

## **APPENDIX B**

### **Schedule 2**

#### **FORM 41-101F1**

### **INFORMATION REQUIRED IN A PROSPECTUS**

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## FORM 41-101F1

### INFORMATION REQUIRED IN A PROSPECTUS

#### GENERAL INSTRUCTIONS

- (1) *The objective of the prospectus is to provide information concerning the issuer that an investor needs in order to make an informed investment decision. Form 41-101F1 sets out specific disclosure requirements that are in addition to the general requirement under securities legislation to provide full, true and plain disclosure of all material facts relating to the securities to be distributed. Certain rules of specific application impose prospectus disclosure obligations in addition to those described in Form 41-101F1.*
- (2) *Terms used and not defined in Form 41-101F1 that are defined or interpreted in the Instrument must bear that definition or interpretation. Other definitions are set out in National Instrument 14-101 Definitions.*
- (3) *In determining the degree of detail required, a standard of materiality should be applied. Materiality is a matter of judgment in particular circumstance, and should generally be determined in relation to an item's significance to investors, analysts and other users of the 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. In determining whether information is material, take into account both quantitative and qualitative factors. The potential significance of items should be considered individually rather than on a net basis, if the items have an offsetting effect. This concept of materiality is consistent with the financial reporting notion of materiality contained in the Handbook.*
- (4) *Unless an item specifically requires disclosure only in the preliminary prospectus, the disclosure requirements set out in Form 41-101F1 apply to both the preliminary prospectus and the prospectus. Details concerning the price and other matters dependent upon or relating to price, such as the number of securities being distributed, may be left out of the preliminary prospectus, along with specifics concerning the plan of distribution, to the extent that these matters have not been decided.*
- (5) *The disclosure must be understandable to readers and presented in an easy to read format. The presentation of information should comply with the plain language principles listed in section 4.1 of Companion Policy 41-101CP General Prospectus Requirements [Style of prospectus]. If technical terms are required, clear and concise explanations should be included.*
- (6) *No reference need be made to inapplicable items and, unless otherwise required in Form 41-101F1, negative answers to items may be omitted.*
- (7) *Where the term "issuer" is used, it may be necessary, in order to meet the requirement for full, true and plain disclosure of all material facts to also include disclosure with respect to the issuer's subsidiaries and investees. If it is more likely than not that a*

*person or company will become a subsidiary or investee, it may be necessary to also include disclosure with respect to the person or company. For this purpose, subsidiaries and investees include entities that are consolidated, proportionately consolidated, or accounted for using the equity method.*

- (8) *An issuer that is a special purpose vehicle may have to modify the disclosure items to reflect the special purpose nature of its business.*
- (9) *If disclosure is required as of a specific date and there has been a material change or change that is otherwise significant in the required information subsequent to that date, present the information as of the date of the change or a date subsequent to the change instead.*
- (10) *If an issuer discloses financial information in a preliminary prospectus or prospectus in a currency other than the Canadian dollar, prominently disclose the currency in which the financial information is disclosed.*
- (11) *Except as otherwise required or permitted, include information in a narrative form. The issuer may include graphs, photographs, maps, artwork or other forms of illustration, if relevant to the business of the issuer or the distribution and not misleading. Include descriptive headings. Except for information that appears in a summary, information required under more than one item need not be repeated.*
- (12) *Certain requirements in this Form 41-101F1 make reference to requirements in another instrument. Issuers must also refer to any instructions to the requirements in the other instrument unless otherwise noted. These references include references to Form 51-102F2 Annual Information Form. Venture issuers must include such disclosure in a preliminary prospectus or prospectus even if they are not otherwise required to file an annual information form under NI 51-102 .*

## **ITEM 1: Cover Page Disclosure**

### **Required statement**

- 1.1** State in italics at the top of the cover page the following:

*“No securities regulatory authority has expressed an opinion about these securities and it is an offence to claim otherwise.”*

### **Preliminary prospectus disclosure**

- 1.2** Every preliminary prospectus must have printed in red ink and in italics at the top of the cover page immediately above the disclosure required under item 1.1 [*Required statement*] the following, with the bracketed information completed:

*“A copy of this preliminary prospectus has been filed with the securities regulatory authority(ies) in [each of/certain of the provinces/provinces and territories of Canada] but has not yet become final for the purpose of the sale of*

*securities. Information contained in this preliminary prospectus may not be complete and may have to be amended. The securities may not be sold until a receipt for the prospectus is obtained from the securities regulatory authority(ies).”*

**INSTRUCTION**

Issuers must complete the bracketed information by

- (a) *inserting the names of each jurisdiction in which the issuer intends to offer securities under the prospectus,*
- (b) *stating that the filing has been made in each of the provinces of Canada or each of the provinces and territories of Canada, or*
- (c) *identifying the filing jurisdictions by exception (i.e., every province of Canada or every province and territory of Canada, except [excluded jurisdictions]).*

**Basic disclosure about the distribution**

**1.3** State the following immediately below the disclosure required under items 1.1 [*Required statement*] and 1.2 [*Preliminary prospectus disclosure*] with the bracketed information completed:

“[PRELIMINARY] PROSPECTUS

[INITIAL PUBLIC OFFERING OR NEW ISSUE AND/OR SECONDARY OFFERING]

[(Date)]

[Name of Issuer]

