Form of Certificates during Transition Period). Each certificate must be separately filed ~~on~~through SEDAR under the issuer's profile in the appropriate annual certificate or interim certificate filing type:

Category of Filing - Continuous Disclosure
Folder for Filing Type - General

Filing Type - Annual Certificates
Document Type:
Form 52-109F1 - Certification of Annual Filings - CEO
Form 52-109F1 - Certification of Annual Filings - CFO
Form 52-109FT1 - Certification of Annual Filings - CEO
Form 52-109FT1 - Certification of Annual Filings - CFO

or

Filing Type - Interim Certificates
Document Type:
Form 52-109F2 - Certification of Interim Filings - CEO
Form 52-109F2 - Certification of Interim Filings - CFO
Form 52-109FT2 - Certification of Interim Filings - CEO
Form 52-109FT2 - Certification of Interim Filings - CFO

~~An~~As indicated in Part 11, an issuer that is in compliance with U.S. federal securities laws implementing the certification requirements in section 302(a) of the Sarbanes-Oxley Act ~~and that uses the exemption in section 4.1 of the Instrument, must file on~~, may be able to rely upon the exemptions from the annual certificate and interim certificate requirements under section 4.1. To avail itself of these exemptions, an issuer must file through SEDAR the ~~CEO and CFO~~ certificates ~~that it~~of the chief executive officer and chief financial officer that the issuer filed with SEC as exhibits to the annual or quarterly reports with respect to the relevant reporting period. ~~Where those~~These certificates ~~are "in" the annual or quarterly report filed with the SEC ("in" as opposed to being attached as "exhibits"), the issuer should file the report containing the certificates in the appropriate filing type described above. Where the officers' certificates are attached as exhibits to the issuer's annual or quarterly report, the issuer should file the report, together with the attached certificates,~~should be filed in the appropriate filing type described above.

An issuer relying on the ~~exemption~~exemptions in section 4.1 of the Instrument need not file the ~~signed~~ paper copies of the ~~reports and~~signed certificates that it filed with, or furnished to, the SEC.

Part 3 – Certificates during Transition Period

Section 5.2 provides for a transition period for the filing of both annual certificates and interim certificates.

Pursuant to section 2.1, an issuer is required to file its annual certificates in Form 52-109F1. Under subsection 5.2(1)(b), however, an issuer may file annual certificates in Form 52-109FT1 in respect of any financial year ending on or before March 30, 2005. Form 52-109FT1 does not require the certifying officers to make the representations set out in paragraphs 4 and 5 of Form 52-109F1 regarding the design of disclosure controls and procedures and internal control over financial reporting, the evaluation of the effectiveness of disclosure controls and procedures and any changes in the issuer's internal control over financial reporting.

Pursuant to section 3.1, an issuer is required to file its interim certificates in Form 52-109F2. Under subsection 5.2(2)(b), however, an issuer may file interim certificates in Form 52-109FT2 in respect of any interim period that occurs prior to the end of the first financial year in respect of which the issuer is required to file an annual certificate in Form 52-109F1. The representations set out in paragraphs 4 and 5 of Form 52-109F1 will serve as the basis for the corresponding representations set out in paragraphs 4 and 5 of Form 52-109F2.

Upon completion of the transition period, issuers must file annual certificates and interim certificates in Forms 52-109F1 and 52-109F2, respectively, which will include the representations in paragraph 4 of these forms. For further clarification, we do not expect the representations in paragraph 4 to extend to the prior period comparative information included in the annual filings or interim filings if:

(a) the prior period comparative information was previously the subject of certificates in Forms 52-109FT1 or 52-109FT2; or

(b) the Instrument did not require an annual certificate or interim certificate in respect of the prior period to be filed.

For illustration purposes only, the table in Appendix A sets out the filing requirements for annual certificates and interim certificates of issuers with financial years beginning on the first day of a month.

Part 4 – Persons Performing Functions Similar to a Chief Executive Officer and Chief Financial Officer

Where an issuer does not have a chief executive officer or chief financial officer, each person who performs similar functions to a chief executive officer or chief financial officer must certify the annual filings and interim filings. It is left to the issuer's discretion to determine who those persons are. In the case of an income trust reporting issuer (as described in proposed National Policy 41-201 *Income Trusts and Other Indirect Offerings*) where executive management resides at the underlying business entity level or in an external management company, we would generally consider the chief executive officer or chief financial officer of the underlying business entity or the external management company to be persons performing functions in respect of the income trust similar to a chief executive officer or chief financial officer. In the case of a limited partnership reporting issuer with no chief executive officer or chief financial officer, we would generally consider the chief executive officer or chief financial officer of its general partner to be persons performing functions in respect of the limited partnership reporting issuer similar to a chief executive officer or chief financial officer.

Part 5 – "New" Chief Executive Officers and Chief Financial Officers

Chief executive officers and chief financial officers (or persons performing functions similar to a chief executive officer or chief financial officer) holding such offices at the time that annual certificates and interim certificates are required to be filed are the persons who must sign those certificates. Certifying officers are required to file annual certificates and interim certificates in the specified form (without any amendment) and failure to do so will be a breach of the Instrument.

Pursuant to paragraphs 4(a) and (b) of Forms 52-109F1 and 52-109F2, the certifying officers are required to represent that they have designed (or caused to be designed under their supervision) disclosure controls and procedures and internal control over financial reporting. There may be situations where an issuer's disclosure controls and procedures and internal control over financial reporting have been designed and implemented prior to the certifying officers assuming their respective offices. We recognize that in these situations the certifying officers may have difficulty in representing that they have designed or caused to be designed these controls and procedures. In our view, where:

(a) disclosure controls and procedures and internal control over financial reporting have been designed and implemented prior to the certifying officers assuming their respective offices;

(b) the certifying officers have reviewed the existing controls and procedures upon assuming their respective offices; and

(c) the certifying officers have designed (or caused to be designed under their supervision) any modifications or enhancements to the existing controls and procedures determined to be necessary following their review,

the certifying officers will have designed (or caused to be designed under their supervision) these controls and procedures for the purposes of paragraphs 4(a) and (b) of Forms 52-109F1 and 52-109F2.

Part 6 – Internal Control over Financial Reporting and Disclosure Controls and Procedures

~~The Canadian securities regulatory authorities~~We believe that ~~CEOs and CFOs~~chief executive officers and chief financial officers should be required to certify that their issuers have adequate internal control over financial reporting and disclosure controls and procedures. We believe that this is an important factor in maintaining integrity in our capital markets and thereby enhancing investor confidence in our capital markets. The Instrument defines "disclosure controls and procedures" and "internal control over financial reporting". The Instrument does not, however, ~~formally define those controls nor does it~~ prescribe the degree of complexity or any specific policies or procedures that must make up those controls and procedures. This is intentional. In our view, these considerations are best left to management's judgement based on various factors that may be particular to ~~their~~an issuer, including its size ~~and~~, the nature of its business and the complexity of its operations.

While there is a substantial overlap between the definition of disclosure controls and procedures and internal control over financial reporting, there are both some elements of disclosure controls and procedures that are not subsumed within the definition of internal control over financial reporting and some elements of internal control over financial reporting that are not subsumed within the definition of disclosure controls and procedures. For example, disclosure controls and procedures may include those components of internal control over financial reporting that provide reasonable assurances that transactions are recorded as necessary to permit the preparation of financial statements in accordance with the issuer's GAAP. However, some issuers may design their disclosure controls and procedures so that certain components of internal control over financial reporting pertaining to the accurate recording of transactions and disposition of assets or to the safeguarding of assets are not included.

Part 47 – Evaluation of Effectiveness of Disclosure Controls and Procedures

Paragraph 4(c) of Form 52-109F1 requires the certifying officers to represent that they have evaluated the effectiveness of the issuer's disclosure controls and procedures and have caused the issuer to disclose in the annual MD&A their conclusions about the effectiveness of the disclosure controls and procedures based on such evaluation. The Instrument does not specify the contents of the certifying officers' report on its evaluation of disclosure controls and procedures; however, given that disclosure controls and procedures should be designed to provide, at a minimum, reasonable assurance of achieving their objectives, the report should set forth, at a minimum, the conclusions of the certifying officers as to whether the controls and procedures are, in fact, effective at the "reasonable assurance" level.

Part 8 – Fair Presentation

Pursuant to the third paragraph in each of the annual certificates and interim certificates, the ~~CEO and CFO~~chief executive officer and chief financial officer must each certify that their issuer's financial statements and other financial information "fairly present" the financial condition of the issuer for the relevant time period. Those representations are not qualified by the phrase "in accordance with generally accepted accounting principles" ~~(GAAP)~~ which Canadian auditors typically include in their financial statement audit reports. This qualification has been specifically excluded from the Instrument to prevent management from relying entirely upon compliance with the issuer's GAAP ~~procedures~~ in this representation, particularly where the ~~results of a~~issuer's GAAP ~~audit~~financial statements may not reflect the financial condition of ~~a company~~an issuer (since the issuer's GAAP ~~may~~does not always define all the components of an overall fair presentation).

~~At page 7 of its adopting release,[13] the SEC states:~~

The Instrument requires the certifying officers to certify that the financial statements (including prior period comparative financial information) *and the other financial information* included in the annual filings and interim filings fairly present the issuer's financial condition, results of operation and cash flows. The certification statement regarding the fair presentation of financial statements and other ~~financial~~ information is not limited to a representation that the financial statements and other financial information have been presented in accordance with ~~"generally accepted accounting principles" (GAAP) and is not otherwise limited by reference to GAAP. We believe that Congress~~the issuer's GAAP. We believe that this is appropriate as the certification is intended ~~this statement~~ to provide assurances that the financial information disclosed in ~~a report~~the annual filings and interim filings, viewed in ~~its~~their entirety, meets a standard of overall material accuracy and completeness that is broader than financial reporting requirements under GAAP. ~~... Presenting financial information in conformity with~~ As a result, issuers are not entitled to limit the representation to Canadian GAAP, US GAAP or any other source of generally accepted accounting principles ~~may not necessarily satisfy obligations under the antifraud provisions of the federal securities law~~.

We do not believe that a formal definition of fair presentation is appropriate as it encompasses a number of qualitative and quantitative factors that may not be applicable to all issuers. In our view, fair presentation includes but is not necessarily limited to:

- ~~the~~ selection of appropriate accounting policies
- proper application of appropriate accounting policies
- disclosure of financial information that is informative and reasonably reflects the underlying transactions
- inclusion of additional disclosure necessary to provide investors with a materially accurate and complete picture of financial ~~conditions, results of operations and cash flows~~condition, results of operations and cash flows

The concept of fair presentation as used in the annual certificates and interim certificates is not limited to compliance with the issuer's GAAP; however, it is not intended to permit an issuer to depart from the issuer's GAAP recognition and measurement principles in the preparation of its financial statements. In the event that an issuer is of the view that there are limitations to the

~~[13] SEC Release No. 33-8124 *Final Rule: Certification of Disclosure in Companies' Quarterly and Annual Reports* dated August 29, 2002.~~

issuer's GAAP based financial statements as an indicator of the issuer's financial condition, the issuer should provide additional disclosure in its MD&A necessary to provide a materially accurate and complete picture of the issuer's financial condition, results of operations and cash flows.

For additional commentary on what constitutes fair presentation we refer you to case law in this area. The leading U.S. case in this area is *U.S. v. Simon* (425 F.2d 796); the leading Canadian case in this area is the B.C. Court of Appeal decision in *Kripps v. Touche Ross and Co.* [1997] B.C.J. No. 968.

Part ~~5~~9 – Financial Condition

Pursuant to the third paragraph in each of the annual certificates and interim certificates, the chief executive officer and chief financial officer must each certify that their issuer's financial statements fairly present the financial condition of the issuer for the relevant time period. The Instrument does not formally define financial condition. The term "financial condition" in the annual certificates and interim certificates is intended to be used in the same manner as the term "financial condition" is used in The Canadian Institute of Chartered Accountants' MD&A Guidelines and NI 51-102. In our view, financial condition encompasses a number of qualitative and quantitative factors which would be difficult to enumerate in a comprehensive list applicable to all issuers. Financial condition of an issuer includes, without limitation, considerations such as:

- liquidity
- solvency
- capital resources
- overall financial health of the issuer's business
- current and future considerations, events, risks or uncertainties that might impact the financial health of the issuer's business

Part 10 – Consolidation

Issuers are required to prepare their financial statements on a consolidated basis under the issuer's GAAP. As a result the representations in paragraphs 2 and 3 of the certification will extend to consolidated financial statements. In addition, when the certifying officers provide these two representations, we expect that these representations will indicate that their issuers' disclosure controls and procedures provide reasonable assurance that material information relating to their issuers *and their consolidated subsidiaries* is made known to them.

We are of the view that regardless of the level of control that an issuer has over a consolidated subsidiary, management of the issuer has an obligation to present consolidated disclosure that includes a fair presentation of the financial condition of the subsidiary. An issuer needs to maintain adequate internal control over financial reporting and disclosure controls and procedures to accomplish this. In the event that a chief executive officer or chief financial officer is not satisfied with his or her issuer's controls and procedures insofar as they relate to consolidated subsidiaries, the chief executive officer or chief financial officer should cause the issuer to disclose in its MD&A his or her concerns regarding such controls and procedures.

An issuer's financial results and MD&A may consolidate those of a subsidiary which is also a reporting issuer. In those circumstances, it is left to the business judgment of the certifying officers of the issuer to determine the level of due diligence required in respect of the consolidated subsidiary in order to provide the issuer's certification.

Part 11 – Exemptions

The exemptions in section 4.1 of the Instrument are based on our view that the investor confidence aims of the Instrument do not justify requiring issuers to comply with the certification requirements in the Instrument if such issuers already comply with substantially similar requirements in the U.S.

As a condition to being exempt from the annual certificate and interim certificate requirements ~~in~~under subsections 4.1(1) and (2) respectively, issuers must file ~~on~~through SEDAR the ~~CEO and CFO~~ certificates of the chief executive officer and chief financial officer that they filed with the SEC in compliance with its rules implementing the certification requirements prescribed in section 302(a) of the Sarbanes-Oxley Act.

Pursuant to ~~National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency*~~NI 52-107 certain Canadian issuers are able to satisfy their requirements to file financial statements prepared in accordance with Canadian GAAP by filing statements prepared in accordance with ~~U.S.~~US GAAP. However, it is possible that some Canadian ~~companies~~issuers may still continue to prepare two sets of financial statements and continue to file their Canadian GAAP

statements in the applicable jurisdictions. In order to ensure that the Canadian GAAP financial statements are certified (pursuant to either ~~SOX~~the Sarbanes-Oxley Act or the Instrument) those issuers will not have recourse to the exemptions in subsections 4.1(1) and (2).

Part ~~6~~12 – Liability for False Certification

An officer providing a false certification potentially could be subject to quasi-criminal, administrative or civil proceedings under securities law.

Officers providing a false certification could also potentially be subject to private actions for damages either at common law or, in Québec, under civil law, or under the *Securities Act* (Ontario) when amendments which create statutory civil liability for misrepresentations in continuous disclosure are proclaimed in force.[14] The liability standard applicable to a document required to be filed with the Ontario Securities Commission, including an annual certificate or interim certificate, will depend on whether the document is a "core" document as defined under Part XXIII.~~1.~~[15]1 of the *Securities Act* (Ontario). Annual certificates and interim certificates are currently not included in the definition of "core document" but would be caught by the definition of "document".

In any action commenced under Part XXIII.1 of the *Securities Act* (Ontario) a court has the discretion to treat multiple misrepresentations having common subject matter or content as a single misrepresentation.[16] This provision ~~would~~could permit a court in appropriate cases to treat a misrepresentation in ~~a company~~an issuer's financial statements and a misrepresentation made by an officer in an annual certificate or interim certificate that relate to the underlying financial statements as a single misrepresentation.

~~14 These amendments were enacted on December 9, 2002.~~

~~15 Where an action is brought for a misrepresentation contained in a non-core document, a defendant is not liable unless the plaintiff proves that the defendant: (i) knew of the misrepresentation; (ii) deliberately avoided acquiring knowledge of the misrepresentation; or (iii) by acting or failing to act, was guilty of gross misconduct in connection with the release of the document containing the misrepresentation. Where an action is brought for a misrepresentation contained in a core document, the onus is on the defendant to show that he or she was duly diligent.~~

~~16 Subsection 138.3(6) of the *Securities Act* (Ontario).~~

Appendix A – Annual Certificate and Interim Certificate Filing Requirements

For illustration purposes only, the following table sets out the filing requirements for annual certificates and interim certificates for issuers with financial years beginning on the first day of a month.

Financial Year Beginning On	Financial Period	Annual Certificate Required	Interim Certificate Required	Form of Certificate[1]
January 1 **(i.e. year end of December 31)**	Financial year January 1, 2003 to December 31, 2003	No	Not Applicable	*The Instrument does not apply to financial years beginning before January 1, 2004.*
	Interim period January 1, 2004 to March 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate[2]
	Interim period April 1, 2004 to June 30, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period July 1, 2004 to September 30, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year January 1, 2004 to December 31, 2004	Yes	Not Applicable	"Bare" Annual Certificate[3]
	Interim period January 1, 2005 to March 31, 2005	Not Applicable	Yes	"Bare" Interim Certificate *(If an issuer voluntarily filed its annual certificate for financial year January 1, 2004 to December 31, 2004 as a "Full" Annual Certificate[4], the issuer should file its interim certificate as a "Full" Interim Certificate.[5])*
	Interim period April 1, 2005 to June 30, 2005	Not Applicable	Yes	"Bare" Interim Certificate *(If an issuer voluntarily filed its annual certificate for financial year January 1, 2004 to December 31, 2004 as a "Full" Annual Certificate, the issuer should file its interim certificate as a "Full" Interim Certificate.)*
	Interim period July 1, 2005 to September 30, 2005	Not Applicable	Yes	"Bare" Interim Certificate *(If an issuer voluntarily filed its annual certificate for financial year January 1, 2004 to December 31, 2004 as a "Full" Annual Certificate, the issuer should file its interim certificate as a "Full" Interim Certificate.)*
	Financial year January 1, 2005 to December 31, 2005 and each successive financial year	Yes	Not Applicable	"Full" Annual Certificate

1 Where the form requirement specified is a "bare" annual certificate, issuers may voluntarily choose to file a "full" annual certificate. Where the form requirement specified is a "bare" interim certificate, issuers may voluntarily choose to file a "full" interim certificate.