[number and type of securities qualified for distribution under the prospectus, including any options or warrants, and the price per security]”

**Distribution**

**1.4(1)** If the securities are being distributed for cash, provide the information called for below, in substantially the following tabular form or in a note to the table:

	Price to public (a)	Underwriting discounts or commission (b)	Proceeds to issuer or selling security holders (c)
Per Security			



Total			
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- (2) If there is an over-allotment option or an option to increase the size of the distribution before closing,
  - (a) disclose that a purchaser who acquires securities forming part of the underwriters' over-allocation position acquires those securities under this prospectus, regardless of whether the over-allocation position is ultimately filled through the exercise of the over-allotment option or secondary market purchases, and
  - (b) describe the terms of the option.
- (3) If the distribution of the securities is to be on a best efforts basis, provide totals for both the minimum and maximum offering amount, if applicable.
- (4) If a minimum subscription amount is required from each subscriber, provide details of the minimum subscription requirements in the table required under subsection (1).
- (5) If debt securities are being distributed at a premium or a discount, state in bold type the effective yield if held to maturity.
- (6) Disclose separately those securities that are underwritten, those under option and those to be sold on a best efforts basis, and, in the case of a best efforts distribution, the latest date that the distribution is to remain open.
- (7) In column (b) of the table, disclose only commissions paid or payable in cash by the issuer or selling security holder and discounts granted. Set out in a note to the table
  - (a) commissions or other consideration paid or payable by persons or companies other than the issuer or selling security holder,
  - (b) consideration other than discounts granted and cash paid or payable by the issuer or selling security holder, including warrants and options, and
  - (c) any finder's fees or similar required payment.
- (8) If a security is being distributed for the account of a selling security holder, state the name of the security holder and a cross-reference to the applicable section in the prospectus where further information about the selling security holder is provided. State the portion of the expenses of the distribution to be borne by the selling security holder and, if none of the expenses of the distribution are being borne by the selling security holder, include a statement to that effect and discuss the reason why this is the case.

*INSTRUCTIONS*

- (1) *Estimate amounts, if necessary. For non-fixed price distributions that are being made on a best efforts basis, disclosure of the information called for by the table may be set forth as a percentage or a range of percentages and need not be set forth in tabular form.*
- (2) *If debt securities are being distributed, also express the information in the table as a percentage.*

### **Offering price in currency other than Canadian dollar**

- 1.5** If the offering price of the securities being distributed is disclosed in a currency other than the Canadian dollar, disclose in bold face type the reporting currency.

### **Non-fixed price distributions**

- 1.6** If the securities are being distributed at non-fixed prices, disclose
- (a) the discount allowed or commission payable to the underwriter,
  - (b) any other compensation payable to the underwriter and, if applicable, that the underwriter's compensation will be increased or decreased by the amount by which the aggregate price paid for the securities by the purchasers exceeds or is less than the gross proceeds paid by the underwriter to the issuer or selling security holder,
  - (c) that the securities to be distributed under the prospectus will be distributed, as applicable, at
    - (i) prices determined by reference to the prevailing price of a specified security in a specified market,
    - (ii) market prices prevailing at the time of sale, or
    - (iii) prices to be negotiated with purchasers,
  - (d) that prices may vary as between purchasers and during the period of distribution,
  - (e) if the price of the securities is to be determined by reference to the prevailing price of a specified security in a specified market, the price of the specified security in the specified market at the latest practicable date,
  - (f) if the price of the securities will be the market price prevailing at the time of the sale, the market price at the latest practicable date, and
  - (g) the net proceeds or, if the distribution is to be made on a best efforts basis, the minimum amount of net proceeds, if any, to be received by the issuer or selling security holder.

### **Pricing range**

- 1.7** If the offering price or the number of securities being distributed has not been determined at the date of the preliminary prospectus, disclose a *bona fide* estimate of the range in which the offering price or the number of securities being distributed is expected to be set.

### **Reduced price distributions**

- 1.8** If an underwriter wishes to be able to decrease the price at which securities are distributed for cash from the initial offering price fixed in the prospectus, include in bold type a cross-reference to the section in the prospectus where disclosure concerning the possible price decrease is provided.

### **Market for securities**

- 1.9(1)** Identify the exchange(s) and quotation system(s), if any, on which securities of the issuer of the same class as the securities being distributed are traded or quoted and the market price of those securities as of the latest practicable date.
- (2)** Disclose any intention to stabilize the market. Provide a cross-reference to the section in the prospectus where further information about market stabilization is provided.
- (3)** If no market for the securities being distributed under the prospectus is expected to exist upon completion of the distribution, state the following in bold type:

**“There is no market through which these securities may be sold. This may affect the pricing of the securities in the secondary market, the transparency and availability of trading prices, the liquidity of the securities, and the extent of issuer regulation. A purchaser may not be able to resell securities purchased under this prospectus. See ‘Risk Factors’”.**

- (4)** If the issuer has complied with the requirements of this Instrument as an IPO venture issuer, include a statement, in substantially the following form, with bracketed information completed:

“As at the date of this prospectus, [name of issuer] does not have any of its securities listed or quoted, has not applied to list or quote any of its securities, and does not intend to apply to list or quote any of its securities, on the Toronto Stock Exchange, a U.S. marketplace, or a marketplace outside of Canada and the United States of America other than the Alternative Investment Market of the London Stock Exchange or the market known as OFEX.”

### **Risk factors**

- 1.10** Include a cross-reference to sections in the prospectus where information about the risks of an investment in the securities being distributed is provided.

## Underwriter(s)

1.11(1) State the name of each underwriter.

- (2) If applicable, comply with the requirements of National Instrument 33-105 *Underwriting Conflicts* for cover page prospectus disclosure.
- (3) If an underwriter has agreed to purchase all of the securities being distributed at a specified price and the underwriter's obligations are subject to conditions, state the following, with bracketed information completed:

“We, as principals, conditionally offer these securities, subject to prior sale, if, as and when issued by [name of issuer] and accepted by us in accordance with the conditions contained in the underwriting agreement referred to under Plan of Distribution”.
- (4) If an underwriter has agreed to purchase a specified number or principal amount of the securities at a specified price, state that the securities are to be taken up by the underwriter, if at all, on or before a date not later than 42 days after the date of the receipt for the prospectus.
- (5) If there is no underwriter involved in the distribution, provide a statement in bold type to the effect that no underwriter has been involved in the preparation of the prospectus or performed any review or independent due diligence of the contents of the prospectus.
- (6) Provide the following tabular information

<b>Underwriter's Position</b>	<b>Maximum size or number of securities held</b>	<b>Exercise period/ Acquisition date</b>	<b>Exercise price or average acquisition price</b>
Over-allotment option			
Compensation option			
Any other option granted by issuer or insider of issuer			
Total securities under option			
Other compensation securities			

## **International issuers**

- 1.12** If the issuer, a selling security holder, or any person or company required to provide a certificate under Part 5 of the Instrument [*Certificates*], other than the issuer, is incorporated, continued, or otherwise organized under the laws of a foreign jurisdiction or resides outside of Canada, state the following on the cover page or under a separate heading elsewhere in the prospectus, with the bracketed information completed:

“The [issuer, selling security holder, or person or company providing a certificate under Part 5 of the Instrument [*Certificates*] or securities legislation] is incorporated, continued or otherwise organized under the laws of a foreign jurisdiction or resides outside of Canada. Although [the person or company described above] has appointed [name(s) and addresses of agent(s) for service] as its agent(s) for service of process in [list jurisdictions] it may not be possible for investors to realize on judgements obtained in Canada against [the person or company described above].”

## **Restricted securities**

- 1.13(1)** Describe the number and class or classes of restricted securities being distributed using the appropriate restricted security term in the same type face and type size as the rest of the description.
- (2)** If the securities being distributed are restricted securities and the holders of the securities do not have the right to participate in a takeover bid made for other equity securities of the issuer, disclose that fact.

## **Earnings coverage**

- 1.14** If any of the earnings coverage ratios required to be disclosed under Item 9 [*Earnings Coverage Ratios*] is less than one-to-one, disclose this fact in bold type.

## **ITEM 2: Table of Contents**

### **Table of contents**

- 2.1** Include a table of contents.

## **ITEM 3: Summary of Prospectus**

### **General**

- 3.1(1)** Briefly summarize, near the beginning of the prospectus, information appearing elsewhere in the prospectus that, in the opinion of the issuer or selling security holder, would be most likely to influence the investor’s decision to purchase the securities being distributed, including a description of
- (a)** the principal business of the issuer and its subsidiaries,

- (b) the securities to be distributed, including the offering price and expected net proceeds,
  - (c) use of proceeds,
  - (d) risk factors,
  - (e) financial information, and
  - (f) if restricted securities, subject securities or securities that are directly or indirectly convertible into or exercisable or exchangeable for restricted securities or subject securities, are to be distributed under the prospectus
    - (i) include a summary of the information required by item 10.6 [*Restricted securities*]; and
    - (ii) include, in bold-face type, a statement of the rights the holders of restricted securities do not have, if the holders do not have all of the rights referred to in item 10.6 [*Restricted securities*].
- (2) For the financial information provided under paragraph (1)(e),
- (a) disclose the source of the financial information,
  - (b) disclose whether the source of the financial information has been audited,
  - (c) disclose whether the financial information has been audited, and
  - (d) if neither the source of the financial information nor the financial information has been audited, prominently disclose that fact.
- (3) For each item summarized under subsection (1), provide a cross-reference to the information in the prospectus.

### **Cautionary language**

- 3.2** At the beginning of the summary, include a statement in italics in substantially the following form:

*“The following is a summary of the principal features of this distribution and should be read together with the more detailed information and financial data and statements contained elsewhere in this prospectus.”*

## **ITEM 4: Corporate Structure**

## **Name, address and incorporation**

- 4.1(1)** State the issuer's full corporate name or, if the issuer is an unincorporated entity, the full name under which it exists and carries on business, and the address(es) of the issuer's head and registered office.
- (2)** State the statute under which the issuer is incorporated, continued or organized or, if the issuer is an unincorporated entity, the laws of the jurisdiction or foreign jurisdiction under which it is established and exists.
- (3)** Describe the substance of any material amendments to the articles or other constating or establishing documents of the issuer.