2 For the purposes of Appendix A, ""bare" interim certificate" means a certificate in Form 52-109FT2.

3 For the purposes of Appendix A, ""bare" annual certificate" means a certificate in Form 52-109FT1.

4 For the purposes of Appendix A, ""full" annual certificate" means a certificate in Form 52-109F1.

5 For the purposes of Appendix A, ""full" interim certificate" means a certificate in Form 52-109F2.

Financial Year Beginning On	Financial Period	Annual Certificate Required	Interim Certificate Required	Form of Certificate[1]
	Interim period January 1, 2006 to March 31, 2006 and each successive interim period	Not Applicable	Yes	"Full" Interim Certificate
February 1 **(i.e. year end of January 31)**	Financial year February 1, 2003 to January 31, 2004	No	Not Applicable	*The Instrument does not apply to financial years beginning before January 1, 2004.*
	Interim period February 1, 2004 to April 30, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period May 1, 2004 to July 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period August 1, 2004 to October 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year February 1, 2004 to January 31, 2005	Yes	Not Applicable	"Bare" Annual Certificate
	Interim period February 1, 2005 to April 30, 2005	Not Applicable	Yes	"Bare" Interim Certificate *(If an issuer voluntarily filed its annual certificate for financial year February 1, 2004 to January 31, 2005 as a "Full" Annual Certificate, the issuer should file its interim certificate as a "Full" Interim Certificate.)*
	Interim period May 1, 2005 to July 31, 2005	Not Applicable	Yes	"Bare" Interim Certificate *(If an issuer voluntarily filed its annual certificate for financial year February 1, 2004 to January 31, 2005 as a "Full" Annual Certificate, the issuer should file its interim certificate as a "Full" Interim Certificate.)*
	Interim period August 1, 2005 to October 31, 2005	Not Applicable	Yes	"Bare" Interim Certificate *(If an issuer voluntarily filed its annual certificate for financial year February 1, 2004 to January 31, 2005 as a "Full" Annual Certificate, the issuer should file its interim certificate as a "Full" Interim Certificate.)*
	Financial year February 1, 2005 to January 31, 2006 and each successive financial year	Yes	Not Applicable	"Full" Annual Certificate
	Interim period February 1, 2006 to April 30, 2006 and each successive interim period	Not Applicable	Yes	"Full" Interim Certificate

Financial Year Beginning On	Financial Period	Annual Certificate Required	Interim Certificate Required	Form of Certificate[1]
March 1 **(i.e. year end of February 28/29)**	Interim period September 1, 2003 to November 30, 2003	Not Applicable	No	*The Instrument does not apply to interim periods beginning before January 1, 2004.*
	Financial year March 1, 2003 to February 29, 2004	No	Not Applicable	*The Instrument does not apply to financial years beginning before January 1, 2004.*
	Interim period March 1, 2004 to May 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period June 1, 2004 to August 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period September 1, 2004 to November 30, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year March 1, 2004 to February 28, 2005	Yes	Not Applicable	"Bare" Annual Certificate
	Interim period March 1, 2005 to May 31, 2005	Not Applicable	Yes	"Bare" Interim Certificate *(If an issuer voluntarily filed its annual certificate for financial year March 1, 2004 to February 28, 2005 as a "Full" Annual Certificate, the issuer should file its interim certificate as a "Full" Interim Certificate.)*
	Interim period June 1, 2005 to August 31, 2005	Not Applicable	Yes	"Bare" Interim Certificate *(If an issuer voluntarily filed its annual certificate for financial year March 1, 2004 to February 28, 2005 as a "Full" Annual Certificate, the issuer should file its interim certificate as a "Full" Interim Certificate.)*
	Interim period September 1, 2005 to November 30, 2005	Not Applicable	Yes	"Bare" Interim Certificate *(If an issuer voluntarily filed its annual certificate for financial year March 1, 2004 to February 28, 2005 as a "Full" Annual Certificate, the issuer should file its interim certificate as a "Full" Interim Certificate.)*
	Financial year March 1, 2005 to February 28, 2006 and each successive financial year	Yes	Not Applicable	"Full" Annual Certificate
	Interim period March 1, 2006 to May 31, 2006 and each successive interim period	Not Applicable	Yes	"Full" Interim Certificate

Financial Year Beginning On	Financial Period	Annual Certificate Required	Interim Certificate Required	Form of Certificate[1]
April 1 **(i.e. year end of March 31)**	Interim period October 1, 2003 to December 31, 2003	Not Applicable	No	*The Instrument does not apply to interim periods beginning before January 1, 2004.*
	Financial year April 1, 2003 to March 31, 2004	No	Not Applicable	*The Instrument does not apply to financial years beginning before January 1, 2004.*
	Interim period April 1, 2004 to June 30, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period July 1, 2004 to September 30, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period October 1, 2004 to December 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year April 1, 2004 to March 31, 2005 and each successive financial year	Yes	Not Applicable	"Full" Annual Certificate
	Interim period April 1, 2005 to June 30, 2005 and each successive interim period	Not Applicable	Yes	"Full" Interim Certificate
May 1 **(i.e. year end of April 30)**	Interim period November 1, 2003 to January 31, 2004	Not Applicable	No	*The Instrument does not apply to interim periods beginning before January 1, 2004.*
	Financial year May 1, 2003 to April 30, 2004	No	Not Applicable	*The Instrument does not apply to financial years beginning before January 1, 2004.*
	Interim period May 1, 2004 to July 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period August 1, 2004 to October 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period November 1, 2004 to January 31, 2005	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year May 1, 2004 to April 30, 2005 and each successive financial year	Yes	Not Applicable	"Full" Annual Certificate
	Interim period May 1, 2005 to July 31, 2005 and each successive interim period	Not Applicable	Yes	"Full" Interim Certificate

Financial Year Beginning On	Financial Period	Annual Certificate Required	Interim Certificate Required	Form of Certificate[1]
June 1 **(i.e. year end of May 31)**	Interim period September 1, 2003 to November 30, 2003	Not Applicable	No	*The Instrument does not apply to interim periods beginning before January 1, 2004.*
	Interim period December 1, 2003 to February 29, 2004	Not Applicable	No	*The Instrument does not apply to interim periods beginning before January 1, 2004.*
	Financial year June 1, 2003 to May 31, 2004	No	Not Applicable	*The Instrument does not apply to financial years beginning before January 1, 2004.*
	Interim period June 1, 2004 to August 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period September 1, 2004 to November 30, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period December 1, 2004 to February 28, 2005	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year June 1, 2004 to May 31, 2005 and each successive financial year	Yes	Not Applicable	"Full" Annual Certificate
	Interim period June 1, 2005 to August 31, 2005 and each successive interim period	Not Applicable	Yes	"Full" Interim Certificate
July 1 **(i.e. year end of June 30)**	Interim period October 1, 2003 to December 31, 2003	No	Not Applicable	*The Instrument does not apply to interim periods beginning before January 1, 2004*
	Interim period January 1, 2004 to March 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year July 1, 2003 to June 30, 2004	No	Not Applicable	*The Instrument does not apply to financial years beginning before January 1, 2004*
	Interim period July 1, 2004 to September 30, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period October 1, 2004 to December 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period January 1, 2005 to March 31, 2005	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year July 1, 2004 to June 30, 2005 and each successive financial year	Yes	Not Applicable	"Full" Annual Certificate

Financial Year Beginning On	Financial Period	Annual Certificate Required	Interim Certificate Required	Form of Certificate[1]
	Interim period July 1, 2005 to September 30, 2005 and each successive interim period	Not Applicable	Yes	"Full" Interim Certificate
August 1 **(i.e. year end of July 31)**	Interim period November 1, 2003 to January 31, 2004	Not Applicable	No	*The Instrument does not apply to interim periods beginning before January 1, 2004.*
	Interim period February 1, 2004 to April 30, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year August 1, 2003 to July 31, 2004	No	Not Applicable	*The Instrument does not apply to financial years beginning before January 1, 2004.*
	Interim period August 1, 2004 to October 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period November 1, 2004 to January 31, 2005	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period February 1, 2005 to April 30, 2005	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year August 1, 2004 to July 31, 2005 and each successive financial year	Yes	Not Applicable	"Full" Annual Certificate
	Interim period August 1, 2005 to October 31, 2005 and each successive interim period	Not Applicable	Yes	"Full" Interim Certificate
September 1 **(i.e. year end of August 31)**	Interim period September 1, 2003 to November 30, 2003	Not Applicable	No	*The Instrument does not apply to interim periods beginning before January 1, 2004.*
	Interim period December 1, 2003 to February 29, 2004	Not Applicable	No	*The Instrument does not apply to interim periods beginning before January 1, 2004.*
	Interim period March 1, 2004 to May 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year September 1, 2003 to August 31, 2004	No	Not Applicable	*The Instrument does not apply to financial years beginning before January 1, 2004.*
	Interim period September 1, 2004 to November 30, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period December 1, 2004 to February 28, 2005	Not Applicable	Yes	"Bare" Interim Certificate

Financial Year Beginning On	Financial Period	Annual Certificate Required	Interim Certificate Required	Form of Certificate[1]
	Interim period March 1, 2005 to May 31, 2005	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year September 1, 2004 to August 31, 2005 and each successive financial year	Yes	Not Applicable	"Full" Annual Certificate
	Interim period September 1, 2005 to November 30, 2005 and each successive interim period	Not Applicable	Yes	"Full" Interim Certificate
October 1 **(i.e. year end of September 30)**	Interim period October 1, 2003 to December 31, 2003	Not Applicable	No	*The Instrument does not apply to interim periods beginning before January 1, 2004.*
	Interim period January 1, 2004 to March 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period April 1, 2004 to June 30, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year October 1, 2003 to September 30, 2004	No	Not Applicable	*The Instrument does not apply to financial years beginning before January 1, 2004.*
	Interim period October 1, 2004 to December 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period January 1, 2005 to March 31, 2005	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period April 1, 2005 to June 30, 2005	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year October 1, 2004 to September 30, 2005 and each successive financial year	Yes	Not Applicable	"Full" Annual Certificate
	Interim period October 1, 2005 to December 31, 2005 and each successive interim period	Not Applicable	Yes	"Full" Interim Certificate
November 1 **(i.e. year end of October 31)**	Financial year November 1, 2002 to October 31, 2003	No	Not Applicable	*The Instrument does not apply to financial years beginning before January 1, 2004.*
	Interim period November 1, 2003 to January 31, 2004	Not Applicable	No	*The Instrument does not apply to interim periods beginning before January 1, 2004.*
	Interim period February 1, 2004 to April 30, 2004	Not Applicable	Yes	"Bare" Interim Certificate

Financial Year Beginning On	Financial Period	Annual Certificate Required	Interim Certificate Required	Form of Certificate[1]
	Interim period May 1, 2004 to July 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year November 1, 2003 to October 31, 2004	No	Not Applicable	*The Instrument does not apply to financial years beginning before January 1, 2004.*
	Interim period November 1, 2004 to January 31, 2005	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period February 1, 2005 to April 30, 2005	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period May 1, 2005 to July 31, 2005	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year November 1, 2004 to October 31, 2005 and each successive financial year	Yes	Not Applicable	"Full" Annual Certificate
	Interim period November 1, 2005 to January 31, 2006 and each successive interim period	Not Applicable	Yes	"Full" Interim Certificate
December 1 **(i.e. year end of November 30)**	Financial year December 1, 2002 to November 30, 2003	No	Not Applicable	*The Instrument does not apply to financial years beginning before January 1, 2004.*
	Interim period December 1, 2003 to February 29, 2004	Not Applicable	No	*The Instrument does not apply to interim periods beginning before January 1, 2004.*
	Interim period March 1, 2004 to May 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period June 1, 2004 to August 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year December 1, 2003 to November 30, 2004	No	Not Applicable	*The Instrument does not apply to financial years beginning before January 1, 2004.*
	Interim period December 1, 2004 to February 28, 2005	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period March 1, 2005 to May 31, 2005	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period June 1, 2005 to August 31, 2005	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year December 1, 2004 to November 30, 2005 and each successive financial year	Yes	Not Applicable	"Full" Annual Certificate

Financial Year Beginning On	Financial Period	Annual Certificate Required	Interim Certificate Required	Form of Certificate[1]
	Interim period December 1, 2005 to February 28, 2006 and each successive interim period	Not Applicable	Yes	"Full" Interim Certificate

5.1.12 Multilateral Instrument 52-109 Certification of Disclosure in Issuers' Annual and Interim Filings

MULTILATERAL INSTRUMENT 52-109
CERTIFICATION OF DISCLOSURE IN ISSUERS' ANNUAL AND INTERIM FILINGS

Part 1 – Definitions and Application

1.1 Definitions - In this Instrument,

"AIF" has the meaning ascribed to it in NI 51-102*;*

"annual certificate" means the certificate required to be filed pursuant to Part 2;

"annual filings" means the issuer's AIF, if any, and annual financial statements and annual MD&A filed under provincial and territorial securities legislation for the most recently completed financial year, including for greater certainty all documents and information that are incorporated by reference in the AIF;

"annual financial statements" means the annual financial statements required to be filed under NI 51-102;

"disclosure controls and procedures" means controls and other procedures of an issuer that are designed to provide reasonable assurance that information required to be disclosed by the issuer in its annual filings, interim filings or other reports filed or submitted by it under provincial and territorial securities legislation is recorded, processed, summarized and reported within the time periods specified in the provincial and territorial securities legislation and include, without limitation, controls and procedures designed to ensure that information required to be disclosed by an issuer in its annual filings, interim filings or other reports filed or submitted under provincial and territorial securities legislation is accumulated and communicated to the issuer's management, including its chief executive officers and chief financial officers (or persons who perform similar functions to a chief executive officer or a chief financial officer), as appropriate to allow timely decisions regarding required disclosure;

"interim certificate" means the certificate required to be filed pursuant to Part 3;

"interim filings" means the issuer's interim financial statements and interim MD&A filed under provincial and territorial securities legislation for the most recently completed interim period;

"interim financial statements" means the interim financial statements required to be filed under NI 51-102;

"interim period" has the meaning ascribed to it in NI 51-102;

"internal control over financial reporting" means a process designed by, or under the supervision of, the issuer's chief executive officers and chief financial officers, or persons performing similar functions, and effected by the issuer's board of directors, management and other personnel, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with the issuer's GAAP and includes those policies and procedures that:

(a) pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of the issuer,

(b) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with the issuer's GAAP, and that receipts and expenditures of the issuer are being made only in accordance with authorizations of management and directors of the issuer, and

(c) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the issuer's assets that could have a material effect on the annual financial statements or interim financial statements;

"investment fund" has the meaning ascribed to it in NI 51-102;

"issuer's GAAP" has the meaning ascribed to it in NI 52-107;

"MD&A" has the meaning ascribed to it in NI 51-102*;*

"NI 51-102" means National Instrument 51-102 *Continuous Disclosure Obligations*;

"NI 52-107" means National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency*;

"Sarbanes-Oxley Act" means the Sarbanes-Oxley Act of 2002, Pub.L. 107-204, 116 Stat. 745 (2002);

"SEDAR" means the computer system for the transmission, receipt, acceptance, review and dissemination of documents filed in electronic format known as the System for Electronic Document Analysis and Retrieval;

"subsidiary" has the meaning ascribed to it in Section 1590 of the CICA Handbook; and

"US GAAP" has the meaning ascribed to it in NI 52-107.

1.2 Application – This Instrument applies to all reporting issuers other than investment funds.

Part 2 – Certification of Annual Filings

2.1 Every issuer must file a separate annual certificate, in Form 52-109F1, in respect of and personally signed by each person who, at the time of filing the annual certificate:

1. is a chief executive officer;

2. is a chief financial officer; and

3. in the case of an issuer that does not have a chief executive officer or chief financial officer, performs similar functions to a chief executive officer or a chief financial officer, as the case may be.

2.2 The annual certificates must be filed by the issuer separately but concurrently with the latest of the following:

1. if it files an AIF, the filing of its AIF; and

2. the filing of its annual financial statements and annual MD&A.

Part 3 - Certification of Interim Filings

3.1 Every issuer must file for each interim period a separate interim certificate, in Form 52-109F2, in respect of and personally signed by each person who, at the time of the filing of the interim certificate:

1. is a chief executive officer;

2. is a chief financial officer; and

3. in the case of an issuer that does not have a chief executive officer or chief financial officer, performs similar functions to a chief executive officer or a chief financial officer, as the case may be.

3.2 The interim certificates must be filed by the issuer separately but concurrently with the filing of its interim filings.

Part 4 - Exemptions

4.1 Exemption for Issuers that Comply with U.S. Laws –

(1) Subject to subsection (4), an issuer is exempt from Part 2 with respect to the most recently completed financial year if:

(a) the issuer is in compliance with U.S. federal securities laws implementing the annual report certification requirements in section 302(a) of the Sarbanes-Oxley Act; and

(b) the issuer's signed certificates relating to its annual report for its most recently completed financial year are filed through SEDAR as soon as reasonably practicable after they are filed with the SEC.

(2) Subject to subsection (5), an issuer is exempt from Part 3 with respect to the most recently completed interim period if:

(a) the issuer is in compliance with U.S. federal securities laws implementing the quarterly report certification requirements in section 302(a) of the Sarbanes-Oxley Act; and

(b) the issuer's signed certificates relating to its quarterly report for its most recently completed quarter are filed through SEDAR as soon as reasonably practicable after they are filed with the SEC.

(3) An issuer is exempt from Part 3 with respect to the most recently completed interim period if:

(a) the issuer furnishes to the SEC a current report on Form 6-K containing the issuer's quarterly financial statements and MD&A;

(b) the Form 6-K is accompanied by signed certificates that are furnished to the SEC in the same form required by U.S. federal securities laws implementing the quarterly report certification requirements in section 302(a) of the Sarbanes-Oxley Act; and

(c) the signed certificates relating to the quarterly report filed under cover of the Form 6-K are filed through SEDAR as soon as reasonably practicable after they are furnished to the SEC.

(4) Notwithstanding subsection 4.1(1), Part 2 of this Instrument applies to an issuer with respect to the most recently completed financial year if the issuer files annual financial statements prepared in accordance with Canadian GAAP, unless the issuer files those statements with the SEC in compliance with U.S. federal securities laws implementing the annual report certification requirements in section 302(a) of the Sarbanes-Oxley Act.

(5) Notwithstanding subsection 4.1(2), Part 3 of this Instrument applies to an issuer with respect to the most recently completed interim period if the issuer files interim financial statements prepared in accordance with Canadian GAAP, unless the issuer files those statements with the SEC in compliance with U.S. federal securities laws implementing the quarterly report certification requirements in section 302(a) of the Sarbanes-Oxley Act.

4.2 Exemption for Foreign Issuers – An issuer is exempt from the requirements in this Instrument so long as it qualifies for the relief contemplated by, and is in compliance with the requirements and conditions set out in, sections 5.4 and 5.5 of National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers.*

4.3 Exemption for Certain Exchangeable Security Issuers – An issuer is exempt from the requirements in this Instrument so long as it qualifies for the relief contemplated by, and is in compliance with the requirements and conditions set out in, section 13.3 of NI 51-102.

4.4 Exemption for Certain Credit Support Issuers – An issuer is exempt from the requirements in this Instrument so long as it qualifies for the relief contemplated by, and is in compliance with the requirements and conditions set out in, section 13.4 of NI 51-102.

4.5 General Exemption –

(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.

Part 5 - Effective Date and Transition

5.1 Effective Date - This Instrument comes into force on March 30, 2004.

5.2 Transition –

(1) **Annual Certificates** –

(a) Subject to paragraph (1)(b), the provisions of this Instrument concerning annual certificates apply for financial years beginning on or after January 1, 2004.

(b) Notwithstanding Part 2 or paragraph (1)(a), an issuer may file annual certificates in Form 52-109FT1 in respect of any financial year ending on or before March 30, 2005.

(2) **Interim Certificates** –

(a) Subject to paragraph (2)(b), the provisions of this Instrument concerning interim certificates apply for interim periods beginning on or after January 1, 2004.

(b) Notwithstanding Part 3 or paragraph (2)(a), an issuer may file interim certificates in Form 52-109FT2 in respect of any interim period that occurs prior to the end of the first financial year in respect of which the issuer is required to file an annual certificate in Form 52-109F1.

Form 52-109F1 - Certification of Annual Filings

I, ***‹identify the certifying officer, the issuer, and his or her position at the issuer›***, certify that:

1. I have reviewed the annual filings (as this term is defined in Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*) of ***‹identify issuer›*** (the issuer) for the period ending ***‹state the relevant date›***;

2. Based on my knowledge, the annual filings do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make a statement not misleading in light of the circumstances under which it was made, with respect to the period covered by the annual filings;

3. Based on my knowledge, the annual financial statements together with the other financial information included in the annual filings fairly present in all material respects the financial condition, results of operations and cash flows of the issuer, as of the date and for the periods presented in the annual filings;

4. The issuer's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures and internal control over financial reporting for the issuer, and we have:

   (a) designed such disclosure controls and procedures, or caused them to be designed under our supervision, to provide reasonable assurance that material information relating to the issuer, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which the annual filings are being prepared;

   (b) designed such internal control over financial reporting, or caused it to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with the issuer's GAAP; and

   (c) evaluated the effectiveness of the issuer's disclosure controls and procedures as of the end of the period covered by the annual filings and have caused the issuer to disclose in the annual MD&A our conclusions about the effectiveness of the disclosure controls and procedures as of the end of the period covered by the annual filings based on such evaluation; and

5. I have caused the issuer to disclose in the annual MD&A any change in the issuer's internal control over financial reporting that occurred during the issuer's most recent interim period that has materially affected, or is reasonably likely to materially affect, the issuer's internal control over financial reporting.

Date: .....

_____
[Signature]
[Title]

Form 52-109FT1 - Certification of Annual Filings during Transition Period

I, ***‹identify the certifying officer, the issuer, and his or her position at the issuer›***, certify that:

1. I have reviewed the annual filings (as this term is defined in Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*) of ***‹identify issuer›*** (the issuer) for the period ending ***‹state the relevant date›***;

2. Based on my knowledge, the annual filings do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make a statement not misleading in light of the circumstances under which it was made, with respect to the period covered by the annual filings; and

3. Based on my knowledge, the annual financial statements together with the other financial information included in the annual filings fairly present in all material respects the financial condition, results of operations and cash flows of the issuer, as of the date and for the periods presented in the annual filings.

Date: .....

_____
[Signature]
[Title]

Form 52-109F2 - Certification of Interim Filings

I ***‹identify the certifying officer, the issuer, and his or her position at the issuer›***, certify that:

1. I have reviewed the interim filings (as this term is defined in Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*) of ***‹identify the issuer›***, (the issuer) for the interim period ending ***‹state the relevant date›***;

2. Based on my knowledge, the interim filings do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make a statement not misleading in light of the circumstances under which it was made, with respect to the period covered by the interim filings;

3. Based on my knowledge, the interim financial statements together with the other financial information included in the interim filings fairly present in all material respects the financial condition, results of operations and cash flows of the issuer, as of the date and for the periods presented in the interim filings;

4. The issuer's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures and internal control over financial reporting for the issuer, and we have:

   (a) designed such disclosure controls and procedures, or caused them to be designed under our supervision, to provide reasonable assurance that material information relating to the issuer, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which the interim filings are being prepared; and

   (b) designed such internal control over financial reporting, or caused it to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with the issuer's GAAP; and

5. I have caused the issuer to disclose in the interim MD&A any change in the issuer's internal control over financial reporting that occurred during the issuer's most recent interim period that has materially affected, or is reasonably likely to materially affect, the issuer's internal control over financial reporting.

Date: .....

_____
[Signature]
[Title]

Form 52-109FT2 - Certification of Interim Filings during Transition Period

I ***‹identify the certifying officer, the issuer, and his or her position at the issuer›***, certify that:

1. I have reviewed the interim filings (as this term is defined in Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*) of ***‹identify the issuer›***, (the issuer) for the interim period ending ***‹state the relevant date›***;

2. Based on my knowledge, the interim filings do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make a statement not misleading in light of the circumstances under which it was made, with respect to the period covered by the interim filings; and

3. Based on my knowledge, the interim financial statements together with the other financial information included in the interim filings fairly present in all material respects the financial condition, results of operations and cash flows of the issuer, as of the date and for the periods presented in the interim filings.

Date: .....

_____
[Signature]
[Title]

Companion Policy 52-109CP – To Multilateral Instrument 52-109
Certification of Disclosure in Issuers' Annual and Interim Filings

Part 1 – General

This Companion Policy provides information about how the provincial and territorial securities regulatory authorities interpret Multilateral Instrument 52-109, and should be read in conjunction with it.

Part 2 – Form and Filing of Certificates

The annual certificates and interim certificates must be filed in the exact language prescribed in Forms 52-109F1 and 52-109F2 (subject to Part 3 – Form of Certificates during Transition Period). Each certificate must be separately filed through SEDAR under the issuer's profile in the appropriate annual certificate or interim certificate filing type:

Category of Filing - Continuous Disclosure
Folder for Filing Type - General

Filing Type - Annual Certificates
Document Type:
Form 52-109F1 - Certification of Annual Filings - CEO
Form 52-109F1 - Certification of Annual Filings - CFO
Form 52-109FT1 - Certification of Annual Filings - CEO
Form 52-109FT1 - Certification of Annual Filings - CFO

or

Filing Type - Interim Certificates
Document Type:
Form 52-109F2 - Certification of Interim Filings - CEO
Form 52-109F2 - Certification of Interim Filings - CFO
Form 52-109FT2 - Certification of Interim Filings - CEO
Form 52-109FT2 - Certification of Interim Filings - CFO

As indicated in Part 11, an issuer that is in compliance with U.S. federal securities laws implementing the certification requirements in section 302(a) of the Sarbanes-Oxley Act, may be able to rely upon the exemptions from the annual certificate and interim certificate requirements under section 4.1. To avail itself of these exemptions, an issuer must file through SEDAR the certificates of the chief executive officer and chief financial officer that the issuer filed with SEC as exhibits to the annual or quarterly reports with respect to the relevant reporting period. These certificates should be filed in the appropriate filing type described above.

An issuer relying on the exemptions in section 4.1 of the Instrument need not file the paper copies of the signed certificates that it filed with, or furnished to, the SEC.

Part 3 – Certificates during Transition Period

Section 5.2 provides for a transition period for the filing of both annual certificates and interim certificates.

Pursuant to section 2.1, an issuer is required to file its annual certificates in Form 52-109F1. Under subsection 5.2(1)(b), however, an issuer may file annual certificates in Form 52-109FT1 in respect of any financial year ending on or before March 30, 2005. Form 52-109FT1 does not require the certifying officers to make the representations set out in paragraphs 4 and 5 of Form 52-109F1 regarding the design of disclosure controls and procedures and internal control over financial reporting, the evaluation of the effectiveness of disclosure controls and procedures and any changes in the issuer's internal control over financial reporting.

Pursuant to section 3.1, an issuer is required to file its interim certificates in Form 52-109F2. Under subsection 5.2(2)(b), however, an issuer may file interim certificates in Form 52-109FT2 in respect of any interim period that occurs prior to the end of the first financial year in respect of which the issuer is required to file an annual certificate in Form 52-109F1. The representations set out in paragraphs 4 and 5 of Form 52-109F1 will serve as the basis for the corresponding representations set out in paragraphs 4 and 5 of Form 52-109F2.

Upon completion of the transition period, issuers must file annual certificates and interim certificates in Forms 52-109F1 and 52-109F2, respectively, which will include the representations in paragraph 4 of these forms. For further clarification, we do not

expect the representations in paragraph 4 to extend to the prior period comparative information included in the annual filings or interim filings if:

(a) the prior period comparative information was previously the subject of certificates in Forms 52-109FT1 or 52-109FT2; or

(b) the Instrument did not require an annual certificate or interim certificate in respect of the prior period to be filed.

For illustration purposes only, the table in Appendix A sets out the filing requirements for annual certificates and interim certificates of issuers with financial years beginning on the first day of a month.

Part 4 – Persons Performing Functions Similar to a Chief Executive Officer and Chief Financial Officer

Where an issuer does not have a chief executive officer or chief financial officer, each person who performs similar functions to a chief executive officer or chief financial officer must certify the annual filings and interim filings. It is left to the issuer's discretion to determine who those persons are. In the case of an income trust reporting issuer (as described in proposed National Policy 41-201 *Income Trusts and Other Indirect Offerings*) where executive management resides at the underlying business entity level or in an external management company, we would generally consider the chief executive officer or chief financial officer of the underlying business entity or the external management company to be persons performing functions in respect of the income trust similar to a chief executive officer or chief financial officer. In the case of a limited partnership reporting issuer with no chief executive officer or chief financial officer, we would generally consider the chief executive officer or chief financial officer of its general partner to be persons performing functions in respect of the limited partnership reporting issuer similar to a chief executive officer or chief financial officer.

Part 5 – "New" Chief Executive Officers and Chief Financial Officers

Chief executive officers and chief financial officers (or persons performing functions similar to a chief executive officer or chief financial officer) holding such offices at the time that annual certificates and interim certificates are required to be filed are the persons who must sign those certificates. Certifying officers are required to file annual certificates and interim certificates in the specified form (without any amendment) and failure to do so will be a breach of the Instrument.

Pursuant to paragraphs 4(a) and (b) of Forms 52-109F1 and 52-109F2, the certifying officers are required to represent that they have designed (or caused to be designed under their supervision) disclosure controls and procedures and internal control over financial reporting. There may be situations where an issuer's disclosure controls and procedures and internal control over financial reporting have been designed and implemented prior to the certifying officers assuming their respective offices. We recognize that in these situations the certifying officers may have difficulty in representing that they have designed or caused to be designed these controls and procedures. In our view, where:

(a) disclosure controls and procedures and internal control over financial reporting have been designed and implemented prior to the certifying officers assuming their respective offices;

(b) the certifying officers have reviewed the existing controls and procedures upon assuming their respective offices; and

(c) the certifying officers have designed (or caused to be designed under their supervision) any modifications or enhancements to the existing controls and procedures determined to be necessary following their review,

the certifying officers will have designed (or caused to be designed under their supervision) these controls and procedures for the purposes of paragraphs 4(a) and (b) of Forms 52-109F1 and 52-109F2.

Part 6 – Internal Control over Financial Reporting and Disclosure Controls and Procedures

We believe that chief executive officers and chief financial officers should be required to certify that their issuers have adequate internal control over financial reporting and disclosure controls and procedures. We believe that this is an important factor in maintaining integrity in our capital markets and thereby enhancing investor confidence in our capital markets. The Instrument defines "disclosure controls and procedures" and "internal control over financial reporting". The Instrument does not, however, prescribe the degree of complexity or any specific policies or procedures that must make up those controls and procedures. This is intentional. In our view, these considerations are best left to management's judgement based on various factors that may be particular to an issuer, including its size, the nature of its business and the complexity of its operations.

While there is a substantial overlap between the definition of disclosure controls and procedures and internal control over financial reporting, there are both some elements of disclosure controls and procedures that are not subsumed within the definition of internal control over financial reporting and some elements of internal control over financial reporting that are not subsumed within the definition of disclosure controls and procedures. For example, disclosure controls and procedures may

include those components of internal control over financial reporting that provide reasonable assurances that transactions are recorded as necessary to permit the preparation of financial statements in accordance with the issuer's GAAP. However, some issuers may design their disclosure controls and procedures so that certain components of internal control over financial reporting pertaining to the accurate recording of transactions and disposition of assets or to the safeguarding of assets are not included.

Part 7 – Evaluation of Effectiveness of Disclosure Controls and Procedures

Paragraph 4(c) of Form 52-109F1 requires the certifying officers to represent that they have evaluated the effectiveness of the issuer's disclosure controls and procedures and have caused the issuer to disclose in the annual MD&A their conclusions about the effectiveness of the disclosure controls and procedures based on such evaluation. The Instrument does not specify the contents of the certifying officers' report on its evaluation of disclosure controls and procedures; however, given that disclosure controls and procedures should be designed to provide, at a minimum, reasonable assurance of achieving their objectives, the report should set forth, at a minimum, the conclusions of the certifying officers as to whether the controls and procedures are, in fact, effective at the "reasonable assurance" level.

Part 8 – Fair Presentation

Pursuant to the third paragraph in each of the annual certificates and interim certificates, the chief executive officer and chief financial officer must each certify that their issuer's financial statements and other financial information "fairly present" the financial condition of the issuer for the relevant time period. Those representations are not qualified by the phrase "in accordance with generally accepted accounting principles" which Canadian auditors typically include in their financial statement audit reports. This qualification has been specifically excluded from the Instrument to prevent management from relying entirely upon compliance with the issuer's GAAP in this representation, particularly where the issuer's GAAP financial statements may not reflect the financial condition of an issuer (since the issuer's GAAP does not always define all the components of an overall fair presentation).

The Instrument requires the certifying officers to certify that the financial statements (including prior period comparative financial information) *and the other financial information* included in the annual filings and interim filings fairly present the issuer's financial condition, results of operation and cash flows. The certification statement regarding the fair presentation of financial statements and other information is not limited to a representation that the financial statements and other financial information have been presented in accordance with the issuer's GAAP. We believe that this is appropriate as the certification is intended to provide assurances that the financial information disclosed in the annual filings and interim filings, viewed in their entirety, meets a standard of overall material accuracy and completeness that is broader than financial reporting requirements under GAAP. As a result, issuers are not entitled to limit the representation to Canadian GAAP, US GAAP or any other source of generally accepted accounting principles.

We do not believe that a formal definition of fair presentation is appropriate as it encompasses a number of qualitative and quantitative factors that may not be applicable to all issuers. In our view, fair presentation includes but is not necessarily limited to:

- selection of appropriate accounting policies
- proper application of appropriate accounting policies
- disclosure of financial information that is informative and reasonably reflects the underlying transactions
- inclusion of additional disclosure necessary to provide investors with a materially accurate and complete picture of financial condition, results of operations and cash flows

The concept of fair presentation as used in the annual certificates and interim certificates is not limited to compliance with the issuer's GAAP; however, it is not intended to permit an issuer to depart from the issuer's GAAP recognition and measurement principles in the preparation of its financial statements. In the event that an issuer is of the view that there are limitations to the issuer's GAAP based financial statements as an indicator of the issuer's financial condition, the issuer should provide additional disclosure in its MD&A necessary to provide a materially accurate and complete picture of the issuer's financial condition, results of operations and cash flows.

For additional commentary on what constitutes fair presentation we refer you to case law in this area. The leading U.S. case in this area is *U.S. v. Simon* (425 F.2d 796); the leading Canadian case in this area is the B.C. Court of Appeal decision in *Kripps v. Touche Ross and Co.* [1997] B.C.J. No. 968.

Part 9 – Financial Condition

Pursuant to the third paragraph in each of the annual certificates and interim certificates, the chief executive officer and chief financial officer must each certify that their issuer's financial statements fairly present the financial condition of the issuer for the relevant time period. The Instrument does not formally define financial condition. The term "financial condition" in the annual certificates and interim certificates is intended to be used in the same manner as the term "financial condition" is used in The Canadian Institute of Chartered Accountants' MD&A Guidelines and NI 51-102. In our view, financial condition encompasses a number of qualitative and quantitative factors which would be difficult to enumerate in a comprehensive list applicable to all issuers. Financial condition of an issuer includes, without limitation, considerations such as:

- liquidity
- solvency
- capital resources
- overall financial health of the issuer's business
- current and future considerations, events, risks or uncertainties that might impact the financial health of the issuer's business

Part 10 – Consolidation

Issuers are required to prepare their financial statements on a consolidated basis under the issuer's GAAP. As a result the representations in paragraphs 2 and 3 of the certification will extend to consolidated financial statements. In addition, when the certifying officers provide these two representations, we expect that these representations will indicate that their issuers' disclosure controls and procedures provide reasonable assurance that material information relating to their issuers *and their consolidated subsidiaries* is made known to them.

We are of the view that regardless of the level of control that an issuer has over a consolidated subsidiary, management of the issuer has an obligation to present consolidated disclosure that includes a fair presentation of the financial condition of the subsidiary. An issuer needs to maintain adequate internal control over financial reporting and disclosure controls and procedures to accomplish this. In the event that a chief executive officer or chief financial officer is not satisfied with his or her issuer's controls and procedures insofar as they relate to consolidated subsidiaries, the chief executive officer or chief financial officer should cause the issuer to disclose in its MD&A his or her concerns regarding such controls and procedures.

An issuer's financial results and MD&A may consolidate those of a subsidiary which is also a reporting issuer. In those circumstances, it is left to the business judgment of the certifying officers of the issuer to determine the level of due diligence required in respect of the consolidated subsidiary in order to provide the issuer's certification.

Part 11 – Exemptions

The exemptions in section 4.1 of the Instrument are based on our view that the investor confidence aims of the Instrument do not justify requiring issuers to comply with the certification requirements in the Instrument if such issuers already comply with substantially similar requirements in the U.S.

As a condition to being exempt from the annual certificate and interim certificate requirements under subsections 4.1(1) and (2) respectively, issuers must file through SEDAR the certificates of the chief executive officer and chief financial officer that they filed with the SEC in compliance with its rules implementing the certification requirements prescribed in section 302(a) of the Sarbanes-Oxley Act.

Pursuant to NI 52-107 certain Canadian issuers are able to satisfy their requirements to file financial statements prepared in accordance with Canadian GAAP by filing statements prepared in accordance with US GAAP. However, it is possible that some Canadian issuers may still continue to prepare two sets of financial statements and continue to file their Canadian GAAP statements in the applicable jurisdictions. In order to ensure that the Canadian GAAP financial statements are certified (pursuant to either the Sarbanes-Oxley Act or the Instrument) those issuers will not have recourse to the exemptions in subsections 4.1(1) and (2).

Part 12 – Liability for False Certification

An officer providing a false certification potentially could be subject to quasi-criminal, administrative or civil proceedings under securities law.

Officers providing a false certification could also potentially be subject to private actions for damages either at common law or, in Québec, under civil law, or under the *Securities Act* (Ontario) when amendments which create statutory civil liability for misrepresentations in continuous disclosure are proclaimed in force. The liability standard applicable to a document required to be filed with the Ontario Securities Commission, including an annual certificate or interim certificate, will depend on whether the document is a "core" document as defined under Part XXIII.1 of the *Securities Act* (Ontario). Annual certificates and interim certificates are currently not included in the definition of "core document" but would be caught by the definition of "document".

In any action commenced under Part XXIII.1 of the *Securities Act* (Ontario) a court has the discretion to treat multiple misrepresentations having common subject matter or content as a single misrepresentation. This provision could permit a court in appropriate cases to treat a misrepresentation in an issuer's financial statements and a misrepresentation made by an officer in an annual certificate or interim certificate that relate to the underlying financial statements as a single misrepresentation.

Appendix A – Annual Certificate and Interim Certificate Filing Requirements

For illustration purposes only, the following table sets out the filing requirements for annual certificates and interim certificates for issuers with financial years beginning on the first day of a month.

Financial Year Beginning On	Financial Period	Annual Certificate Required	Interim Certificate Required	Form of Certificate[1]
January 1 **(i.e. year end of December 31)**	Financial year January 1, 2003 to December 31, 2003	No	Not Applicable	*The Instrument does not apply to financial years beginning before January 1, 2004.*
	Interim period January 1, 2004 to March 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate[2]
	Interim period April 1, 2004 to June 30, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period July 1, 2004 to September 30, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year January 1, 2004 to December 31, 2004	Yes	Not Applicable	"Bare" Annual Certificate[3]
	Interim period January 1, 2005 to March 31, 2005	Not Applicable	Yes	"Bare" Interim Certificate *(If an issuer voluntarily filed its annual certificate for financial year January 1, 2004 to December 31, 2004 as a "Full" Annual Certificate[4], the issuer should file its interim certificate as a "Full" Interim Certificate.[5])*
	Interim period April 1, 2005 to June 30, 2005	Not Applicable	Yes	"Bare" Interim Certificate *(If an issuer voluntarily filed its annual certificate for financial year January 1, 2004 to December 31, 2004 as a "Full" Annual Certificate, the issuer should file its interim certificate as a "Full" Interim Certificate.)*
	Interim period July 1, 2005 to September 30, 2005	Not Applicable	Yes	"Bare" Interim Certificate *(If an issuer voluntarily filed its annual certificate for financial year January 1, 2004 to December 31, 2004 as a "Full" Annual Certificate, the issuer should file its interim certificate as a "Full" Interim Certificate.)*

1 Where the form requirement specified is a "bare" annual certificate, issuers may voluntarily choose to file a "full" annual certificate. Where the form requirement specified is a "bare" interim certificate, issuers may voluntarily choose to file a "full" interim certificate.

2 For the purposes of Appendix A, ""bare" interim certificate" means a certificate in Form 52-109FT2.

3 For the purposes of Appendix A, ""bare" annual certificate" means a certificate in Form 52-109FT1.

4 For the purposes of Appendix A, ""full" annual certificate" means a certificate in Form 52-109F1.

5 For the purposes of Appendix A, ""full" interim certificate" means a certificate in Form 52-109F2.

Financial Year Beginning On	Financial Period	Annual Certificate Required	Interim Certificate Required	Form of Certificate[1]
	Financial year January 1, 2005 to December 31, 2005 and each successive financial year	Yes	Not Applicable	"Full" Annual Certificate
	Interim period January 1, 2006 to March 31, 2006 and each successive interim period	Not Applicable	Yes	"Full" Interim Certificate
February 1 **(i.e. year end of January 31)**	Financial year February 1, 2003 to January 31, 2004	No	Not Applicable	*The Instrument does not apply to financial years beginning before January 1, 2004.*
	Interim period February 1, 2004 to April 30, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period May 1, 2004 to July 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period August 1, 2004 to October 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year February 1, 2004 to January 31, 2005	Yes	Not Applicable	"Bare" Annual Certificate
	Interim period February 1, 2005 to April 30, 2005	Not Applicable	Yes	"Bare" Interim Certificate *(If an issuer voluntarily filed its annual certificate for financial year February 1, 2004 to January 31, 2005 as a "Full" Annual Certificate, the issuer should file its interim certificate as a "Full" Interim Certificate.)*
	Interim period May 1, 2005 to July 31, 2005	Not Applicable	Yes	"Bare" Interim Certificate *(If an issuer voluntarily filed its annual certificate for financial year February 1, 2004 to January 31, 2005 as a "Full" Annual Certificate, the issuer should file its interim certificate as a "Full" Interim Certificate.)*
	Interim period August 1, 2005 to October 31, 2005	Not Applicable	Yes	"Bare" Interim Certificate *(If an issuer voluntarily filed its annual certificate for financial year February 1, 2004 to January 31, 2005 as a "Full" Annual Certificate, the issuer should file its interim certificate as a "Full" Interim Certificate.)*
	Financial year February 1, 2005 to January 31, 2006 and each successive financial year	Yes	Not Applicable	"Full" Annual Certificate

Financial Year Beginning On	Financial Period	Annual Certificate Required	Interim Certificate Required	Form of Certificate[1]
	Interim period February 1, 2006 to April 30, 2006 and each successive interim period	Not Applicable	Yes	"Full" Interim Certificate
March 1 **(i.e. year end of February 28/29)**	Interim period September 1, 2003 to November 30, 2003	Not Applicable	No	*The Instrument does not apply to interim periods beginning before January 1, 2004.*
	Financial year March 1, 2003 to February 29, 2004	No	Not Applicable	*The Instrument does not apply to financial years beginning before January 1, 2004.*
	Interim period March 1, 2004 to May 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period June 1, 2004 to August 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period September 1, 2004 to November 30, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year March 1, 2004 to February 28, 2005	Yes	Not Applicable	"Bare" Annual Certificate
	Interim period March 1, 2005 to May 31, 2005	Not Applicable	Yes	"Bare" Interim Certificate *(If an issuer voluntarily filed its annual certificate for financial year March 1, 2004 to February 28, 2005 as a "Full" Annual Certificate, the issuer should file its interim certificate as a "Full" Interim Certificate.)*
	Interim period June 1, 2005 to August 31, 2005	Not Applicable	Yes	"Bare" Interim Certificate *(If an issuer voluntarily filed its annual certificate for financial year March 1, 2004 to February 28, 2005 as a "Full" Annual Certificate, the issuer should file its interim certificate as a "Full" Interim Certificate.)*
	Interim period September 1, 2005 to November 30, 2005	Not Applicable	Yes	"Bare" Interim Certificate *(If an issuer voluntarily filed its annual certificate for financial year March 1, 2004 to February 28, 2005 as a "Full" Annual Certificate, the issuer should file its interim certificate as a "Full" Interim Certificate.)*
	Financial year March 1, 2005 to February 28, 2006 and each successive financial year	Yes	Not Applicable	"Full" Annual Certificate