## **Intercorporate relationships**

- 4.2(1)** Describe, by way of a diagram or otherwise, the intercorporate relationships among the issuer and its subsidiaries.
- (2)** For each subsidiary described in subsection (1), state
  - (a)** the percentage of votes attaching to all voting securities of the subsidiary beneficially owned, controlled or directed, by the issuer,
  - (b)** the percentage of each class of restricted securities of the subsidiary beneficially owned, controlled or directed, by the issuer, and
  - (c)** where the subsidiary was incorporated or continued.
- (3)** If the securities distributed under the prospectus are being issued in connection with a restructuring transaction, describe by way of a diagram or otherwise these intercorporate relationships both before and after the completion of the proposed transaction.
- (4)** A particular subsidiary may be omitted from the disclosure required by this item if, at the most recent financial year end of the issuer
  - (a)** the total assets of the subsidiary do not exceed 10% of the consolidated assets of the issuer,
  - (b)** the sales and operating revenues of the subsidiary do not exceed 10% of the consolidated sales and operating revenues of the issuer, and
  - (c)** the conditions in paragraphs (a) and (b) would be satisfied if
    - (i)** the subsidiaries that may be omitted under paragraphs (a) and (b) were considered in the aggregate, and
    - (ii)** the reference to 10% in those paragraphs was changed to 20%.

## ITEM 5: Describe the Business

### Describe the business

- 5.1(1) Describe the business of the issuer and its operating segments that are reportable segments as those terms are used in the Handbook. Disclose information for each reportable segment of the issuer in accordance with subsection 5.1(1) of Form 51-102F2 [*General*].
- (2) Disclose the nature and results of any bankruptcy, receivership or similar proceedings against the issuer or any of its subsidiaries, or any voluntary bankruptcy, receivership or similar proceedings by the issuer or any of its subsidiaries, within the 3 most recently completed financial years or completed during or proposed for the current financial year.
- (3) Disclose the nature and results of any material restructuring transaction of the issuer or any of its subsidiaries within the 3 most recently completed financial years or completed during or proposed for the current financial year.
- (4) If the issuer has implemented social or environmental policies that are fundamental to the issuer's operations, such as policies regarding the issuer's relationship with the environment or with the communities in which the issuer does business, or human rights policies, describe them and the steps the issuer has taken to implement them.

### Three-year history

- 5.2(1) Describe how the issuer's business has developed over the last 3 completed financial years and any subsequent period to the date of the prospectus, including only events, such as acquisitions or dispositions, or conditions that have influenced the general development of the business.
- (2) If the issuer produces or distributes more than one product or provides more than one kind of service, describe the products or services.
- (3) Discuss changes in the issuer's business that the issuer expects will occur during the current financial year.

### Issuers with asset-backed securities outstanding

- 5.3(1) If the issuer has asset-backed securities outstanding that were distributed under a prospectus, disclose information in accordance with item 5.3 of Form 51-102F2 [*Companies with Asset-backed Securities Outstanding*].
- (2) If any of the information disclosed in accordance with subsection 5.3(2) of Form 51-102F2 [*Companies with Asset-backed Securities Outstanding*] as required under subsection (1) has been audited, disclose the existence and results of the audit.



## **Issuers with mineral projects**

- 5.4** If the issuer has a mineral project, disclose information for the issuer in accordance with item 5.4 of Form 51-102F2 [*Companies With Mineral Projects*].

## **Issuers with oil and gas operations**

- 5.5(1)** If the issuer is engaged in oil and gas activities as defined in NI 51-101, disclose information in accordance with Form 51-101F1 *Statement of Reserves Data and Other Oil and Gas Information*
- (a) as at the end of, and for, the most recent financial year for which the prospectus includes an audited balance sheet of the issuer, or
  - (b) in the absence of a completed financial year referred to in paragraph (a), as at the most recent date for which the prospectus includes an audited balance sheet of the issuer, and for the most recent financial period for which the prospectus includes an audited income statement of the issuer.
- (2)** Include with the disclosure under subsection (1) a report in the form of Form 51-101F2 *Report on Reserves Data by Independent Qualified Reserves Evaluator or Auditor*, on the reserves data included in the disclosure required under subsection (1).
- (3)** Include with the disclosure under subsection (1) a report in the form of Form 51-101F3 *Report of Management and Directors on Oil and Gas Disclosure* that refers to the information disclosed under subsection (1).
- (4)** To the extent not reflected in the information disclosed in response to subsection (1), disclose the information contemplated by Part 6 of NI 51-101 [*Material Change Disclosure*] in respect of material changes that occurred after the applicable balance sheet referred to in subsection (1).

## **INSTRUCTION**

*Disclosure in a prospectus must be consistent with NI 51-101 if the issuer is engaged in oil and gas activities (as defined in NI 51-101).*

## **ITEM 6: Use of Proceeds**

### **Proceeds**

- 6.1(1)** State the estimated net proceeds to be received by the issuer or selling security holder or, in the case of a non-fixed price distribution or a distribution to be made on a best efforts basis, the minimum amount, if any, of net proceeds to be received by the issuer or selling security holder from the sale of the securities distributed.
- (2)** State the particulars of any provisions or arrangements made for holding any part of the net proceeds of the distribution in trust or escrow subject to the fulfillment of conditions.

- (3) If the prospectus is used for a special warrant or similar transaction, state the amount that has been received by the issuer of the special warrants or similar securities on the sale of the special warrants or similar securities.

### **Junior issuers**

#### **6.2** A junior issuer must disclose

- (a) the total funds available, and
- (b) the following breakdown of those funds:
  - (i) the net proceeds from the sale of the securities offered under the prospectus;
  - (ii) the estimated consolidated working capital (deficiency) as at the most recent month end before filing the prospectus;
  - (iii) the total other funds available to be used to achieve the principal purposes identified by the junior issuer pursuant to this Item.

### **Principal purposes – generally**

- 6.3(1)** Describe in reasonable detail and, if appropriate, using tabular form, each of the principal purposes, with approximate amounts, for which
- (a) the net proceeds will be used by the issuer, or
  - (b) the funds available as required under section 6.2 [*Junior issuers*] will be used by a junior issuer.
- (2) If the closing of the distribution is subject to a minimum subscription, provide disclosure of the use of proceeds for the minimum and maximum subscriptions.

### **INSTRUCTION**

*For the purposes of the disclosure in this item, the phrase “for general corporate purposes” will generally not be sufficient.*

### **Principal purposes – indebtedness**

- 6.4(1)** If more than 10% of the net proceeds will be used to reduce or retire indebtedness and the indebtedness was incurred within the 2 preceding years, describe the principal purposes for which the proceeds of the indebtedness were used.
- (2) If the creditor is an insider, associate or affiliate of the issuer, identify the creditor and the nature of the relationship to the issuer and the outstanding amount owed.

### **Principal purposes – asset acquisition**

- 6.5(1)** If more than 10% of the net proceeds are to be used to acquire assets, describe the assets.
- (2) If known, disclose the particulars of the purchase price being paid for or being allocated to the assets or categories of assets, including intangible assets.
  - (3) If the vendor of the assets is an insider, associate or affiliate of the issuer, give the name of the vendor and the method used in determining the purchase price.
  - (4) Describe the nature of the title to or interest in the assets to be acquired by the issuer.
  - (5) If part of the consideration for the acquisition of the assets consists of securities of the issuer, give brief particulars of the class, number or amount, voting rights, if any, and other appropriate information relating to the securities, including particulars of the issuance of securities of the same class within the 2 preceding years.

### **Principal purposes – insiders, etc.**

- 6.6** If an insider, associate or affiliate of the issuer will receive more than 10% of the net proceeds, identify the insider, associate or affiliate and disclose the amount of net proceeds to be received.

### **Principal purposes – research and development**

- 6.7** If more than 10% of the net proceeds from the distribution will be used for research and development of products or services, describe
- (a) the timing and stage of research and development programs that management anticipates will be reached using such proceeds,
  - (b) the major components of the proposed programs that will be funded using the proceeds from the distribution, including an estimate of anticipated costs,
  - (c) if the issuer is conducting its own research and development, is subcontracting out the research and development or is using a combination of those methods, and
  - (d) the additional steps required to reach commercial production and an estimate of costs and timing.

### **Business objectives and milestones**

- 6.8(1)** State the business objectives that the issuer expects to accomplish using the net proceeds of the distribution under item 6.1 [*Proceeds*], or in the case of a junior issuer, using the funds available described under item 6.2 [*Junior issuers*].

- (2) Describe each significant event that must occur for the business objectives described under subsection (1) to be accomplished and state the specific time period in which each event is expected to occur and the costs related to each event.

#### **Unallocated funds in trust or escrow**

**6.9(1)** Disclose that unallocated funds will be placed in a trust or escrow account, invested or added to the working capital of the issuer.

- (2) Give details of the arrangements made for, and the persons or companies responsible for,
  - (a) the supervision of the trust or escrow account or the investment of unallocated funds, and
  - (b) the investment policy to be followed.

#### **Other sources of funding**

**6.10** If any material amounts of other funds are to be used in conjunction with the proceeds, state the amounts and sources of the other funds.

#### **Financing by special warrants, etc.**

**6.11(1)** If the prospectus is used to qualify the distribution of securities issued upon the exercise of special warrants or the exercise of other securities acquired on a prospectus-exempt basis, describe the principal purposes for which the proceeds of the prospectus-exempt financing were used or are to be used.

- (2) If all or a portion of the funds have been spent, explain how the funds were spent.

### **ITEM 7: Dividends or Distributions**

#### **Dividends or distributions**

**7.1(1)** Disclose the amount of cash dividends or distributions declared per security for each class of the issuer's securities for each of the 3 most recently completed financial years and its current financial year.

- (2) Describe any restrictions that could prevent the issuer from paying dividends or distributions.
- (3) Disclose the issuer's dividend or distribution policy and any intended change in dividend or distribution policy.

### **ITEM 8: Management's Discussion and Analysis**

## Interpretation

- 8.1(1)** For the purposes of this Item, MD&A means a completed Form 51-102F1 or, in the case of an SEC issuer, a completed Form 51-102F1 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.
- (2) If MD&A is prepared in the form of Form 51-102F1, the issuer
- (a) should read the references to a “venture issuer” in Form 51-102F1 to include an IPO venture issuer,
  - (b) should disregard the requirements in
    - (i) the Instruction to section 1.11 of Form 51-102F1 [*Proposed Transactions*], and
    - (ii) section 1.15 of Form 51-102F1 [*Other MD&A Requirements*], and
  - (c) may not satisfy section 1.10 of Form 51-102F1 [*Fourth Quarter*] by incorporating by reference into the prospectus separate MD&A for the issuer’s fourth quarter.