Financial Year Beginning On	Financial Period	Annual Certificate Required	Interim Certificate Required	Form of Certificate[1]
	Interim period March 1, 2006 to May 31, 2006 and each successive interim period	Not Applicable	Yes	"Full" Interim Certificate
April 1 **(i.e. year end of March 31)**	Interim period October 1, 2003 to December 31, 2003	Not Applicable	No	*The Instrument does not apply to interim periods beginning before January 1, 2004.*
	Financial year April 1, 2003 to March 31, 2004	No	Not Applicable	*The Instrument does not apply to financial years beginning before January 1, 2004.*
	Interim period April 1, 2004 to June 30, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period July 1, 2004 to September 30, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period October 1, 2004 to December 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year April 1, 2004 to March 31, 2005 and each successive financial year	Yes	Not Applicable	"Full" Annual Certificate
	Interim period April 1, 2005 to June 30, 2005 and each successive interim period	Not Applicable	Yes	"Full" Interim Certificate
May 1 **(i.e. year end of April 30)**	Interim period November 1, 2003 to January 31, 2004	Not Applicable	No	*The Instrument does not apply to interim periods beginning before January 1, 2004.*
	Financial year May 1, 2003 to April 30, 2004	No	Not Applicable	*The Instrument does not apply to financial years beginning before January 1, 2004.*
	Interim period May 1, 2004 to July 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period August 1, 2004 to October 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period November 1, 2004 to January 31, 2005	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year May 1, 2004 to April 30, 2005 and each successive financial year	Yes	Not Applicable	"Full" Annual Certificate

Financial Year Beginning On	Financial Period	Annual Certificate Required	Interim Certificate Required	Form of Certificate[1]
	Interim period May 1, 2005 to July 31, 2005 and each successive interim period	Not Applicable	Yes	"Full" Interim Certificate
June 1 **(i.e. year end of May 31)**	Interim period September 1, 2003 to November 30, 2003	Not Applicable	No	*The Instrument does not apply to interim periods beginning before January 1, 2004.*
	Interim period December 1, 2003 to February 29, 2004	Not Applicable	No	*The Instrument does not apply to interim periods beginning before January 1, 2004.*
	Financial year June 1, 2003 to May 31, 2004	No	Not Applicable	*The Instrument does not apply to financial years beginning before January 1, 2004.*
	Interim period June 1, 2004 to August 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period September 1, 2004 to November 30, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period December 1, 2004 to February 28, 2005	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year June 1, 2004 to May 31, 2005 and each successive financial year	Yes	Not Applicable	"Full" Annual Certificate
	Interim period June 1, 2005 to August 31, 2005 and each successive interim period	Not Applicable	Yes	"Full" Interim Certificate
July 1 **(i.e. year end of June 30)**	Interim period October 1, 2003 to December 31, 2003	No	Not Applicable	*The Instrument does not apply to interim periods beginning before January 1, 2004*
	Interim period January 1, 2004 to March 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year July 1, 2003 to June 30, 2004	No	Not Applicable	*The Instrument does not apply to financial years beginning before January 1, 2004*
	Interim period July 1, 2004 to September 30, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period October 1, 2004 to December 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period January 1, 2005 to March 31, 2005	Not Applicable	Yes	"Bare" Interim Certificate

Financial Year Beginning On	Financial Period	Annual Certificate Required	Interim Certificate Required	Form of Certificate[1]
	Financial year July 1, 2004 to June 30, 2005 and each successive financial year	Yes	Not Applicable	"Full" Annual Certificate
	Interim period July 1, 2005 to September 30, 2005 and each successive interim period	Not Applicable	Yes	"Full" Interim Certificate
August 1 **(i.e. year end of July 31)**	Interim period November 1, 2003 to January 31, 2004	Not Applicable	No	*The Instrument does not apply to interim periods beginning before January 1, 2004.*
	Interim period February 1, 2004 to April 30, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year August 1, 2003 to July 31, 2004	No	Not Applicable	*The Instrument does not apply to financial years beginning before January 1, 2004.*
	Interim period August 1, 2004 to October 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period November 1, 2004 to January 31, 2005	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period February 1, 2005 to April 30, 2005	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year August 1, 2004 to July 31, 2005 and each successive financial year	Yes	Not Applicable	"Full" Annual Certificate
	Interim period August 1, 2005 to October 31, 2005 and each successive interim period	Not Applicable	Yes	"Full" Interim Certificate
September 1 **(i.e. year end of August 31)**	Interim period September 1, 2003 to November 30, 2003	Not Applicable	No	*The Instrument does not apply to interim periods beginning before January 1, 2004.*
	Interim period December 1, 2003 to February 29, 2004	Not Applicable	No	*The Instrument does not apply to interim periods beginning before January 1, 2004.*
	Interim period March 1, 2004 to May 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year September 1, 2003 to August 31, 2004	No	Not Applicable	*The Instrument does not apply to financial years beginning before January 1, 2004.*

Financial Year Beginning On	Financial Period	Annual Certificate Required	Interim Certificate Required	Form of Certificate[1]
	Interim period September 1, 2004 to November 30, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period December 1, 2004 to February 28, 2005	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period March 1, 2005 to May 31, 2005	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year September 1, 2004 to August 31, 2005 and each successive financial year	Yes	Not Applicable	"Full" Annual Certificate
	Interim period September 1, 2005 to November 30, 2005 and each successive interim period	Not Applicable	Yes	"Full" Interim Certificate
October 1 **(i.e. year end of September 30)**	Interim period October 1, 2003 to December 31, 2003	Not Applicable	No	*The Instrument does not apply to interim periods beginning before January 1, 2004.*
	Interim period January 1, 2004 to March 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period April 1, 2004 to June 30, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year October 1, 2003 to September 30, 2004	No	Not Applicable	*The Instrument does not apply to financial years beginning before January 1, 2004.*
	Interim period October 1, 2004 to December 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period January 1, 2005 to March 31, 2005	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period April 1, 2005 to June 30, 2005	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year October 1, 2004 to September 30, 2005 and each successive financial year	Yes	Not Applicable	"Full" Annual Certificate
	Interim period October 1, 2005 to December 31, 2005 and each successive interim period	Not Applicable	Yes	"Full" Interim Certificate

Financial Year Beginning On	Financial Period	Annual Certificate Required	Interim Certificate Required	Form of Certificate[1]
November 1 **(i.e. year end of October 31)**	Financial year November 1, 2002 to October 31, 2003	No	Not Applicable	*The Instrument does not apply to financial years beginning before January 1, 2004.*
	Interim period November 1, 2003 to January 31, 2004	Not Applicable	No	*The Instrument does not apply to interim periods beginning before January 1, 2004.*
	Interim period February 1, 2004 to April 30, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period May 1, 2004 to July 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year November 1, 2003 to October 31, 2004	No	Not Applicable	*The Instrument does not apply to financial years beginning before January 1, 2004.*
	Interim period November 1, 2004 to January 31, 2005	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period February 1, 2005 to April 30, 2005	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period May 1, 2005 to July 31, 2005	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year November 1, 2004 to October 31, 2005 and each successive financial year	Yes	Not Applicable	"Full" Annual Certificate
	Interim period November 1, 2005 to January 31, 2006 and each successive interim period	Not Applicable	Yes	"Full" Interim Certificate
December 1 **(i.e. year end of November 30)**	Financial year December 1, 2002 to November 30, 2003	No	Not Applicable	*The Instrument does not apply to financial years beginning before January 1, 2004.*
	Interim period December 1, 2003 to February 29, 2004	Not Applicable	No	*The Instrument does not apply to interim periods beginning before January 1, 2004.*
	Interim period March 1, 2004 to May 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period June 1, 2004 to August 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year December 1, 2003 to November 30, 2004	No	Not Applicable	*The Instrument does not apply to financial years beginning before January 1, 2004.*

Financial Year Beginning On	Financial Period	Annual Certificate Required	Interim Certificate Required	Form of Certificate[1]
	Interim period December 1, 2004 to February 28, 2005	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period March 1, 2005 to May 31, 2005	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period June 1, 2005 to August 31, 2005	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year December 1, 2004 to November 30, 2005 and each successive financial year	Yes	Not Applicable	"Full" Annual Certificate
	Interim period December 1, 2005 to February 28, 2006 and each successive interim period	Not Applicable	Yes	"Full" Interim Certificate

5.1.13 Summary of Comments and Responses Regarding the Cost-Benefit Analysis for Proposed Multilateral Instrument 52-110

SUMMARY OF COMMENTS AND RESPONSES
REGARDING THE COST-BENEFIT ANALYSIS
FOR PROPOSED MULTILATERAL INSTRUMENT 52-110

#	Theme	Comments	Responses
1.	General Comments	One commenter suggested that the document should include more details on some areas of the analysis that were just alluded to in the CBA. It was also noted that the discussion of the analytical techniques and variables used could be clearer. A number of comments suggested that the entire CBA be written in plain language with fewer technical details.	The Office of the Chief Economist greatly appreciates the constructive suggestions that were made regarding the cost-benefit analysis for proposed Multilateral Instrument 52-110. To start, it should be noted that this document was not intended as an academic research article. It was directed at a more general level of knowledge and so some details and the results from alternate model specifications were excluded in the interests of clarity for a wider audience. In response to those looking for more technical detail: • Following the standard procedure for two stage least squares regressions, all of the variables in the second stage are also included in the first stage. • Net Income is calculated using the standard definition and so it is an after tax figure. However that does not mean that EVA® is calculated as Net Income minus WACC/ Assets. As stated on page 22, EVA® was derived as the difference between return on capital and the cost of capital multiplied by the total capital invested.
2.	Calculation of Economic Value Added	One commenter questioned the focus on Economic Value Added as a measure of performance.	In terms of the dependent variable, there are two main reasons why Economic Value Added was the focus. Firstly, while there are other measures available, the evidence did suggest that EVA® was most likely to generate a robust result. Also, time constraints did not allow for testing of a number of alternatives to EVA® as a dependent variable. Second, it was decided to avoid measures of performance incorporating market valuations. As discussed at length in the study, earnings manipulation can raise market valuation, artificially and at least temporarily, above that for other firms. There have been a substantial number of recent examples of this in cases under enforcement in Canada and very heavily covered in the U.S. We would not expect to see a positive relationship between governance and market value for those firms whose actions lead to the Sarbanes-Oxley Act.
3.	Analysis limited to a “bear” market	One commenter stated that the time period used in the analysis (March 1999 to March 2003) represents a bear market. To ensure that the results are not biased, a longer time period involving an entire business cycle should be used.	While the range does include a substantial bull market from March 1999 to March 2001, there is the possibility that the time period being used is influencing our results. However, it is our belief that a longer time period would not be appropriate for the examination of earnings smoothing. Accrual accounting tends to reverse itself over longer time periods and so increasing the time window may conceal aggressive accounting behaviour.

#	Theme	Comments	Responses
4.	Definition of Earnings Smoothing	One commenter suggested that the measure of earnings management used in the analysis was the "least appropriate" measure and that the cost benefit analysis erroneously suggested that this was inter-changeable with alternate earnings management measures.	Although time constraints prevented us from testing all possible measures of our earnings smoothing, the one we did use is well-established in economic literature (see references) and at no point did we suggest that the alternatives were interchangeable. Clearly the different measures capture the effects of different incentives for and pressures on companies. Testing additional forms of earnings manipulation would produce one of two possible results: either the results would be insignificant with no impact on the analysis, or they would be significant and add to total benefits. Additional tests for robustness and other benefits, including increased liquidity, have been completed with positive results. Since these will only add to the total benefits estimated without altering the conclusion, the analysis has not been republished.
5.	Other variables to include	Commenters made a number of very constructive comments were made regarding improvements to our existing variable or alternate variable to use.	Having revisited the analysis we find that the definition of earnings does not make a substantive change to the impact of audit committee composition on the quality of earnings disclosure. We also found that using the correlation of accruals and cash flow produced results consistent with our initial analysis.
6.	Choice of variables	One commenter stated the cost benefit study suffers from a serious omitted correlated variable problem in the regression analysis which could lead to biased estimates.	It is agreed that omitted yet important variables can lead to bias in the estimated impact of the independent variables. Such issues are always a concern with econometric analysis. However, there is no specific evidence that this is a problem in the Cost-Benefit Analysis. Generally researchers want to avoid using variables that are correlated with both the dependent variable and other independent variables as that introduces its own bias into the model. A large number of other variables were tested during the early stages of the analysis, but, following standard practices, those that added nothing to the model were excluded.
7.	Presentation of results	One commenter made the assertion that the relationship between earnings smoothing and EVA® is only weakly supported by the evidence and that the other variables have a larger impact on performance.	The most important variables must always be included to ensure the model constructed is robust and avoids any problems associated with omitted variables. Major economic determinants are always expected to have the highest weight in a valid model. This is why, for this study and others that were reviewed, the earnings management variable had the lowest impact. Those familiar with econometric analysis will be aware that the key factor is that earnings smoothing did show a high probability of being statistically significantly in determining EVA®. If net income was not significantly more important in determining value-added for the majority of firms, that could be evidence of an incorrectly specified model.
8.	Calculation errors	One commenter pointed out that there is an error in the present value calculations in *Table 9*.	The suggested change has only minor implications for the top end of the range of estimated benefits. The primary concern was that the lower end of the benefit range was greater than the high-end cost estimate. This relationship was unaffected by the change.

#	Theme	Comments	Responses
9.	Calculation of benefits	One commenter suggested that there were errors in the process used to translate the estimated coefficients in to estimated dollar value benefits. These included errors in the estimated impact of audit committee independence and earnings smoothing, as well as calculating benefits for an incorrect number of firms.	The benefit calculation used the estimated impact of an independent audit committee and earnings smoothing (along with measures of the reliability of those estimates) to calculate the benefits that would accrue to firms. This was done for firms that would have to alter their audit committee composition as a result of the proposed multilateral instrument. To err on the side of caution we also used a measure of the fit of our analysis, R^2, to scale the estimated benefits. While this is not a standard econometric practice, staff reduced the projected benefits by half based on the R^2 to ensure that the estimates were as conservative as possible. Restoring the estimate to double the reported amount would show a stronger outcome, but would not affect the conclusions.
10.	Implications of Canada's market size	One commenter suggested that the calculation of benefits must more explicitly incorporate the distribution between small and large companies in Canada's markets.	It is true that smaller Canadian corporations are less likely to have an independent audit committee. But given that, smaller firms are more likely to reap the benefits of the proposed rule. The cost estimates were based on the average director costs for larger companies (approximately the 300 largest companies) and therefore are almost certain to overstate costs for smaller firms. Attempts to control for the effects of firm size were made, to the fullest extent possible, throughout the analysis and the authors are confident that are results are not biased by the composition of Canada's equity market.
11.	Alternatives to full independence	One commenter noted that the CBA focuses on audit committee independence while ignoring the possibility that a lesser standard might be sufficient.	Although some have found evidence that a majority of independent directors is as effective as full independence, other authors have found that even one management representative on the audit committee produces the same result as no independent members. Examples of such authors are Tuffano or Bédard (including his own response to the proposed instrument). Given that audit committees are generally quite small it is easy to see how even one individual related to management could influence outcomes. The preponderance of published research was relied upon to effectively use the limited time available for our research. If data and time allow, the analysis will be expanded to include other governance structures.
12.	Costs of a Financial Expert	One commenter suggested that forcing disclosure of whether or not a "financial expert" sits on the audit committee is the same as requiring that such an individual be on the committee. Therefore it should be included in the cost-benefit analysis. It was also noted that in research done on U.S. companies the presence of a financial expert did decrease manipulative accounting.	The additional costs of including this requirement were included in the cost-benefit analysis. There was no way, a priori, to determine how many companies would include a financial expert purely because disclosure was required. Canadian companies are subject to a number of guidelines and disclosure requirements and a significant number of issuers do not follow them. The empirical record in these instances does not support the claim that disclosure is a de facto requirement. The costs for having a financial expert were included in the CBA report, but not in the total costs. Adding the range for financial expertise to the total does not change the outcome with benefits still exceeding costs by a significant multiple.

#	Theme	Comments	Responses
			It should also be noted that even with an extreme estimate of all audit committees retaining a financial expert, the total high-end cost estimate would still only represent 0.014% of 2002 operating expenses.

Chapter 6

Request for Comments

6.1.1 Request for Comment - Notice of Proposed Multilateral Policy 58-201 Effective Corporate Governance and Proposed Multilateral Instrument 58-101 Disclosure of Corporate Governance Practices, Form 58-101F1 and Form 58-101F2

REQUEST FOR COMMENT

NOTICE OF PROPOSED MULTILATERAL POLICY
58-201 EFFECTIVE CORPORATE GOVERNANCE

AND

PROPOSED MULTILATERAL INSTRUMENT 58-101
DISCLOSURE OF CORPORATE GOVERNANCE PRACTICES,
FORM 58-101F1 AND FORM 58-101F2

This Notice accompanies proposed Multilateral Policy 58-201 *Effective Corporate Governance* (the Proposed Policy) and proposed Multilateral Instrument 58-101 *Disclosure of Corporate Governance Practices,* Form 58-101F1 and Form 58-101F2 (together, the Proposed Instrument). We are publishing the Proposed Policy and the Proposed Instrument for comment.

The purpose of the Proposed Policy is to confirm as best practice certain governance standards and guidelines that have evolved through legislative and regulatory reforms and the initiatives of other capital market participants. The purpose of the Proposed Instrument is to provide greater transparency for the marketplace regarding the nature and adequacy of issuers' corporate governance practices.

The Proposed Policy and Proposed Instrument are initiatives of certain members of the Canadian Securities Administrators. We expect the Proposed Policy to be adopted as a policy in each of Ontario, Saskatchewan, Alberta, Manitoba, Nova Scotia, Newfoundland and Labrador, New Brunswick, Prince Edward Island, the Yukon Territory, the Northwest Territories and Nunavut. We expect the Proposed Instrument to be adopted as a rule in Ontario, Alberta, Manitoba, Nova Scotia, and Newfoundland and Labrador, as a Commission regulation in Saskatchewan, as a policy in New Brunswick, Prince Edward Island and the Yukon Territory, and as a code in the Northwest Territories and Nunavut.

Background

The Proposed Policy and the Proposed Instrument represent one step in the evolution of corporate governance standards and practice. In 1994, a committee sponsored by the Toronto Stock Exchange (the TSX) published a report entitled *Where Were the Directors?* (the Dey Report). The Dey Report contained 14 recommendations to assist TSX-listed companies in their approach to corporate governance. In 1995, the TSX adopted the 14 recommendations as "best practice guidelines" and required every listed company to disclose annually their approach to corporate governance with reference to the guidelines, together with an explanation of any differences between the company's approach and the guidelines. The guidelines were not intended to be mandatory.

In 1999, the Institute of Corporate Directors and the TSX sponsored a report entitled *Five Years to the Dey*, which evaluated how Canadian companies were complying with the Dey Report's best practice guidelines. The report concluded that, although most companies took the guidelines seriously, important areas remained where general practice fell short of the guidelines' intent.

Subsequently, the Canadian Institute of Chartered Accountants (the CICA), the TSX, and the TSX Venture Exchange (then the Canadian Venture Exchange) established the Joint Committee on Corporate Governance in July 2000 (the Saucier Committee). The mandate of the Saucier Committee was to review the state of corporate governance in Canada and recommend changes in this area. The Saucier Committee's final report, released in November 2001, recommended that the TSX amend its corporate governance guidelines in a number of ways to bring them into line with international developments. On April 26, 2002, the TSX proposed changes to its guidelines for effective corporate governance in response to the Saucier Committee's recommendations.

In July, 2002, the *Sarbanes-Oxley Act* (SOX) was enacted in the United States. SOX prescribed a broad range of measures designed to restore the public's faith in the U.S. capital markets in the wake of several U.S. financial reporting scandals.