## MD&A

- 8.2(1)** Provide MD&A for
- (a) the most recent annual financial statements of the issuer included in the prospectus under Item 32 [*Financial Statement Disclosure for Issuers*], and
  - (b) the most recent interim financial statements of the issuer included in the prospectus under Item 32 [*Financial Statement Disclosure for Issuers*].
- (2) If the prospectus includes the issuer’s annual income statements, statements of retained earnings, and cash flow statements for 3 financial years under Item 32 [*Financial Statement Disclosure for Issuers*], provide MD&A for the second most recent annual financial statements of the issuer included in the prospectus under Item 32 [*Financial Statement Disclosure for Issuers*].
- (3) Despite subsection (2), MD&A for the second most recent annual financial statements of the issuer included in the prospectus under Item 32 [*Financial Statement Disclosure for Issuers*] may omit disclosure regarding balance sheet items.

## MD&A and supplement for SEC issuers

- 8.3(1)** If the issuer is an SEC issuer, for any MD&A that is included in the prospectus, include the disclosure prepared in accordance with subsection (2) if the issuer

- (a) has based the discussion in the MD&A on financial statements prepared in accordance with U.S. GAAP, and
  - (b) is required by subsection 4.1(1) of NI 52-107 [*Acceptable Accounting Principles for SEC Issuers*] to provide a reconciliation to Canadian GAAP.
- (2) In the disclosure required under subsection (1) restate, based on financial information of the issuer prepared in accordance with, or reconciled to, Canadian GAAP, those parts of the MD&A that
- (a) are based on financial statements of the issuer prepared in accordance with U.S. GAAP, and
  - (b) would contain material differences if they were based on financial statements of the issuer prepared in accordance with Canadian GAAP.

### **Disclosure of outstanding security data**

- 8.4(1)** Disclose in the MD&A, or supplement if one is required under item 8.3 [*MD&A and supplement for SEC issuers*], the designation and number or principal amount of
- (a) each class and series of voting or equity securities of the issuer for which there are securities outstanding,
  - (b) each class and series of securities of the issuer for which there are securities outstanding if the securities are convertible into, or exercisable or exchangeable for, voting or equity securities of the issuer, and
  - (c) subject to subsection (2), each class and series of voting or equity securities of the issuer that are issuable on the conversion, exercise or exchange of outstanding securities of the issuer.
- (2) If the exact number or principal amount of voting or equity securities of the issuer that are issuable on the conversion, exercise or exchange of outstanding securities of the issuer is not determinable, the issuer must disclose the maximum number or principal amount of each class and series of voting or equity securities that are issuable on the conversion, exercise or exchange of outstanding securities of the issuer and, if that maximum number or principal amount is not determinable, the issuer must describe the exchange or conversion features and the manner in which the number or principal amount of voting or equity securities will be determined.
- (3) The disclosure under subsections (1) and (2) must be prepared as of the latest practicable date.

### **More recent financial information**

- 8.5** If the issuer is required to include more recent financial information in the prospectus under subsection 32.6(1) [*Additional financial statements or financial information filed*]

*or released*], the issuer is not required to update the MD&A already included in the prospectus under this Item.

**Additional disclosure for venture issuers or IPO venture issuers without significant revenue**

- 8.6(1)** If the issuer is a venture issuer or an IPO venture issuer that has not had significant revenue from operations in either of its last 2 financial years, disclose in the MD&A, or supplement if one is required under item 8.3 [*MD&A and supplement for SEC issuers*], a breakdown of material components of
- (a) capitalized or expensed exploration and development costs,
  - (b) expensed research and development costs,
  - (c) deferred development costs,
  - (d) general and administrative expenses, and
  - (e) any material costs, whether capitalized, deferred or expensed, not referred to in paragraphs (a) through (d).
- (2)** Present the analysis of capitalized or expensed exploration and development costs required by subsection (1) on a property-by-property basis, if the issuer's business primarily involves mining exploration and development.
- (3)** Provide the disclosure in subsection (1) for the following periods
- (a) in the case of annual MD&A, for the 2 most recently completed financial years, and
  - (b) in the case of interim MD&A, for the most recent year-to-date interim period and the comparative year-to-date period presented in the interim financial statements included in the prospectus, if any.
- (4)** Subsection (1) does not apply if the information required under that subsection has been disclosed in the financial statements to which the MD&A, or supplement if one is required under item 8.3 [*MD&A and supplement for SEC issuers*], relates.

**Additional disclosure for junior issuers**

- 8.7** For a junior issuer that had negative operating cash flow in its most recently completed financial year for which financial statements have been included in the prospectus, disclose in the MD&A, or supplement if one is required under item 8.3 [*MD&A and supplement for SEC issuers*]
- (a) the period of time the proceeds raised under the prospectus are expected to fund operations,

- (b) the estimated total operating costs necessary for the issuer to achieve its stated business objectives during that period of time, and
- (c) the estimated amount of other material capital expenditures during that period of time.

### **Additional disclosure for issuers with significant equity investees**

**8.8(1)** An issuer that has a significant equity investee must disclose in its MD&A, or supplement if one is required under section 8.3 [*MD&A and supplement for SEC issuers*], for each MD&A provided under section 8.2 [*MD&A*]

- (a) summarized information as to the assets, liabilities and results of operations of the equity investee, and
  - (b) the issuer's proportionate interest in the equity investee and any contingent issuance of securities by the equity investee that might significantly affect the issuer's share of earnings.
- (2)** Subsection (1) does not apply if
- (a) the information required under that subsection has been disclosed in the financial statements to which the MD&A, or supplement if one is required under section 8.3 [*MD&A and supplement for SEC issuers*], relates, or
  - (b) the issuer files separate financial statements of the equity investee for the periods of the MD&A referred to in section 8.2 [*MD&A*].

## **ITEM 9: Earnings Coverage Ratios**

### **Earnings coverage ratios**

**9.1(1)** If the securities being distributed are debt securities having a term to maturity in excess of one year or are preferred shares, disclose the following earnings coverage ratios adjusted in accordance with subsection (2):

- (a) the earnings coverage ratio based on the most recent 12 month period included in the issuer's current annual financial statements,
  - (b) if there has been a change in year end and the issuer's most recent financial year is less than nine months in length, the earnings coverage calculation for its old financial year, and
  - (c) the earnings coverage ratio based on the 12 month period ended on the last day of the most recently completed period for which interim financial statements of the issuer have been included in the prospectus.
- (2)** Adjust the ratios referred to in subsection (1) to reflect



- (a) the issuance of the securities being distributed under the prospectus, based on the price at which these securities are expected to be distributed,
  - (b) in the case of a distribution of preferred shares,
    - (i) the issuance of all preferred shares since the date of the annual or interim financial statements; and
    - (ii) the repurchase, redemption or other retirement of all preferred shares repurchased, redeemed, or otherwise retired since the date of the annual or interim financial statements and of all preferred shares to be repurchased, redeemed, or otherwise retired from the proceeds to be realized from the sale of securities under the prospectus,
  - (c) the issuance of all long-term financial liabilities, as defined in accordance with the issuer's GAAP, since the date of the annual or interim financial statements,
  - (d) the repayment, redemption or other retirement of all long-term financial liabilities, as defined in accordance with the issuer's GAAP, since the date of the annual or interim financial statements and all long-term financial liabilities to be repaid or redeemed from the proceeds to be realized from the sale of securities distributed under the prospectus, and
  - (e) the servicing costs that were incurred, or are expected to be incurred, in relation to the adjustments.
- (3) If the issuer is distributing, or has outstanding, debt securities that are accounted for, in whole or in part, as equity, disclose in notes to the ratios required under subsection (1)
- (a) that the ratios have been calculated excluding the carrying charges for those securities that have been reflected in equity in the calculation of the issuer's interest and dividend obligations,
  - (b) that if those securities had been accounted for in their entirety as debt for the purpose of calculating the ratios required under subsection (1), the entire amount of the annual carrying charges for those securities would have been reflected in the calculation of the issuer's interest and dividend obligations, and
  - (c) the earnings coverage ratios for the periods referred to in subsection (1), calculated as though those securities had been accounted for as debt.
- (4) If the earnings coverage ratio is less than one-to-one, disclose in the prospectus the dollar amount of the earnings required to achieve a ratio of one-to-one.
- (5) If the prospectus includes a *pro forma* income statement, calculate the *pro forma* earnings coverage ratios for the periods of the *pro forma* income statement, and disclose them in the prospectus.

## INSTRUCTIONS

- (1) *If the issuer's financial year is less than 12 months in length, the earnings coverage ratio in subsection (1) should be calculated on an annualized basis.*
- (2) *Cash flow coverage may be disclosed but only as a supplement to earnings coverage and only if the method of calculation is fully disclosed.*
- (3) *Earnings coverage is calculated by dividing an entity's earnings (the numerator) by its interest and dividend obligations (the denominator).*
- (4) *For the earnings coverage calculation*
  - (a) *the numerator should be calculated using consolidated net income before interest and income taxes;*
  - (b) *imputed interest income from the proceeds of a distribution should not be added to the numerator;*
  - (c) *an issuer may also present, as supplementary disclosure, a coverage calculation based on earnings before discontinued operations and extraordinary items;*
  - (d) *for distributions of debt securities, the appropriate denominator is interest expense determined in accordance with the issuer's GAAP, after giving effect to the new debt issue and any retirement of obligations, plus the amount of interest that has been capitalized during the period;*
  - (e) *for distributions of preferred shares*
    - (i) *the appropriate denominator is dividends declared during the period, together with undeclared dividends on cumulative preferred shares, after giving effect to the new preferred share issue, plus the issuer's annual interest requirements, including the amount of interest that has been capitalized during the period, less any retirement of obligations, and*
    - (ii) *dividends should be grossed-up to a before-tax equivalent using the issuer's effective income tax rate; and*
  - (f) *for distributions of both debt securities and preferred shares, the appropriate denominator is the same as for a preferred share issue, except that the denominator should also reflect the effect of the debt being offered pursuant to the prospectus.*
- (5) *The denominator represents a pro forma calculation of the aggregate of an issuer's interest obligations on all long-term debt and dividend obligations (including both dividends declared and undeclared dividends on cumulative preferred shares) with respect to all outstanding preferred shares, as adjusted to reflect*