Recognizing the global implications of U.S reforms, particularly for Canadian capital markets, we initiated a review of the reforms that had been proposed or implemented in the U.S. and elsewhere for the purpose of considering whether we should adopt them in Canada. During the period of review, there have been a number of regulatory developments including, most recently, the approval of revised listing standards of the New York Stock Exchange (NYSE) and the Nasdaq Stock Market in November, 2003. At the same time, a number of Canadian institutional investors and other organizations have significantly influenced governance practices through proxy voting guidelines that focus on governance matters and by influencing the establishment of best practices.

The recommended practices contained in the Policy have been derived from:

- the TSX corporate governance guidelines, after giving effect to proposed modifications;
- the listing standards of the NYSE; and
- other regulatory, legislative and market driven developments.

In order to avoid regulatory duplication and overlap, the TSX intends to revoke its corporate governance guidelines and related disclosure requirements on the date the Proposed Policy and Proposed Instrument become effective.

Summary and Discussion of the Proposed Policy and Proposed Instrument

The Proposed Policy

The Proposed Policy confirms as best practice certain governance standards and guidelines that have resulted from legislative and regulatory reforms and the initiatives of other capital market participants. The best practices it recommends include:

- maintaining a majority of independent directors on the board of directors (the board)
- holding separate, regularly scheduled meetings of the independent directors
- appointing a chair of the board who is an independent director, or where this is not appropriate, appointing a lead director who is an independent director
- adopting a written board mandate
- developing position descriptions for directors and the chief executive officer
- providing each new director with a comprehensive orientation, as well as providing all directors with continuing education opportunities
- adopting a written code of business conduct and ethics
- appointing a nominating committee composed entirely of independent directors
- adopting a process for determining what competencies and skills the board as a whole should have, and applying this result to the recruitment process for new directors
- appointing a compensation committee composed entirely of independent directors
- conducting regular assessments of board effectiveness, as well as the effectiveness and contribution of each board committee and each individual director

Although the Proposed Policy applies to all reporting issuers, the recommendations in the Proposed Policy are not intended to be prescriptive. Instead, we encourage issuers to adopt the suggested measures, but they should be implemented flexibly and sensibly to fit the situation of individual issuers.

In developing the Proposed Policy and Proposed Instrument, we recognized that corporate governance is in a constant state of evolution. Consequently, we intend to review both the Proposed Policy and the Proposed Instrument during the two years following the implementation of these initiatives, to ensure that their recommendations and disclosure requirements continue to be appropriate for issuers in the Canadian marketplace.

The Proposed Instrument

The Proposed Instrument applies to all reporting issuers, other than investment funds, issuers of asset-backed securities, designated foreign issuers, SEC foreign issuers, certain exchangeable security issuers and certain credit support issuers. The Proposed Instrument establishes both disclosure requirements and the requirement to file any written code of business conduct and ethics that the issuer has adopted.

The Proposed Instrument requires an issuer to disclose those corporate governance practices it has adopted. The specific disclosure items are set out in Form 58-101F1. However, because we appreciate that many smaller issuers will have less formal procedures in place to ensure effective corporate governance, the Proposed Instrument requires issuers that are "venture issuers" to disclose only those items identified in Form 58-101F2.

The Proposed Instrument requires every issuer that has a written code of business conduct and ethics (a Code) to file a copy of that Code on SEDAR no later than the date on which the issuer's audited annual financial statements must be filed, unless a copy of such Code has previously been filed. In addition, any amendment to such Code must be filed on SEDAR no later than 30 days after the final form of amendment has been approved by the board of directors.

Where the board grants a waiver of the Code in favour of an officer or director of the issuer or a subsidiary entity of the issuer, the issuer must promptly issue and file on SEDAR a news release that describes the details of the waiver. Where the waiver granted is an implicit waiver, the news release must be issued and filed promptly upon the board becoming aware of such waiver.

Meaning of Independence

Similar to the definition of "independence" in Multilateral Instrument 52-110 *Audit Committees*, the definition of "independence" used in both the Proposed Policy and the Proposed Instrument is based upon corresponding definitions in the United States. For the purpose of the Proposed Policy and the Proposed Instrument, a director is independent if the he or she has no direct or indirect material relationship with the issuer. A "material relationship" is a relationship which could, in the view of the issuer's board, reasonably interfere with the exercise of a director's independent judgement. However, an individual described in subsection 1.4(3) of Multilateral Instrument 52-110 *Audit Committees* (other than an individual described in clauses 1.4(3)(f)(i) or (g) of that instrument) is considered to have a material relationship with the issuer. The relationships included in clauses 1.4(3)(f)(i) and (g) were derived from SEC rules applicable to audit committee members only. Consequently, as in the United States, the test of whether or not a director is independent is less onerous than that used for the purposes of determining the independence of an audit committee member.

Specific Request for Comment

We invite comment on these materials generally. In addition, we have raised the follow questions for your specific consideration.

1. The Proposed Policy and Proposed Instrument describe best practices and require issuers to make disclosure in relation to those best practices.

    (a) Will these initiatives provide useful guidance to issuers?

    (b) Will these initiatives provide meaningful disclosure to investors?

    (c) Would disclosure be more meaningful to investors if issuers were required to describe their practices by reference to certain categories of governance principles rather than by reference to the best practices described in the Policy?

    (d) What will be the effect on market participants, including investors and issuers, of our publishing best practices in Canada?

2. The Proposed Instrument does not require an issuer to adopt a code of ethics, but issuers who do not have one must explain why they do not. If an issuer does adopt a code, the Proposed Instrument requires the issuer to file the code, as well as any amendments on SEDAR. It also requires an issuer to prepare and file a news release respecting any express or implied waiver of the code.

    (a) Will the text of the code of ethics provide useful disclosure for investors?

    (b) Will disclosure of waivers from the code provide useful disclosure for investors?

(c) Since there is no requirement to have a code of ethics, will the obligations respecting filing the code and any amendments and reporting waivers from the code have the effect of discouraging issuers from adopting a code of ethics?

3. The Proposed Instrument does not require issuers to have a compensation committee, nor does it require that committee to be entirely independent or to have a charter, but if an issuer does not have these structures, it must explain why not. An issuer is required to state whether it has a compensation committee, whether that committee is independent and whether it has a compensation committee charter. If there is a charter, the text of the charter must be disclosed. Additionally, the Proposed Instrument requires an issuer to disclose the process used to determine compensation, but that disclosure is only required if the issuer does not have a compensation committee.

   (a) Would it be useful to investors for the issuer to disclose the process used to determine compensation, regardless of whether it has a compensation committee?

   (b) Is disclosure of the text of the compensation committee's charter useful to investors?

4. The Proposed Instrument does not require issuers to have a nominating committee, nor does it require that committee to be entirely independent or to have a charter, but if an issuer does not have these structures, it must explain why not. An issuer is required to state whether it has a nominating committee, whether any such committee is independent and whether it has a nominating committee charter. If there is a charter, the text of the charter must be disclosed. Additionally, the Proposed Instrument requires an issuer to disclose the process by which candidates are selected for board nomination, but that disclosure is only required if the issuer does not have a nominating committee.

   (a) Would it be useful to investors for the issuer to disclose the process by which candidates are selected for board nomination, regardless of whether it has a nominating committee?

   (b) Is disclosure of the text of the nominating committee's charter useful to investors?

5. The Proposed Instrument requires an issuer to disclose the process used to assess the performance of the board, committee chairs and CEO, but that disclosure is only required if the issuer does not have written position descriptions for those roles. Would it be useful for investors for the issuer to disclose the assessment process, regardless of whether it has written position descriptions?

Authority for the Instrument – Ontario

In Ontario, securities legislation provides the Ontario Securities Commission (the OSC) with rule-making or regulation-making authority regarding the subject matter of the Proposed Instrument.

Paragraph 143(1)22 of the *Securities Act* (Ontario) (the Act) authorizes the OSC to prescribe requirements in respect of the preparation and dissemination and other use, by reporting issuers, of documents providing for continuous disclosure that are in addition to the requirements under the Act, including requirements in respect of an annual information form.

Paragraph 143(1)39 of the Act authorizes the OSC to make rules requiring or respecting the media, format, preparation, form, content, execution, certification, dissemination and other use, filing and review of all documents required under or governed by the Act, the regulations or the rules and all documents determined by the regulations or the rules to be ancillary to the documents.

Paragraph 143(1)44 of the Act authorizes the OSC to vary the Act to permit or require the use of an electronic or computer-based system for the filing, delivery or deposit of (a) documents or information required under or governed by the Act, the regulations or rules, and (b) documents determined by the regulations or rules to be ancillary to documents required under or governed by the Act, the regulations or rules.

Related Instruments

The Proposed Instrument is related to National Instrument 51-102 *Continuous Disclosure Obligations,* National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers* and Multilateral Instrument 52-110 *Audit Committees*.

Anticipated Costs and Benefits of Proposed Instrument

The Proposed Instrument will provide greater transparency for the marketplace regarding the nature and adequacy of issuers' corporate governance practices. It is anticipated that the benefits of such transparency, including enhanced investor confidence in Canadian capital markets, will exceed the relatively nominal cost for issuers to provide the disclosure required by the

Proposed Instrument. We note that issuers currently incur equivalent costs to comply with the TSX's corporate governance disclosure requirements.

Alternatives Considered

In developing the Proposed Policy and Proposed Instrument, we considered seeking legislative authority to require reporting issuers to adopt certain corporate governance practices. However, we appreciate that corporate governance is in a constant state of evolution, and that some "best practices" may not be appropriate for all issuers. Consequently, we determined to confirm as best practices certain corporate governance standards and guidelines and to require issuers to disclose those corporate governance practices they currently utilize.

Reliance on Unpublished Studies, Etc.

In developing the Proposed Policy and Proposed Instrument, we did not rely upon any significant unpublished study, report or other written materials.

Comments

Interested parties are invited to make written submissions on the Proposed Policy and Proposed Instrument. Submissions received by April 15, 2004 will be considered. **Due to timing concerns, comments received after the deadline will not be considered.**

Submissions should be addressed to the following securities regulatory authorities:

Alberta Securities Commission
Saskatchewan Securities Commission
Manitoba Securities Commission
Ontario Securities Commission
Nova Scotia Securities Commission
Securities Administration Branch, New Brunswick
Office of the Attorney General, Prince Edward Island
Securities Commission of Newfoundland and Labrador
Registrar of Securities, Government of Yukon
Registrar of Securities, Department of Justice, Government of the Northwest Territories
Registrar of Securities, Legal Registries Division, Department of Justice, Government of Nunavut

Please deliver your comments to the address below. Your comments will be distributed to the other participating CSA members.

John Stevenson, Secretary
Ontario Securities Commission
20 Queen Street West
Suite 1900, Box 55
Toronto, Ontario M5H 3S8
Fax: (416) 593-2318
E-mail: jstevenson@osc.gov.on.ca

A diskette containing the submissions (in Windows format, preferably Word) should also be submitted.

Comment letters submitted in response to requests for comments are placed on the public file and form part of the public record, unless confidentiality is requested. Comment letters will be circulated among the securities regulatory authorities, whether or not confidentiality is requested. Although comment letters requesting confidentiality will not be placed in the public file, freedom of information legislation may require securities regulatory authorities to make comment letters available. Persons submitting comment letters should therefore be aware that the press and members of the public may be able to obtain access to any comment letters.

Questions may be referred to the following people:

Rick Whiler
Ontario Securities Commission
Telephone: (416) 593-8127
E-mail: rwhiler@osc.gov.on.ca

Michael Brown
Ontario Securities Commission
Telephone: (416) 593-8266
E-mail: mbrown@osc.gov.on.ca

Text of Proposed Policy and Proposed Instrument

The text of the Proposed Policy and the Proposed Instrument follow.

January 16, 2004.

6.1.2 Proposed Multilateral Policy 58-201 Effective Corporate Governance

PROPOSED
MULTILATERAL POLICY 58-201
EFFECTIVE CORPORATE GOVERNANCE

Part One
Introduction

1.1 Background and Purpose of this Policy - (1) This Policy represents one step in the evolution of corporate governance standards and practice. In 1994, a committee sponsored by the Toronto Stock Exchange (the TSX) published a report entitled *Where Were the Directors?* (the Dey Report). The Dey Report contained 14 recommendations to assist TSX-listed companies in their approach to corporate governance. In 1995, the TSX adopted the 14 recommendations as "best practice guidelines" and required every listed company to disclose annually their approach to corporate governance with reference to the guidelines, together with an explanation of any differences between the company's approach and the guidelines. The guidelines were not intended to be mandatory.

In 1999, the Institute of Corporate Directors and the TSX sponsored a report entitled *Five Years to the Dey*, which evaluated how Canadian companies were complying with the Dey Report's best practice guidelines. The report concluded that, although most companies took the guidelines seriously, important areas remained where general practice fell short of the guidelines' intent.

Subsequently, the Canadian Institute of Chartered Accountants (the CICA), the TSX, and the TSX Venture Exchange (then the Canadian Venture Exchange) established the Joint Committee on Corporate Governance in July 2000 (the Saucier Committee). The mandate of the Saucier Committee was to review the state of corporate governance in Canada and recommend changes in this area. The Saucier Committee's final report, released in November 2001, recommended that the TSX amend its corporate governance guidelines in a number of ways to bring them into line with international developments. On April 26, 2002, the TSX proposed changes to its guidelines for effective corporate governance in response to the Saucier Committee's recommendations.

In July, 2002, the *Sarbanes-Oxley Act* (SOX) was enacted in the United States. SOX prescribed a broad range of measures designed to restore the public's faith in the U.S. capital markets in the wake of several U.S. financial reporting scandals. Recognizing the global implications of U.S reforms, particularly for Canadian capital markets, we initiated a review of the reforms that had been proposed or implemented in the U.S. and elsewhere for the purpose of considering whether we should adopt them in Canada. During the period of review, there have been a number of regulatory developments including, most recently, the approval of revised listing standards of the New York Stock Exchange and the Nasdaq Stock Market in November, 2003. At the same time, a number of Canadian institutional investors and other organizations have significantly influenced governance practices through proxy voting guidelines that focus on governance matters and by influencing the establishment of best practices.

This Policy has been adopted by the securities regulatory authorities in Ontario, Saskatchewan, Alberta, Manitoba, Nova Scotia, New Brunswick, Prince Edward Island, Newfoundland and Labrador, the Yukon Territory, the Northwest Territories and Nunavut. The purpose of the Policy is to confirm as best practice certain governance standards and guidelines that have evolved through the confluence of legislative and regulatory reforms and the initiatives of other capital market participants. In developing the policy, we recognize that our Canadian approach to corporate governance must:

- achieve a balance between providing protection to investors and fostering fair and efficient capital markets and confidence in capital markets;
- be sensitive to the realities of the greater numbers of small companies and controlled companies in the Canadian corporate landscape;
- take into account the impact of developments in the U.S. and around the world; and
- recognize that corporate governance is in a constant state of evolution.

1.2 Application of this Policy – This Policy provides guidance on corporate governance practices. The recommendations in this Policy are not intended to be prescriptive. We encourage issuers to adopt the suggested measures, but they should be implemented flexibly and sensibly to fit the situation of individual issuers.

1.3 Non-Corporate Entities – This Policy applies to all reporting issuers, other than investment funds. Consequently, it applies to both corporate and non-corporate entities. Where this Policy refers to a particular corporate characteristic,

such as a board of directors (the board), the reference should be read to also include any equivalent characteristic of a non-corporate entity.

E.g., In the case of an income trust, we recommend that a majority of the trustees be independent of the trust and the underlying business. Similarly, in the case of a limited partnership, we recommend that a majority of the directors of the general partner be independent of the limited partnership (including the general partner).

Part Two
Effective Corporate Governance

2.1 Meaning of Independence – For the purposes of this Policy, a director is independent if he or she has no direct or indirect material relationship with the issuer. A "material relationship" is a relationship which could, in the view of the issuer's board, reasonably interfere with the exercise of a director's independent judgement. However, an individual described in subsection 1.4(3) of Multilateral Instrument 52-110 *Audit Committees* (other than an individual described in clauses 1.4(3)(f)(i) or (g) of that instrument) is considered to have a material relationship with the issuer.

2.2 Recommended Best Practices –

Composition of the Board

1. The board should be composed of a majority of independent directors.

2. The independent board members should hold separate, regularly scheduled meetings at which members of management are not in attendance.

3. The chair of the board should be an independent director. Where this is not appropriate, an independent director may be appointed to act as "lead director". However, either the independent chair or independent lead director should act as the effective leader of the board and ensure that the board's agenda will enable it to successfully carry out its duties.

Board Mandate

4. The board should adopt a written mandate in which it explicitly assumes responsibility for the stewardship of the issuer, including responsibility for:

   (a) to the extent feasible, satisfying itself as to the integrity of the chief executive officer (the CEO) and other senior officers and that the CEO and other senior officers create a culture of integrity throughout the organization;

   (b) adopting a strategic planning process and approving, on at least an annual basis, a strategic plan which takes into account, among other things, the opportunities and risks of the business;

   (c) identifying the principal risks of the issuer's business, and ensuring the implementation of appropriate systems to manage these risks;

   (d) succession planning (including appointing, training and monitoring senior management);

   (e) adopting a communication policy for the issuer;

   (f) ensuring the integrity of the issuer's internal control and management information systems; and

   (g) developing the issuer's approach to corporate governance, including developing a set of corporate governance principles and guidelines that are specifically applicable to the issuer.[1]

The written mandate of board should also set out

(i) the decisions requiring prior approval of the board,

(ii) measures for receiving feedback from security holders, and

[1] Issuers may consider appointing a corporate governance committee to consider these issues. A corporate governance committee should be comprised of a majority of independent directors, with the remaining members being "non-management" directors.

(iii) the board's expectations of management.

In developing an effective communication policy for the issuer, issuers should also refer to the guidance set out in National Policy 51-201 *Disclosure Standards*.

Position Descriptions

5. The board should develop clear position descriptions for directors, including the chair of the board and the chair of each board committee. In addition, the board, together with the CEO, should develop a clear position description for the CEO, which includes delineating management's responsibilities. The board should also develop or approve the corporate goals and objectives that the CEO is responsible for meeting.

Orientation and Continuing Education

6. The board should ensure that all new directors receive a comprehensive orientation. All new directors should fully understand the role of the board and its committees, as well as the contribution individual directors are expected to make (including, in particular, the commitment of time and energy that the issuer expects from its directors).[2] All new directors should also fully understand the nature and operation of the issuer's business.

7. The board should provide continuing education opportunities for all directors, so that individuals may maintain or enhance their skills and abilities as directors, as well as to ensure their knowledge and understanding of the issuer's business remains current.

Code of Business Conduct and Ethics

8. The board should adopt a written code of business conduct and ethics (a Code). The Code should be applicable to directors, officers and employees of the issuer. The Code should constitute written standards that are reasonably designed to deter wrongdoing and address the following issues:

   (a) conflicts of interest;

   (b) protection and proper use of corporate assets and opportunities ;

   (c) confidentiality of corporate information;

   (d) fair dealing with the issuer's security holders, customers, suppliers, competitors and employees;

   (e) compliance with laws, rules and regulations; and

   (f) reporting of any illegal or unethical behavior.

9. The board should be responsible for monitoring compliance with the Code. Any waivers from the Code that are granted for the benefit of the issuer's directors or senior officers should be granted by the board (or a board committee) only.

Nomination of Directors

10. The board should appoint a nominating committee composed entirely of independent directors.

11. The nominating committee should have a written charter that clearly establishes the committee's purpose, responsibilities, member qualifications, member appointment and removal, structure and operations (including any authority to delegate to individual members and subcommittees), and manner of reporting to the board. In addition, the nominating committee should be given authority to engage and compensate any outside advisor that it determines to be necessary to permit it to carry out its duties. If an issuer is legally required by contract or otherwise to provide third parties with the right to nominate directors, the selection and nomination of such directors need not involve the approval of an independent nominating committee.

12. Prior to nominating or appointing individuals as directors, the board should adopt the following two step process:

[2] It is expected that issuers will only recruit those individuals who have sufficient time and energy to devote to the task.

Step One. Consider what competencies and skills the board, as a whole, should possess. In doing so, the board should recognize that the particular competencies and skills required for one issuer may not be the same as those required for another.

Step Two. Assess what competencies and skills each existing director possesses. It is unlikely that any one director will have all the competencies and skills required by the board. Instead, the board should be considered as a group, with each individual making his or her own contribution. Attention should also be paid to the personality and other qualities of each director, as these may ultimately determine the boardroom dynamic.

The board should also consider the appropriate size of the board, with a view to facilitating effective decision-making.

In carrying out each of these functions, the board should consider the advice and input of the nominating committee.

13. The nominating committee should be responsible for identifying individuals qualified to become new board members and recommending to the board the new director nominees for the next annual meeting of shareholders.

14. In making its recommendations, the nominating committee should consider:

(a) the competencies and skills that the board considers to be necessary for the board, as a whole, to possess;

(b) the competencies and skills that the board considers each existing director to possess; and

(c) the competencies and skills each new nominee will bring to the boardroom.

Compensation

15. The board should appoint a compensation committee composed entirely of independent directors.

16. The compensation committee should have a written charter that establishes the committee's purpose, responsibilities, member qualifications, member appointment and removal, structure and operations (including any authority to delegate to individual members or subcommittees), and the manner of reporting to the board. In addition, the compensation committee should be given authority to engage and compensate any outside advisor that it determines to be necessary to permit it to carry out its duties.

17. The compensation committee should be responsible for:

(a) reviewing and approving corporate goals and objectives relevant to CEO compensation, evaluating the CEO's performance in light of those corporate goals and objectives, and making recommendations to the board with respect to the CEO's compensation level based on this evaluation;

(b) making recommendations to the board with respect to non-CEO compensation, incentive-compensation plans and equity-based plans; and

(c) reviewing executive compensation disclosure before the issuer publicly discloses this information.

Regular Board Assessments

18. The board should regularly assess its own effectiveness, as well as the effectiveness and contribution of each board committee and each individual director. An assessment should consider

(a) the board's written mandate,

(b) the charter of each board committee, and

(c) the position description(s) applicable to each individual director, as well as the competencies and skills each individual director is expected to bring to the board.

6.1.3 Proposed Multilateral Instrument 58-101 Disclosure of Corporate Governance Practices

PROPOSED
MULTILATERAL INSTRUMENT 58-101
DISCLOSURE OF CORPORATE GOVERNANCE PRACTICES

Part One
Definitions and Application

1.1 Definitions – In this Instrument,

"AIF" has the meaning ascribed to it in National Instrument 51-102;

"asset-backed security" has the meaning ascribed to it in National Instrument 51-102;

"CEO" means a chief executive officer;

"credit support issuer" has the meaning ascribed to it in section 13.4 of National Instrument 51-102;

"designated foreign issuer" has the meaning ascribed to it in National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers*;

"exchangeable security issuer" has the meaning ascribed to it in section 13.3 of National Instrument 51-102;

"implicit waiver" means the board of director's failure to take action within a reasonable period of time regarding a material departure from a provision of a code of business conduct and ethics;

"investment fund" has the meaning ascribed to it in National Instrument 51-102;

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

"National Instrument 51-102" means National Instrument 51-102 *Continuous Disclosure Obligations*;

"SEDAR" has the meaning ascribed to it in National Instrument 13-101 *System for Electronic Document Analysis and Retrieval (SEDAR)*;

"SEC foreign issuer" has the meaning ascribed to it in National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers*;

"U.S. marketplace" means an exchange registered as a 'national securities exchange' under section 6 of the 1934 Act, or the Nasdaq Stock Market;

"waiver" means the approval of the board of directors of a material departure from a provision of a code of business conduct and ethics, and includes an implicit waiver;

"venture issuer" means an issuer that does not have any of its securities listed or quoted on any of the Toronto Stock Exchange, a U.S. marketplace, or a marketplace outside of Canada and the United States of America.

1.2 Meaning of Independence –

(1) A director is independent if the he or she has no direct or indirect material relationship with the issuer.

(2) For the purposes of subsection (1), a "material relationship" is a relationship which could, in the view of the issuer's board, reasonably interfere with the exercise of a director's independent judgement.

(3) Despite subsection (2), an individual described in subsection 1.4(3) of Multilateral Instrument 52-110 *Audit Committees* (other than an individual described in clauses 1.4(3)(f)(i) or (g) of that instrument) is considered to have a material relationship with the issuer.

1.3 Meaning of Subsidiary Entity and Control –

(1) For the purposes of this Instrument, a person or company is considered to be a subsidiary entity of another person or company if

(a) it is controlled by,

(i) that other, or

(ii) that other and one or more persons or companies each of which is controlled by that other, or

(iii) two or more persons or companies, each of which is controlled by that other; or

(b) it is a subsidiary entity of a person or company that is the other's subsidiary entity.

(2) For the purpose of this Instrument, "control" means the direct or indirect power to direct or cause the direction of the management and policies of a person or company, whether through ownership of voting securities or otherwise.

1.4 Application – This Instrument applies to all reporting issuers other than:

(a) investment funds;

(b) issuers of asset-backed securities;

(c) designated foreign issuers;

(d) SEC foreign issuers;

(e) exchangeable security issuers, if the exchangeable security issuer qualifies for the relief contemplated by, and is in compliance with the requirements and conditions set out in, section 13.3 of National Instrument 51-102; and

(f) credit support issuers, if the credit support issuer qualifies for the relief contemplated by, and is in compliance with the requirements and conditions set out in, section 13.4 of National Instrument 51-102.

Part Two
Disclosure and Filing Requirements

2.1 Required Disclosure –

(1) Every issuer, other than a venture issuer, must include in its AIF the disclosure required by Form 58-101F1.

(2) If management of an issuer solicits proxies from the security holders of the issuer for the purpose of electing directors to the issuer's board of directors, the issuer must include in its management information circular a cross-reference to the sections in the issuer's AIF that contain the information required by subsection (1).

2.2 Venture Issuers –

(1) Subject to subsection (2), if management of a venture issuer solicits proxies from the security holders of the venture issuer for the purpose of electing directors to its board of directors, the venture issuer must include in its management information circular the disclosure required by Form 58-101F2.

(2) A venture issuer that is not required to send a management information circular to its security holders must provide the disclosure required by Form 58-101F2 in its AIF or annual MD&A.

2.3 Filing of Code of Business Conduct and Ethics –

(1) Every issuer that has adopted a written code of business conduct and ethics must file a copy of such code on SEDAR no later than the date on which the issuer's audited annual financial statements must be filed, unless a copy of such code has been previously filed.

(2) Any amendment to a code of business conduct and ethics that was previously filed under subsection (1) must be filed on SEDAR no later than 30 days after the final form of amendment has been approved by the board of directors.

(3) If a board of directors grants, in favour of an officer or director of the issuer or a subsidiary entity of the issuer, a waiver of a code of business conduct and ethics that the issuer filed under this section 2.3, the issuer must promptly issue and file on SEDAR a news release that describes:

(a) the nature of the waiver;

(b) the name of the person to whom the waiver was granted;

(c) the basis for granting the waiver; and

(d) the date of the waiver.

(4) For the purposes of subsection (3), where a waiver granted in favour of an officer or director is an implicit waiver, the news release referred to in subsection (3) must be issued and filed promptly upon the board becoming aware of such waiver.

Part Three
Exemptions and Effective Date

3.1 Exemptions –

(1) The securities regulatory authority or regulator may grant an exemption from this rule, 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.

3.2 Effective Date – This Instrument comes into force on ●.

Form 58-101F1
Corporate Governance Disclosure Required in an AIF

1. Composition of the Board —

(a) Disclose whether or not the chair of your board of directors is an independent director. If your board of directors has a lead director that is an independent director, state that fact and describe the lead director's roles and responsibilities. If your board has neither a chair that is independent nor a lead director that is independent, state that fact and explain why your board believes this to be appropriate.

(b) Disclose whether or not a majority of directors are independent. If a majority of directors are not independent, explain why the board considers this to be appropriate.

(c) Disclose whether or not your independent directors hold separate, regularly scheduled meetings. If the independent directors do not hold separate, regularly scheduled meetings, explain why the board considers this to be appropriate.

2. Board Mandate — Disclose the text of the written mandate for your board of directors. If your board does not have such a written mandate, state that fact and explain why it considers this to be appropriate.

3. Position Descriptions —

(a) Disclose whether or not your board has developed written position descriptions for the following roles

(i) chair,

(ii) chair of each board committee, and

(iii) director.

If not, explain how your board assesses the performance of the individuals who occupy these roles.

(b) Disclose whether or not your board and CEO have developed a written position description for the role of CEO. If not, explain how your board assesses the performance of the CEO.

4. Orientation and Continuing Education —

(a) Briefly describe what measures, if any, your board of directors takes to orient new board members regarding

(i) the role of your board, its directors and the committees of the board, and

(ii) the nature and operation of your company's business.

If your board does not have such orientation measures in place, state that fact and explain why it considers this to be appropriate.

(b) Briefly describe what measures, if any, your board of directors takes to provide continuing education for its members. If your board has no continuing education provisions in place, state that fact and explain why it considers this to be appropriate.

5. Code of Business Conduct and Ethics — Disclose whether or not your board of directors has adopted a code of business conduct and ethics for its directors, officers and employees. In addition:

(a) disclose whether or not your board of directors monitors compliance with its code of business conduct and ethics; if not, explain why your board considers this to be appropriate; and

(b) if your board of directors has granted a waiver (including an implicit waiver) from a provision of the code of business conduct and ethics in favour of a director or officer, briefly describe the nature of the waiver, the name of the person to whom the waiver was granted, the basis for granting the waiver and the date of the waiver.

If a code of business conduct and ethics has not been adopted, explain why your board considers this to be appropriate.

6. Nomination of Directors —

(a) Disclose whether or not your board of directors has a nominating committee. If it does not have a nominating committee, explain why and describe the process by which the board identifies new candidates for board nomination.

(b) Disclose whether or not the nominating committee is composed entirely of independent directors. If all members of the nominating committee are not independent directors, explain why your board considers this to be appropriate.

(c) Disclose the text of the nominating committee's charter. If the nominating committee does not have a charter, state that fact and explain why the board considers this to be appropriate.

7. Compensation —

(a) Disclose whether or not your board of directors has a compensation committee. If it does not have a compensation committee, explain why and describe the process by which the board determines compensation for your company's directors and executive officers.

(b) Disclose whether or not the compensation committee is composed entirely of independent directors. If all members of the compensation committee are not independent directors, explain why your board considers this to be appropriate.

(c) Disclose the text of the compensation committee's charter. If the compensation committee does not have a charter, state that fact and explain why your board considers this to be appropriate.

8. Regular Board Assessments — Briefly describe the manner in which your board of directors regularly assesses its own effectiveness and performance, the effectiveness and performance of each committee of the board, and the effectiveness and performance of each board member. If your board does not regularly make such assessments, state that fact and explain why your board considers this to be appropriate.

INSTRUCTION:

This Form applies to both corporate and non-corporate entities. Where this Form refers to a particular corporate characteristic, such as a board of directors, the reference should be read to also include any equivalent characteristic of a non-corporate entity.

Form 58-101F2
Corporate Governance Disclosure Required in
the Management Information Circular of a Venture Issuer

1. Composition of the Board —

(a) Disclose whether or not the chair of the board of directors will be an independent director. If the board of directors will have a lead director that is an independent director, disclose that fact and describe the lead director's roles and responsibilities. If your board will have neither a lead director that is independent nor a chair that is independent, explain why your board believes this to be appropriate.

(b) Disclose whether or not a majority of directors and proposed directors will be independent. If a majority of directors and proposed directors will not be independent, explain why your board considers this to be appropriate.

(c) Disclose whether or not your independent directors hold separate, regularly scheduled meetings. If the independent directors do not hold separate, regularly scheduled meetings, explain why the board considers this to be appropriate.

2. Board Mandate — Disclose the text of the written mandate of your board of directors. If your board does not have such a written mandate, state that fact and explain why it considers this to be appropriate.

3. Code of Business Conduct and Ethics — Disclose whether or not your board of directors has adopted a code of business conduct and ethics for its directors, officers and employees. In addition:

(a) disclose whether or not your board of directors monitors compliance with its code of business conduct and ethics; if not, explain why your board considers this to be appropriate; and

(b) if your board of directors has granted a waiver (including an implicit waiver) from a provision of the code of business conduct and ethics in favour of a director or officer, briefly describe the nature of the waiver, the name of the person to whom the waiver was granted, the basis for granting the waiver and the date of the waiver.

If a code of business conduct and ethics has not been adopted, explain why your board considers this to be appropriate.

INSTRUCTION:

This Form applies to both corporate and non-corporate entities. Where this Form refers to a particular corporate characteristic, such as a board of directors, the reference should be read to also include any equivalent characteristic of a non-corporate entity.

Chapter 7

Insider Reporting

This chapter is available in the print version of the OSC Bulletin, as well as as in Carswell's internet service SecuritiesScource (see www.carswell.com).

This chapter contains a weekly summary of insider transactions of Ontario reporting issuers in the System for Electronic Disclosure by Insiders (SEDI). The weekly summary contains insider transactions reported during the seven days ending Sunday at 11:59 pm.

To obtain Insider Reporting information, please visit the SEDI website (www.sedi.ca).

Chapter 8

Notice of Exempt Financings

Exempt Financings

The Ontario Securities Commission reminds issuers and other parties relying on exemptions that they are responsible for the completeness, accuracy, and timely filing of Forms 45-501F1 and 45-501F2, and any other relevant form, pursuant to section 27 of the *Securities Act* and OSC Rule 45-501 ("Exempt Distributions").

REPORTS OF TRADES SUBMITTED ON FORM 45-501F1

Transaction Date	Purchaser	Security	Total Purchase Price ($)	Number of Securities
30-Dec-2003	11 Purchasers	2035666 Ontario Inc. - Special Warrants	255,000.00	1,020,000.00
31-Dec-2003	ARRK Creative Network Corporation	AAR-KEL ENTERPRISES INC. - Common Shares	9,461,682.00	20,762,502.00
19-Dec-2003	11 Purchasers	Active Control Technology Inc. - Convertible Debentures	404,900.00	404,900.00
19-Dec-2003	Peter Paul Charitable Foundation	Active Control Technology Inc. - Shares	7,500.00	75,000.00
30-Dec-2003 02-Jan-2004	8 Purchasers	Acuity Pooled High Income Fund - Trust Units	2,023,469.20	114,805.00
23-Dec-2003	8 Purchasers	Adobe Ventures Inc. - Common Shares	770,000.00	1,925,000.00
23-Dec-2003	3 Purchasers	Advanced Fiber Technologies (AFT) Trust - Notes	38,500,000.00	385.00
18-Dec-2003	43 Purchasers	Alexis Nihon Real Estate Investment Trust - Units	24,093,368.00	2,033,211.00
18-Dec-2003	43 Purchasers	Alexis Nihon Real Estate Investment Trust - Units	6,994,129.00	590,212.00
18-Dec-2003	8 Purchasers	Allied Properties Real Estate Investment Trust - Trust Units	10,035,000.00	900,000.00
31-Dec-2003	3 Purchasers	Alternum Capital - North American Value Hedge Fund - Limited Partnership Units	4,101.00	1,776.00
02-Jan-2004	38 Purchasers	Alternum Capital Hedge Facility LP - Limited Partnership Units	1,316,608.00	681,532.00
23-Dec-2003	16 Purchasers	Anooraq Resources Corporation - Units	2,916,480.00	138,800.00
18-Dec-2003	11 Purchasers	Antrim Energy Inc. - Units	1,768,522.00	1,965,025.00

23-Dec-2003	5 Purchasers	Aquest Explorations Ltd. - Common Shares	2,160,000.00	2,700,000.00
29-Dec-2003	The Manufacturers Life Insurance Company;Sun Life Assurance Company of Canada	Arci Ltd. - Bonds	74,000,000.00	74,000,000.00
31-Dec-2003	9 Purchasers	Atsana Semiconductor Corp. - Preferred Shares	6,315,802.67	4,537,215.00
29-Dec-2003	14 Purchasers	Bactech Enviromet Corporation - Flow-Through Shares	305,000.00	305,000.00
24-Dec-2003	CIBC Mellon Trust Company	Baffin Funding Trust - Notes	50,000,000.00	1.00
24-Dec-2003	CIBC Mellon Trust Company	Baffin Funding Trust - Notes	250,000,000.00	1.00
31-Dec-2003	3 Purchasers	Band-Ore Resources Ltd. - Units	1,425,000.00	2,850,000.00
22-Dec-2003	NCE Flow-Through (2003-2) Limited Partnership	Blue Parrot Energy Inc. - Flow-Through Shares	200,200.00	572,000.00
18-Dec-2003	9 Purchasers	Bombardier Recreational Products Inc. - Notes	11,863,110.00	9.00
28-Nov-2003	Reginald Mclay and John Filice	BPI Global Opportunites III Fund - Units	189,242.00	2,067.00
19-Dec-2003	8 Purchasers	Breakwater Resources Ltd. - Flow-Through Shares	269,804.00	364,600.00
19-Dec-2003	11 Purchasers	Bycast Inc. - Preferred Shares	2,160,000.00	1,350,000.00
10-Dec-2003	29 Purchasers	Calvalley Petroleum Inc. - Units	6,730,166.00	5,801,868.00
29-Dec-2003	7 Purchasers	Canadian Golden Dragon Resources Ltd. - Units	139,500.00	930,000.00
24-Dec-2003	7 Purchasers	Canadian Superior Energy Inc. - Special Warrants	2,312,538.00	770,846.00
31-Dec-2003	Explorer Flow-Through Limited Partnership	Canadian Superior Energy Inc. - Special Warrants	499,999.50	142,857.00
22-Dec-2003	26 Purchasers	Canadian Zinc Corporation - Subscription Receipts	2,265,000.00	2,265,000.00
11-Dec-2003	Gail & Wayne Goreski Wayne Goreski	CareVest Blended Mortgage Investment Corporation - Preferred Shares	4,186.00	4,186.00
30-Dec-2003	Philip J. Olsson	Christian History Project Limited Partnership - Limited Partnership Units	58,500.00	90.00
17-Dec-2003	31 Purchasers	Cimatec Environmental Engineering Inc. - Units	808,000.00	6,464,000.00
22-Dec-2003	10 Purchasers	Claude Resources Inc. - Units	1,390,000.00	695,000.00

30-Dec-2003	D.J. Robart-Morgan	Coast Pacific Chambers Exploration Ltd. - Units	10,000.00	10.00
30-Dec-2003	A. J. Mascarin	Cobra Venture Corporation - Flow-Through Shares	21,000.00	60,000.00
22-Dec-2003	Global (GMPC) Holdings Inc.	Cogient Corp. - Common Shares	500,000.00	500.00
30-Dec-2003	Creststreet 2003 Limited Partnership and Creststreet 2003 (11) Limited Partnership	Compton Petroleum Corporation - Common Shares	3,550,000.00	500,000.00
16-Dec-2003	J.B. Dineen and/or Yvonne Dineen	Cranston, Gaskin, O'Reilly & Vernon - Units	3,999.90	318.00
30-Dec-2003	45 Purchasers	Cranston, Gaskin, O'Reilly & Vernon - Units	1,339,081.82	105,199.00
31-Dec-2003	Michael Arnsby	Cross Lake Minerals Ltd. - Flow-Through Shares	50,000.00	250,000.00
29-Dec-2003	VentureLink Fund Inc.	Cytochroma Inc. - Notes	1,000,000.00	1.00
30-Dec-2003	3 Purchasers	Dia Bras Exploration Inc. - Units	628,000.00	400,000.00
01-Jan-2004	Rogers Broadcasting Limited	Dome Productions Partnership - Units	23,189,880.00	23,000,000.00
19-Dec-2003	9 Purchasers	East West Resource Corporation - Flow-Through Shares	150,000.00	1,330,000.00
29-Dec-2003	3 Purchasers	Eco Waste Development Inc. - Promissory note	1,000,000.00	1.00
16-Dec-2003	6 Purchasers	Ecosynthetix Inc. - Preferred Shares	1,842,089.00	243,829.00
19-Dec-2003	Murray Miller and Malcom Hogarth	Endless Energy Corp. - Common Shares	30,000.00	60,000.00
16-Dec-2003	35 Purchasers	Equigenesis 2003 Preferred Investment LP - Limited Partnership Units	9,186,154.00	531.00
23-Dec-2003 30-Dec-2003	95 Purchasers	Equigenesis 2003 Preferred Investment LP - Limited Partnership Units	42,207,838.00	2,443.00
05-Jan-2003	4 Purchasers	EUROZINC MINING CORPORATION - Units	3,000,000.00	12,000,000.00
31-Dec-2003	Canadian Medical Discoveries Fund Inc.;Covington Fund II Inc.	Excel-Tech Ltd. - Convertible Debentures	5,000,000.00	5,000,000.00
29-Dec-2003	Rosseau Limited Partnership	Exploration Diamantifere Oasis Inc. - Units	500,000.00	400,000.00
23-Dec-2003	CMP 2003 Resource Ltd. Partnership	Exploration Tom Inc. - Common Shares	250,000.00	625,000.00
31-Dec-2003	Augen Limited Partnership 2003	Extreme Energy Corporation - Units	199,071.00	265,428.00

24-Dec-2003	Augen Limited Partnership	Finlay Minerals Ltd. - Units	250,000.00	625,000.00
31-Dec-2003	N/A	First Leaside Partners Limited Partnership - Limited Partnership Units	3,769,710.00	2,922,256.00
22-Dec-2003	4 Purchasers	Freewest Resources Canada Inc. - Common Shares	135,000.00	540,000.00
29-Dec-2003	The VenGrowth Investment Fund Inc. and The VenGrowth II Investment Fund Inc.	Futurecom Systems Group Inc. - Promissory note	10,000,000.00	1.00
31-Dec-2003	N/A	F.L. Spring Valley Limited Partnership - Limited Partnership Units	1,116,744.00	446,939.00
30-Dec-2003	3 Purchasers	GGL Diamond Corp. - Common Shares	373,950.00	777,000.00
31-Dec-2003	MineralFields 2003 Flow-Through Limited Partnership and MineralFileds 2003 Limited Partnership	Globex Mining Enterprises Inc. - Flow-Through Shares	300,000.00	230,769.00
19-Dec-2003	911 Fund Ltd. and Donn M. Canzano	GLR Resources Inc. - Units	87,835.00	159,700.00
31-Dec-2003	3 Purchasers	GLR Resources Inc. - Units	699,998.00	999,998.00
30-Dec-2003	3 Purchasers	Gold Hawk Resources Inc. - Common Shares	63,999.00	213,333.00
19-Dec-2003	D.E. Somerville	Golden Arch Resources Ltd. - Units	3,525.00	23,500.00
29-Dec-2003	Maison Placements Canada Inc.	Golden Tag Resources Ltd. - Warrants	0.00	100,000.00
31-Dec-2003	5 Purchasers	Grand Petroleum Inc. - Common Shares	115,000.00	115,000.00
23-Dec-2003	11 Purchasers	Great Canadian Gaming Corporation - Units	14,900,000.00	745,000.00
23-Dec-2003	21 Purchasers	Greentree Gas & Oil Ltd. - Flow-Through Shares	2,159,202.00	3,932,005.00
15-Dec-2003	Mirabaud Canada Inc.	Haussmann Holdings N.V. Reg. -B- - Common Shares	337,223.56	160.00
23-Dec-2003	6 Purchasers	High Point Resources Inc. - Common Shares	6,500,000.00	2,600,000.00
23-Dec-2003	Canadian Imperial Bank of Commerce	High Yield & Mortgage Plus Fund - Units	94,100,000.00	4,000,000.00
22-Dec-2003	Sally E. Mitchell	Highview Resources Ltd. - Common Shares	5,000.00	25,000.00
19-Dec-2003	Cinram International Inc.	HSBC Short Term Investment Fund - Units	1,000,000.00	99,667.00

10-Dec-2003	N/A	HydroPoint Data Systems, Inc. - Shares	215,518.00	228,822.00
30-Dec-2003 10-Jan-2004	John A. Smith and Richard Groulx	IMAGIN Diagnostics, Inc. - Common Shares	7,000.00	7,000.00
31-Dec-2003	3 Purchasers	In Depth Resources Ltd. - Common Shares	75,600.00	63,000.00
19-Dec-2003	4 Purchasers	Integral Wealth Management Inc. - Common Share Purchase Warrant	450,000.00	450,000.00
31-Dec-2003	14 Purchasers	International Taurus Resources Inc. - Units	372,000.00	1,860,000.00
18-Dec-2003	Jae Shim	International Technologies Corporation - Units	100,000.00	200,000.00
30-Dec-2003	19 Purchasers	International Wex Technologies Inc. - Units	1,865,000.00	373,000.00
29-Dec-2003	6 Purchasers	Ivey-Robarts CSBIF I Inc. - Common Shares	5,000,200.00	500,200.00
29-Dec-2003	6 Purchasers	Ivey-Robarts CSBIF II Inc. - Shares	5,000,200.00	500,200.00
31-Dec-2003	7 Purchasers	Jilbey Gold Exploration Ltd. - Units	72,500.00	145,000.00
15-Dec-2003	5 Purchasers	July Resources Corp. - Common Shares	345,000.00	6,900,000.00
08-Jan-2004	3 Purchasers	July Resources Corp. - Common Shares	11,490.00	15,000,000.00
24-Dec-2003	The VenGrowth Advanced Life Sciences Fund Inc.	Kadmus Pharmaceuticals, Inc. - Option	1.00	1.00
24-Dec-2003	The VenGrowth Advanced Life Sciences Fund Inc.	Kadmus Pharmaceuticals, Inc. - Preferred Shares	4,000,000.00	2,000,000.00
24-Dec-2003	The VenGrowth Advanced Life Sciences Fund Inc.	Kadmus Pharmaceuticals, Inc. - Promissory note	3,500,000.00	1.00
24-Dec-2003	The VenGrowth Advanced Life Sciences Fund Inc.	Kadmus Pharmaceuticals, Inc. - Shares	1.00	1.00
24-Dec-2003	The VenGrowth Advanced Life Sciences Fund Inc.	Kadmus Pharmaceuticals, Inc. - Warrants	1.00	750,000.00
05-Jan-2004	Robert and S.Joan Leslie	KBSH - Money Market - Units	16,900.00	1,690.00
05-Jan-2004	Robert and S. Joan Leslie	KBSH Private - Canadian Equity Fund - Units	133,900.00	9,213.00
05-Jan-2004	Robert and S.Joan Leslie	KBSH Private - Fixed Income Fund - Units	75,200.00	7,298.00
05-Jan-2004	Robert and S. Joan Leslie	KBSH Private -Global Leading Companies Fund - Units	112,000.00	13,695.00

22-Dec-2003	Ron Robinson and Dr. Edward Armogan	Kensington Resources Ltd. - Units	35,000.00	35,000.00
30-Dec-2003	3Purchasers	Klondike Gold Corp. - Units	50,000.00	500,000.00
11-Dec-2003	4 Purchasers	Knight Resources Ltd. - Units	107,120.00	206,000.00
21-Nov-2003 27-Nov-2003	Martha Lawrence	Landmark Global Opportunities Fund - Units	51,524.00	408.00
28-Nov-2003	Winchester Fiduciary Serv. Ltd. and and John R. Shutt	Landmark Global Opportunities Fund - Units	80,915.00	625.00
22-Dec-2003	70 Purchasers	Lanesborough Real Estate Investment Trust - Trust Units	5,000,000.00	1,250,000.00
18-Dec-2003	N/A	LaSalle Canada Realty Ltd. - Common Shares	48,000,000.00	480,000.00
22-Dec-2003	13 Purchasers	LAB International Inc. - Units	1,100,000.00	1,100,000.00
30-Dec-2003	32 Purchasers	Liberty Mineral Exploration Inc. - Flow-Through Shares	466,000.00	2,330,000.00
30-Dec-2003	5 Purchasers	Liberty Mineral Exploration Inc. - Units	87,000.00	435,000.00
01-Jan-2003 01-Sep-2003	Mapleridge Capital Corporation	Mapleridge Trading Fund Limited Partnership - Units	608,317.63	370.00
18-Dec-2003	A.T. Griffis and Elia Crespo	Marathon PGM Corporation - Special Warrants	95,000.00	190,000.00
01-Dec-2003	4 Purchasers	MCAN Performance Strategies - Limited Partnership Units	1,734,000.00	16,591.00
29-Dec-2003	Roel C. Buck	Mercury Energy Corporation Ltd. - Common Shares	50,000.00	100,000.00
23-Dec-2003	10 Purchasers	METCONNEX INC. - Shares	3,472,821.00	24,840,428.00
23-Dec-2003	4 Purchasers	METCONNEX INC. - Shares	9.67	9,662,027.00
23-Dec-2003	Magaly Bianchini and Barry Appleton	Micromem Technologies Inc. - Units	43,555.00	300,000.00
29-Dec-2003	Front Street Management Inc.;Casurirna Limited Partnership	Mint Inc. - Special Warrants	250,000.00	500,000.00
15-Dec-2003 18-Dec-2003	64 Purchasers	Mustang Minerals Corp. - Common Shares	3,244,080.00	4,634,401.00
15-Dec-2003 18-Dec-2003	71 Purchasers	Mustang Minerals Corp. - Units	3,500,000.00	4,375,000.00
31-Dec-2003	MineralFields 2003 Flow-Through Limited Partnership and MineralFileds 2003 Limited Partnership	Namex Explorations Inc. - Flow-Through Shares	450,000.00	900,000.00

23-Dec-2003	6 Purchasers	Natural Convergence Inc. - Debentures	2,140,000.00	10.00
31-Dec-2003	Augen Limited Partnership 2003 and LH Enterprises Company Inc.	Navigator Exploration Corp. - Units	166,500.00	370,000.00
23-Dec-2003	3 Purchasers	Navtel Communications Inc. - Preferred Shares	5,000,000.00	9,823,530.00
30-Dec-2003	Explorer Flow Through Limited Partnership and MRF 2003 II Resource Limited Partnership	Nevarro Energy Ltd. - Flow-Through Shares	825,000.00	330,000.00
01-Jan-2004	Glenn M. Verge	New Solutions Financial (II) Corporation - Debentures	500,000.00	1.00
31-Dec-2003	Northwater Foundation	NewQuant Trust I - Trust Units	200,000.00	200,000.00
31-Dec-2003	8 Purchasers	NFX Gold Inc. - Units	112,800.00	282,000.00
31-Dec-2003	1355456 Ontario Limited	Northam Real Estate Investment Fund VI, L.P. - Limited Partnership Units	200,000.00	20.00
31-Dec-2003	8 Purchasers	Northern Platinum Ltd. - Units	305,000.00	3,050,000.00
31-Dec-2003	Andrew Frank Jeffrey White	Northern Shield Resources Inc. - Common Shares	25,200.00	84,000.00
31-Dec-2003	3 Purchasers	Nuinsco Resources Limited - Units	500,000.00	1,282,049.00
31-Dec-2003	26 Purchasers	Nuinsco Resources Limited - Units	1,253,359.00	4,291,865.00
31-Dec-2003	10 Purchasers	Olivut Investments Ltd. - Units	2,055,000.00	2,055,000.00
31-Dec-2003	4 Purchasers	Ontario Capital Opportunities Inc. - Common Shares	105,000.00	7,000,000.00
31-Dec-2003	5 Purchasers	OntZinc Corporation - Units	100,000.00	400,000.00
31-Dec-2003	Clifford Frame	OntZinc Corporation - Units	80,000.00	320,000.00
30-Dec-2003	5 Purchasers	Opalis Software Inc. - Preferred Shares	5,650,000.00	56,500,000.00
30-Dec-2003	Howard Kerbel;Wayne Brennan	Ozz Corporation - Common Shares	109,389.60	210,364.00
15-Dec-2003	6 Purchasers	Ozz Corporation - Common Shares	974,881.06	1,874,773.00
24-Dec-2003	David J. Foley G.Scott Peterson Front Street Investment Management Inc.	Pacific Stratus Ventures Ltd. - Units	17,500.00	350,000.00
24-Dec-2003	17 Purchasers	PacRim Resources Ltd. - Units	1,063,290.00	4,253,160.00
15-Dec-2003	Optima International Trust	Passion Media Inc. - Shares	10,000.00	100,000.00

30-Dec-2003	3 Purchasers	Patricia Mining Corp. - Units	830,000.00	1,000,000.00
29-Dec-2003	The Manufacturers Life Insurance Company;Sun Life Assurance Company of Canada	PCC Properties (Calgary) Ltd. - Bonds	74,000,000.00	74,000,000.00
22-Dec-2003 23-Dec-2003	12 Purchasers	Pele Mountain Resources Inc. - Flow-Through Shares	525,000.00	1,050,000.00
23-Dec-2003	5 Purchasers	Petroleum Development Associates (Oil & Gas) Limited - Special Warrants	335,408.00	260,409.00
06-Jan-2004	Lorenzo Marchionda	Pine Valley Mining Corporation - Units	20,000.00	100,000.00
16-Dec-2003	Targa Group Inc.	Plaintree Systems Inc. - Convertible Debentures	900,000.00	900,000.00
12-Dec-2003	4 Purchasers	Planet Exploration Inc. - Units	2,828,000.00	2,020,000.00
17-Dec-2003	Triax Growth Fund Inc VentureLink Fund Inc CastleHill Ventures Limited	Platespin Ltd. - Promissory note	700,000.00	700,000.00
31-Dec-2003	Ryec Software Inc.	Platinum Communications Corporation - Units	50,000.00	125,000.00
22-Dec-2003	11 Purchasers	Predator Exploration Ltd. - Common Shares	2,202,411.00	3,191,900.00
23-Dec-2003	4 Purchasers	Producers Oilfield Services Inc. - Common Shares	744,000.00	310,000.00
19-Dec-2003	Creststreet Power & Income Fund LP	Pubnico Point Wind Farm Inc. - Option	1.00	2.00
30-Dec-2003	Augen Limited Partnership	Radisson Mining Resources Inc. - Units	308,250.00	685,000.00
23-Dec-2003	Nursing Homes and Related Industries Pension Plan	Real Assets US Social Equity Index Fund - Units	16,882.00	2,390.00
30-Dec-2003	Nursing Homes and Related Industries Pension Plan	Real Assets US Social Equity Index Fund - Units	15,950.00	22,580.00
15-Dec-2003	Fred Bastale and Sheldon Inwentash	Redhawk Resources, Inc. - Units	34,500.00	115,000.00
23-Dec-2003	12 Purchasers	Refocus Group, Inc. - Units	650,000.00	26.00
30-Dec-2003	Maple Gold Resources Limited	Regis Resources Inc. - Option	300,000.00	1.00
22-Dec-2003	7 Purchasers	Result Energy Inc. - Flow-Through Shares	483,000.00	1,150,000.00
31-Dec-2004	The K2 Principal LP and Joan Westergaard	Rhodes Resources Corp. - Units	201,000.00	1,005,000.00
29-Dec-2003	Granite Power Generation Corporation	Rideau Falls Limited Partnership - Units	80,138.00	1.00

29-Dec-2003	Granite Power Generation	Rideau Falls Limited Partnership - Units	80,138.00	1.00
23-Dec-2003	7 Purchasers	Rock Creek Resources Ltd. - Shares	1,239,996.00	413,332.00
30-Dec-2003	Goldcorp Inc.	Rubicon Minerals Corporation - Common Shares	1,600,000.00	1,000,000.00
16-Dec-2002 29-Dec2003	PO FCPR Limited	Sagard FCPR - Units	33,552,334.00	267.00
19-Dec-2003	John Cox	Science Applications International Corporation - Common Shares	1,640,720.00	38,899.00
30-Dec-2003	4 Purchasers	Sea Green Capital Corp. - Common Shares	350,000.00	7,000,000.00
31-Dec-2003	3 Purchasers	Sea Green Capital Corp. - Flow-Through Shares	50,000.00	250,000.00
17-Dec-2003	9 Purchasers	Seabridge Gold Inc. - Common Shares	600,000.00	125,000.00
23-Dec-2003	Vengrowth Investment Fund Inc. and Vengrowth II Investment Fund Inc.	Securican Holdings Inc. - Promissory note	7,500,000.00	2.00
19-Dec-2003	5 Purchasers	Semafo Inc. - Units	2,238,500.00	2,035,000.00
30-Dec-2003	Explorer Flow-Fhrough Limited Partnership	Shaker Resources Inc. - Common Shares	499,999.50	270,270.00
30-Dec-2003	Minister of Industry	Sierra Wireless, Inc. - Warrants	2,000,000.00	138,696.00
31-Dec-2003	9 Purchasers	Signalta Resources Limited - Joint Ventures	7,450,000.00	12.00
22-Dec-2003	47 Purchasers	Silk Road Resources Ltd. - Special Warrants	4,215,000.00	4,215,000.00
18-Dec-2003	3 Purchasers	Sino Gold Limited - Shares	581,759.00	237,453.00
31-Dec-2003	5 Purchasers	Slam Exploration Ltd. - Common Shares	365,000.00	456,250.00
30-Dec-2003	10 Purchasers	Spider Resources Inc. - Units	222,000.00	2,220,000.00
30-Dec-2003	Barbara Scheurlen	Spirit Energy Corp. - Common Shares	30,000.00	20,000.00
23-Dec-2003	40 Purchasers	Suite 101.com, Inc. - Units	5,125,000.00	5,125,000.00
31-Dec-2003	3 Purchasers	Superior Diamonds Inc. - Units	39,750.00	53,000.00
24-Dec-2003	GrowthWorks WV Canadian Fund Inc.	Targeted Growth Canada Inc. - Common Shares	100.00	510.00
24-Dec-2003	GrowthWorks WV Canadian Fund Inc.	Targeted Growth Canada Inc. - Preferred Shares	2,621,400.00	1,884,836.00

31-Dec-2003	7 Purchasers	TD Harbour Capital Balanced Fund - Trust Units	2,972,798.00	27,495.00
19-Dec-2003	4 Purchasers	Terra Payments Inc. - Units	4,776,251.00	1,273,666.00
05-Jan-2004	16 Purchasers	Thermal Energy International Inc. - Units	757,943.00	7,237,876.00
31-Dec-2003	Thornmark Asset Management Inc.	Thornmark Dividend & Income Fund - Units	2,073,821.00	2,073,821.00
31-Dec-2003	Thornmark Asset Management Inc.	Thornmark Enhanced Equity Fund - Units	2,590,000.00	2,590,000.00
29-Dec-2003	MRF 2003 II Limited Partnership Explorer Flow-Through Limited	Tiverton Petroleums Ltd. - Common Shares	1,000,000.20	2,127,660.00
30-Dec-2003	6 Purchasers	TL Leasing Corporation - Common Shares	10,000,000.00	3,416,733.00
02-Dec-2003 12/31/03	3 Purchasers	Trafalgar Trading Limited - Rights	5,999,680.00	5,999,680.00
23-Dec-2003	4 Purchasers	Tribute Minerals Inc. - Common Shares	303,000.20	1,010,001.00
03-Dec-2003	Crich Holdings	Tribute Resources Inc. - Common Shares	100,000.00	500,000.00
31-Dec-2003	The VenGrowth II Investment Fund Inc.;Axis Investment Fund Inc.	Trigence Corp. - Preferred Shares	2,900,002.29	290,000.00
23-Dec-2003	3 Purchasers	Tumi Resources Ltd. - Units	1,143,000.00	1,428,750.00
31-Dec-2003	43 Purchasers	Tyhee Development Corp. - Units	2,458,025.40	3,781,576.00
15-Dec-2003	4 Purchasers	Umedik Inc. - Common Shares	500,019.00	7,075.00
19-Dec-2003	4 Purchasers	U.S. Geothermal Inc. - Units	466,667.00	777,777.00
12-Dec-2003 16-Dec-2003	9 Purchasers	Vaquero Energy Ltd. - Common Shares	3,747,875.00	1,272,500.00
31-Dec-2003	3 Purchasers	Vencan Gold Corporation - Units	25,200.00	210,000.00
22-Dec-2003	Shannon Fitchett	Venstar Hospitality Barrie Limited Partnership - Limited Partnership Units	50,000.00	5.00
22-Dec-2003	4 Purchasers	Ventus Engergy Ltd. - Common Shares	2.00	1,750,000.00
22-Dec-2003	4 Purchasers	Ventus Engergy Ltd. - Preferred Shares	1,750,000.00	1,750,000.00
18-Dec-2003	Global (GMPC) Holdings Inc.	Victhom Human Bionics Inc. - Units	1,000,000.00	800,000.00
31-Dec-2003	MineralFields 2003;MineralFields 2003-II	VVC Exploration Corp. - Flow-Through Shares	1,008,000.00	8,400,000.00

30-Dec-2003	CMP 2003 Resource Limited Partnership	VVC Exploration Corp. - Flow-Through Shares	150,000.00	125,000.00
30-Dec-2003	Investors in the Province of Ontario	VVC Exploration Corp. - Units	130,000.00	130,000.00
01-Sep-2003	Marisa Soukup	Westmont Investment Management Inc. - Units	50,000.00	50.00
30-Dec-2003	7 Purchasers	Westrock Energy Ltd. - Common Shares	2,425,197.00	1,383,427.00
31-Dec-2003	Ontario Teachers' Pension Plan Board	Winthrop U.S. Fixed Income Fund, Ltd. - Common Shares	15,508,800.00	12,000.00
23-Dec-2003 30-Dec-2003	13 Purchasers	Wireless Networks Inc. - Common Shares	2,015,639.00	84,021,134.00
30-Dec-2003	22 Purchasers	Wolfden Resources Inc. - Common Shares	2,359,000.00	347,240.00
31-Dec-2003	6 Purchasers	Zenda Capital Corp. - Common Shares	60,000.00	600,000.00
31-Dec-2003	15 Purchasers	Zenda Capital Corp. - Units	145,000.00	29.00

RESALE OF SECURITIES - (FORM 45-501F2)

Transaction Date	Seller	Security	Total Selling Price	Number of Securities
31-Dec-2003	N/A	A & E Capital Funding Inc. - Shares	2,079,424.56	
31-Oct-2003	MRF 2001 II Limited Partnership	Brooklyn Energy Corporation - Common Shares	39,600.00	
22-May-2003	MRF 2001 II Limited Partnership	Cavell Energy Corporation - Common Shares	50,000.00	
28-Jan-2003	MRF 2001 II Limited Partnership	Compton Petroleum Corporation - Common Shares	50,000.00	
17-Dec-2003	LH Enterprises Company Inc.	Cumberland Resources Ltd. - Common Shares	7,600.00	
27-May-2003	MRF 2001 II Limited Partnership	Defiant Energy Corporation - Common Shares	150,000.00	
22-Aug-2003	MRF 2001 II Limited Partnership	Devlan Exploration Inc. - Common Shares	25,500.00	
07-May-2003	MRF 2001 II Limited Partnership	Elk Point Resources Inc. - Common Shares	50,000.00	
27-Feb-2003	MRF 2001 II Limited Partnership	Gentry Resources Ltd. - Common Shares	22,500.00	
12-Nov-2003	MRF 2001 II Limited Partnership	Ketch Energy Ltd. - Common Shares	22,100.00	

07-May-2003	MRF 2001 II Limited Partnership	Olympia Energy Inc. - Common Shares	21,500.00
27-Feb-2003	MRF 2001 II Limited Partnership	Purcell Energy Ltd. - Common Shares	23,586.00
19-Nov-2003	MRF 2001 II Limited Partnership	River Gold Mines Ltd. - Common Shares	10,000.00
14-Aug-2003	MRF 2001 II Limited Partnership	Southernera Resources Limited - Common Shares	27,586.00
12-Nov-2003	MRF 2001 II Limited Partnership	True Energy Inc. - Common Shares	25,000.00

NOTICE OF INTENTION TO DISTRIBUTE SECURITIES AND ACCOMPANYING DECLARATION UNDER SECTION 2.8 OF MULTILATERAL INSTRUMENT 45-102 RESALE OF SECURITIES - FORM 45-102F3

Seller	Security	Number of Securities
Rodam Equities Ltd.	AlarmForce Industries Inc. - Common Shares	100,000.00
Beva Holding Inc.	Brampton Brick Limited - Shares	50,000.00
John Buhler	Buhler Industries Inc. - Common Shares	616,300.00
Glen R. Estill	EMJ Data Systems Ltd. - Common Shares	2,667.00
James A. Estill	EMJ Data Systems Ltd. - Common Shares	33,200.00
Estill Holdings Limited	EMJ Data Systems Ltd. - Common Shares	344,500.00
ONCAN Canadian Holdings Ltd.	Onex Corporation - Shares	999,900.00
Okasu Enterprises Ltd.	Planet Organic Health Corp. - Common Shares	300,000.00
Resource Capital Fund L.P.	Southern Cross Resources Inc. - Common Shares	6,476,190.00
Michael Carten Professional Corporation	Sustainable Energy Technologies Ltd. - Common Shares	1,000,000.00

Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
BioSyntech, Inc.
Principal Regulator - Quebec
Type and Date:
Preliminary Prospectus dated January 8, 2004
Mutual Reliance Review System Receipt dated January 13, 2004
Offering Price and Description:
$ * to * - Minimum * Units and Maximum * Units at $ * per Unit
Underwriter(s) or Distributor(s):
Canaccord Capital Corporation
Promoter(s):
Amine Selmani
Project #604839

Issuer Name:
Breakwater Resources Ltd.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated January 12, 2004
Mutual Reliance Review System Receipt dated January 12, 2004
Offering Price and Description:
$20,000,000.30 - 28,571,429 Units Price: $0.70 per Unit
Underwriter(s) or Distributor(s):
GMP Securities Ltd.
Canaccord Capital Corporation
Dundee Securities Corporation
Haywood Securities Inc.
McFarlane Gordon Inc.
Maison Placements Canada Inc.
Promoter(s):
-
Project #604775

Issuer Name:
CU Inc.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Shelf Prospectus dated January 7, 2004
Mutual Reliance Review System Receipt dated January 8, 2004
Offering Price and Description:
$750,000,000.00 Debentures (Unsecured)
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
RBC Dominion Securities Inc.
TD Securities Inc.
Promoter(s):
-
Project #604209

Issuer Name:
EnerVest Diversified Income Trust
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated January 9, 2004
Mutual Reliance Review System Receipt dated January 9, 2004
Offering Price and Description:
Offering of Rights to Subscribe for Units
Subscription Price: Four Rights and $* per Unit
The Subscription Price is *% of the net asset value per Unit on January *, 2004
Underwriter(s) or Distributor(s):
GMP Securities Ltd.
Promoter(s):
-
Project #604518

Issuer Name:
Fortis Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated January 13, 2004
Mutual Reliance Review System Receipt dated January 13, 2004
Offering Price and Description:
$50,000,000.00 - 8,000,000 First Preference Units Each First Preference Unit consisting of one Cumulative Redeemable Convertible First Preference Share, Series D and one Cumulative Redeemable Convertible First Preference Share, Series E Purchase Warrant Price: $6.25 per Unit
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
National Bank Financial Inc.
RBC Dominion Securities Inc.
TD Securities Inc.
Beacon Securities Limited
Promoter(s):
-
Project #604956

Issuer Name:
Guest-Tek Interactive Entertainment Ltd.
Principal Regulator - Alberta
Type and Date:
Amended Restated Preliminary Prospectus dated January 9, 2004
Mutual Reliance Review System Receipt dated January 12, 2004
Offering Price and Description:
$ * - * Common Shares
Price: $ * per Common Share
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
GMP Securities Ltd.
Research Capital Corporation
Promoter(s):
-
Project #600949

Issuer Name:
Hydrogenics Corporation
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form PREP Prospectus dated January 9, 2004
Mutual Reliance Review System Receipt dated January 9, 2004
Offering Price and Description:
Common Shares Price: $ * per Common Share
Underwriter(s) or Distributor(s):
Citigroup Global Markets Canada Inc.
National Bank Financial Inc.
TD Securities Inc.
Promoter(s):
-
Project #604312

Issuer Name:
Jaguar Nickel Inc.
Principal Regulator - Quebec
Type and Date:
Preliminary Prospectus dated January 8, 2004
Mutual Reliance Review System Receipt dated January 9, 2004
Offering Price and Description:
$25,000,000.00 - 20,000,000 Common Shares and 20,000,000 Common Share Purchase Warrants (issuable upon the exercise of 20,000,000 previously issued Special Warrants) Price: $1.25 per Special Warrant
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
Octagon Capital Corporation
Orion Securities Inc.
Northern Securities Inc.
Promoter(s):
-
Project #604301

Issuer Name:
John Deere Credit Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Shelf Prospectus dated January 9, 2004
Mutual Reliance Review System Receipt dated January 12, 2004
Offering Price and Description:
Cdn. $1,000,000,000.00 - Medium Term Notes
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
TD Securities Inc.
Merrill Lynch Canada Inc.
Promoter(s):
-
Project #604524

Issuer Name:
Maritime Life Canadian Funding
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Shelf Prospectus dated January 7, 2004
Mutual Reliance Review System Receipt dated January 8, 2004
Offering Price and Description:
Cdn. $1,500,000,000.00 - Annuity-Backed, Secured, Limited Recourse Notes Issuable in Series and with Recourse Limited to Annuities of The Maritime Life Assurance Company
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
HSBC Securities (Canada) Inc.
National Bank Financial Inc.
Scotia Capital Inc.
TD Securities Inc.
Promoter(s):
-
Project #603876

Issuer Name:
NAV Energy Trust
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated January 8, 2004
Mutual Reliance Review System Receipt dated January 8, 2004
Offering Price and Description:
$ * - * Trust Units Price: $ * per Trust Unit
Underwriter(s) or Distributor(s):
Natinal Bank Financial Inc.
TD Securities Inc.
RBC Dominion Securities Inc.
FirstEnergy Capital Corp.
Sprott Securities Inc.
Promoter(s):
-
Project #604261

Issuer Name:
Pan American Silver Corp.
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Shelf Prospectus dated January 7, 2004
Mutual Reliance Review System Receipt dated January 8, 2004
Offering Price and Description:
$45,819,960.00 - Common Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #604020

Issuer Name:
Research In Motion Limited
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form PREP Prospectus dated January 7, 2004
Mutual Reliance Review System Receipt dated January 7, 2004
Offering Price and Description:
US$ * - 9,000,000 Common Shares Price: US$ * per Common Share
Underwriter(s) or Distributor(s):
Merrill Lynch Canada Inc.
Goldman Sachs Canada Inc.
UBS Securities Canada Inc.
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
GMP Securities Ltd.
Promoter(s):
-
Project #603779

Issuer Name:
Skylon Growth & Income Trust
Principal Regulator - Ontario
Type and Date:
Amended and Restated Preliminary Prospectus dated January 7, 2004
Mutual Reliance Review System Receipt dated January 9, 2004
Offering Price and Description:
Maximum $ * (* Units) Price: $10.00 per Unit
(Minimum Purchase: 100 Units)
Underwriter(s) or Distributor(s):
TD Securities Inc.
CIBC World Markets Inc.
RBC Capital Markets
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
Scotia Capital Inc.
HSBC Securities (Canada) Inc.
Raymond James Ltd.
Canaccord Capital Corporation
Desjardins Securities Inc.
Dundee Securities Corporation
First Associates Investments Inc.
Wellington West Capital Inc.
Promoter(s):
Skylon Advisors Inc.
Project #602544

Issuer Name:
UE WATERHEATER OPERATING TRUST
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated January 12, 2004
Mutual Reliance Review System Receipt dated January 13, 2004
Offering Price and Description:
$ * * % Series 1 Senior Secured Notes
$ * * % Series 2 Senior Secured Notes
Underwriter(s) or Distributor(s):
TD Securities Inc.
CIBC World Markets Inc.
RBC Dominion Securities Inc.
Promoter(s):
-
Project #604864

Issuer Name:
Altruista Fund Inc.
Type and Date:
Final Prospectus dated January 6, 2004
Receipted on January 8, 2004
Offering Price and Description:
Class A Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
Altruista Inc.
Project #587390

Issuer Name:
BioMS Medical Corp.
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated January 12, 2004
Mutual Reliance Review System Receipt dated January 13, 2004
Offering Price and Description:
$16,500,000.00 - 5,000,000 Units Price: $3.30 per Unit
Underwriter(s) or Distributor(s):
Union Securities Ltd.
Promoter(s):
-
Project #601889

Issuer Name:
Canadian Imperial Bank of Commerce
Principal Regulator - Ontario
Type and Date:
Final Short Form Base Shelf Prospectus dated January 8, 2004
Mutual Reliance Review System Receipt dated January 9, 2004
Offering Price and Description:
$4,000,000,000.00 - Debt Securities (subordinated indebtedness) Class A Preferred Shares Class B Preferred Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #602082

Issuer Name:
Covington Strategic Capital Fund Inc.
Type and Date:
Final Prospectus dated January 9, 2004
Receipted on January 12, 2004
Offering Price and Description:
Class A Shares, Series I and Class A Shares, Series II
Underwriter(s) or Distributor(s):
-
Promoter(s):
Covington Capital Corporation
Project #591085

Issuer Name:
Credit Union Central of British Columbia
Principal Regulator - British Columbia
Type and Date:
Final Short Form Base Shelf Prospectus dated January 9, 2004
Mutual Reliance Review System Receipt dated January 13, 2004
Offering Price and Description:
$300,000,000.00 - Medium Term Notes (Unsecured)
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
TD Securities Inc.
RBC Dominion Secuities Inc.
Promoter(s):
-
Project #600602

Issuer Name:
Falconbridge Limited
Type and Date:
Final Short Form Base Shelf Prospectus dated January 6, 2004
Receipted on January 7, 2004
Offering Price and Description:
U.S.$600,000,000.00 - Debt Securities (Unsecured)
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #601179

Issuer Name:
Harmony Americas Small Cap Equity Pool
Harmony Canadian Equity Pool
Harmony Canadian Fixed Income Pool
Harmony Money Market Pool
Harmony Overseas Equity Pool
Harmony RSP Americas Small Cap Equity Pool
Harmony RSP Overseas Equity Pool
Harmony RSP U.S. Equity Pool
Harmony U.S. Equity Pool
Harmony Conservative Portfolio
Harmony Balanced Portfolio
Harmony RSP Balanced Portfolio
Harmony Growth Portfolio
Harmony RSP Growth Portfolio
Harmony Aggressive Growth Portfolio
Harmony RSP Aggressive Growth Portfolio
Harmony Maximum Growth Portfolio
Harmony RSP Maximum Growth Portfolio
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated January 5, 2004
Mutual Reliance Review System Receipt dated January 7, 2004
Offering Price and Description:
Wrap Series and Embedded Series Units
Underwriter(s) or Distributor(s):
AGF Fund Inc.
AGF Funds Inc.
Promoter(s):
AGF Funds Inc.
Project #590973

Issuer Name:
Northwestern Mineral Ventures Inc.
Type and Date:
Final Prospectus dated January 9, 2004
Receipted on January 12, 2004
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Dominick & Dominick Securities Inc.
Promoter(s):
-
Project #594110

Issuer Name:
RBC Canadian Money Market Fund
RBC Canadian Short-Term Income Fund
RBC Bond Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated January 9, 2004
Mutual Reliance Review System Receipt dated January 12, 2004
Offering Price and Description:
Advisor Series Units
Underwriter(s) or Distributor(s):
RBC Asset Management Inc.
Promoter(s):
The Royal Trust Company
Project #595885

Issuer Name:
The Business, Engineering, Science & Technology Discoveries Fund Inc.
Type and Date:
Final Prospectus dated January 6, 2004
Receipted on January 7, 2004
Offering Price and Description:
Class A Shares, Series I; Class A Shares, Series II; Class A Shares, Series III
Underwriter(s) or Distributor(s):
-
Promoter(s):
1208733 Ontario Inc.
B.E.S.T. Investment Counsel Limited
Project #591579

Issuer Name:
THE GOODWOOD CAPITAL FUND
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated January 9, 2004
Mutual Reliance Review System Receipt dated January 12, 2004
Offering Price and Description:
Mutual Fund Units @ Net Asset Value
Underwriter(s) or Distributor(s):
Goodwood Inc.
Goodwood Inc.
Promoter(s):
Goodwood Inc.
Project #597763

Issuer Name:
The Newport Fixed Income Fund
The Newport Canadian Equity Fund
The Newport U.S. Equity Fund
The Newport International Equity Fund
The Newport Yield Fund
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated January 2, 2004 to Final Simplified Prospectuses and Annual Information Forms dated June 30, 2003
Mutual Reliance Review System Receipt dated January 8, 2004
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
The Newport Investment Counsel Inc.
Newport Investment Counsel Inc.
Promoter(s):
The Newport Investment Counsel Inc.
Project #546748

Issuer Name:
Trophy Capital Inc.
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated January 7, 2004
Mutual Reliance Review System Receipt dated January 7, 2004
Offering Price and Description:
Minimum of $700,000 and a Maximum of $1,000,000;
Minimum of 4,666,666 common shares and a Maximum of 6,666,666 common shares Price: $0.15 per common share
Underwriter(s) or Distributor(s):
Kingsdale Capital Markets Inc.
Promoter(s):
-
Project #570982

Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
New Registration	Howson Tattersall Private Asset Management Inc.	Limited Market Dealer, Investment Counsel & Portfolio Manager	January 8, 2004
New Registration	Integrated Managed Futures Corp.	Limited Market Dealer & Commodity Trading Manager	January 7, 2004
Change of Name	From: Desjardins Trust Investment Services Inc. To: Desjardins Cabinet De Services Financiers Inc./Desjardins Financial Services Firm Inc.	Mutual Fund Dealer	January 5, 2004
Change of Name	From: U.S. Bancorp Piper Jaffray Inc. To: Piper Jaffray & Co.	International Dealer	December 30, 2003
Change of Name	From: Dynamic Mutual Funds Ltd. To: Goodman & Company, Investment Counsel Ltd.	Investment Counsel & Portfolio Manager	January 1, 2004

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Chapter 25

Otfher Information

25.1 Exemptions

25.1.1 Covington Strategic Capital Fund Inc. - s. 9.1 of NI 81-105

Headnote

Exemption granted to labour sponsored investment fund corporation to permit it to pay certain specified distribution costs out of fund assets contrary to section 2.1 of National Instrument 81-105 Mutual Fund Sales Practices. Exemption granted on the condition that the distribution costs so paid are permitted by, and otherwise paid in accordance with the National Instrument, and that the Exemption expires on November 30, 2004.

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as amended.

Rules Cited

National Instrument 81-105 Mutual Fund Sales Practices.

IN THE MATTER OF
THE SECURITIES ACT, R.S.O. 1990,
CHAPTER S.5, AS AMENDED (The Act)

AND

IN THE MATTER OF
NATIONAL INSTRUMENT 81-105
MUTUAL FUND SALES PRACTICES

AND

IN THE MATTER OF
COVINGTON STRATEGIC CAPITAL FUND INC.

EXEMPTION
(Section 9.1 of NI 81-105)

WHEREAS Covington Strategic Capital Fund Inc. (the Fund) has made an application (the Application) with the Ontario Securities Commission (the Commission) for an exemption pursuant to section 9.1 of National Instrument 81-105 – Mutual Fund Sales Practices (NI 81-105) from section 2.1 of NI 81-105 to permit the Fund to make certain distribution costs payments to registered dealers;

AND WHEREAS the Commission has considered the Application and the recommendation of staff of the Commission;

AND WHEREAS the Fund has represented to the Commission as follows:

1. The Fund was incorporated under the laws of the Province of Ontario by articles of incorporation dated November 18, 2003. The sponsor of the Fund is the Canadian Professional Police Association (CPPA) (the Sponsor).

2. The Fund has applied for registration as a labour sponsored investment fund corporation under the *Community Small Business Investment Funds Act* (the Ontario Act), and when so registered will be a prescribed labour-sponsored venture capital corporation under the *Income Tax Act* (Canada), as amended.

3. The Fund filed the Preliminary Prospectus on November 21, 2003 in connection with the initial and continuous public offering of the Class A Shares, Series I (the Series I Shares) and the Class A Shares, Series II (the Series II Shares) to the public in Ontario. The Fund will be a mutual fund pursuant to the securities legislation of the Province of Ontario.

4. The authorized capital of the Fund consists of an unlimited number of Class A Shares issuable in series of which the Series I Shares and the Series II Shares have been created as of the date hereof, an unlimited number of Class B Shares and an unlimited number of Class C Shares, issuable in series, of which no Class A Shares or Class C Shares are issued or outstanding and 200 Class B Shares are issued and outstanding and held by the Sponsor.

5. The Fund and the Fund's manager (the Manager) propose to pay directly to participating dealers certain costs associated with the distribution of the Class A Shares. These costs are:

   (a) with respect to the Series I Shares:

      (i) the Manager will pay to registered dealers selling Series I Shares a commission of 10% of the offering price, and

      (ii) after a period of eight years, the Fund will pay a service fee to registered dealers equal to 0.5% annually of the Net Asset Value of the Series I Shares held by clients of the sales representatives of such registered dealers (the Series I Service Fees); and

(b) with respect to the Series II Shares,

(i) the Fund's Manager will pay to registered dealers selling Series II shares a commission of 6% of the offering price, and

(ii) the Fund will pay a service fee to registered dealers equal to 0.5% annually of the Net Asset Value of the Series II Shares held by clients of the sales representatives of such registered dealers (the Series II Service Fees).

6. The Fund will pay the following monthly distribution services fee to the Manager intending to reimburse the Manager for financing costs incurred to fund the payment of sales commissions, including an amount for interest and a one-time financing commitment:

(a) with respect to the Series I Shares, a monthly distribution services fee equal to 0.160% of the original issue price of the issued and unredeemed Series I Shares, and

(b) with respect to the Series II Shares, a monthly distribution services fee equal to 0.096% of the original issue price of the issued and unredeemed Series I Shares.

7. Section 2.1 of NI 81-105 would prohibit the Fund from paying the Series I Service Fees and the Series II Service Fees registered dealers directly.

8. The Preliminary Prospectus discloses and will continue to disclose the payment by the Fund of the Series I Service Fees and Series II Service Fees, and that the Fund is responsible for payment of those expenses.

9. The Fund undertakes to comply with all other provisions of NI 81-105. In particular, the Fund undertakes that all distribution costs paid by it will be compensation permitted to be paid to participating dealers under NI 81-105.

AND WHEREAS the Commission is satisfied that to do so would not be prejudicial to the public interest;

NOW THEREFORE pursuant to section 9.1 of NI 81-105, the Commission hereby exempts the Fund from section 2.1 of NI 81-105 to permit the Fund to pay the Series II Service Fees, provided that:

(a) The Series II Service Fees are otherwise permitted by, and paid in accordance with, NI 81-105;

(b) the Fund will in its financial statements expense the Series II Service Fees in the fiscal period when incurred; and

(c) this Exemption shall cease to be operative on November 30, 2004.

January 9, 2004.

"Paul M. Moore" "Robert L. Shirriff"

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