- (a) *the issuance of all long-term debt and, in addition in the case of an issuance of preferred shares, all preferred shares issued, since the date of the annual or interim financial statements;*
  - (b) *the issuance of the securities that are to be distributed under the prospectus, based on a reasonable estimate of the price at which these securities will be distributed;*
  - (c) *the repayment or redemption of all long-term debt since the date of the annual or interim financial statements, all long-term debt to be repaid or redeemed from the proceeds to be realized from the sale of securities under the prospectus and, in addition, in the case of an issuance of preferred shares, all preferred shares repaid or redeemed since the date of the annual or interim financial statements and all preferred shares to be repaid or redeemed from the proceeds to be realized from the sale of securities under the prospectus; and*
  - (d) *the servicing costs that were incurred, or will be incurred, in relation to the above adjustments.*
- (6) *In certain circumstances, debt obligations may be classified as current liabilities because such obligations, by their terms, are due on demand, are due within one year, or are callable by the creditor. If the issuer is distributing, or has outstanding, debt securities that are classified as current liabilities, disclose*
- (a) *in the notes to the ratios required under subsection 9.1(1) [Earnings coverage ratios] that the ratios have been calculated excluding the carrying charges for those debt securities reflected as current liabilities;*
  - (b) *that if those debt securities had been classified in their entirety as long term debt for the purposes of calculating the ratios under subsection 9.1(1) [Earnings coverage ratios], the entire amount of the annual carrying charges for such debt securities would have been reflected in the calculation of the issuer's interest and dividend obligations; and*
  - (c) *the earnings coverage ratios for the periods referred to in subsection 9.1(1) [Earnings coverage ratios], calculated as though those debt securities had been classified as long term debt.*
- (7) *For debt securities, disclosure of earnings coverage shall include language similar to the following, with the bracketed information completed:*
- "[Name of the issuer]'s interest requirements, after giving effect to the issue of [the debt securities to be distributed under the prospectus], amounted to \$• for the 12 months ended •. [Name of the issuer]'s earnings before interest and income tax for the 12 months then ended was \$•, which is • times [name of the issuer]'s interest requirements for this period."*

- (8) *For preferred share issues, disclosure of earnings coverage shall include language similar to the following, with the bracketed information completed:*

*"[Name of the issuer]'s dividend requirements on all of its preferred shares, after giving effect to the issue of [the preferred shares to be distributed under the prospectus], and adjusted to a before-tax equivalent using an effective income tax rate of •%, amounted to \$• for the 12 months ended •. [Name of the issuer]'s interest requirements for the 12 months then ended amounted to \$•. [Name of the issuer]'s earnings before interest and income tax for the 12 months ended • was \$•, which is • times [name of the issuer]'s aggregate dividend and interest requirements for this period."*

- (9) *Other earnings coverage calculations may be included as supplementary disclosure to the required earnings coverage calculations outlined above as long as their derivation is disclosed and they are not given greater prominence than the required earnings coverage calculations.*

## **ITEM 10: Description of the Securities Distributed**

### **Equity securities**

**10.1** If equity securities are being distributed, state the description or the designation of the class of the equity securities and describe all material attributes and characteristics, including

- (a) dividend rights,
- (b) voting rights,
- (c) rights upon dissolution or winding-up,
- (d) pre-emptive rights,
- (e) conversion or exchange rights,
- (f) redemption, retraction, purchase for cancellation or surrender provisions,
- (g) sinking or purchase fund provisions,
- (h) provisions permitting or restricting the issuance of additional securities and any other material restrictions, and
- (i) provisions requiring a security holder to contribute additional capital.

### **Debt securities**

**10.2** If debt securities are being distributed, describe all material attributes and characteristics of the indebtedness and the security, if any, for the debt, including

- (a) provisions for interest rate, maturity and premium, if any,
- (b) conversion or exchange rights,
- (c) redemption, retraction, purchase for cancellation or surrender provisions,
- (d) sinking or purchase fund provisions,
- (e) the nature and priority of any security for the debt securities, briefly identifying the principal properties subject to lien or charge,
- (f) provisions permitting or restricting the issuance of additional securities, the incurring of additional indebtedness and other material negative covenants, including restrictions against payment of dividends and restrictions against giving security on the assets of the issuer or its subsidiaries, and provisions as to the release or substitution of assets securing the debt securities,
- (g) the name of the trustee under any indenture relating to the debt securities and the nature of any material relationship between the trustee or any of its affiliates and the issuer or any of its affiliates, and
- (h) any financial arrangements between the issuer and any of its affiliates or among its affiliates that could affect the security for the indebtedness.

### **Asset-backed securities**

#### **10.3** If asset-backed securities are being distributed, describe

- (a) the material attributes and characteristics of the asset-backed securities, including
  - (i) the rate of interest or stipulated yield and any premium,
  - (ii) the date for repayment of principal or return of capital and any circumstances in which payments of principal or capital may be made before such date, including any redemption or pre-payment obligations or privileges of the issuer and any events that may trigger early liquidation or amortization of the underlying pool of financial assets,
  - (iii) provisions for the accumulation of cash flows to provide for the repayment of principal or return of capital,
  - (iv) provisions permitting or restricting the issuance of additional securities and any other material negative covenants applicable to the issuer,
  - (v) the nature, order and priority of the entitlements of holders of asset-backed securities and any other entitled persons or companies to receive cash flows generated from the underlying pool of financial assets, and

- (vi) any events, covenants, standards or preconditions that may reasonably be expected to affect the timing or amount of payments or distributions to be made under the asset-backed securities, including those that are dependent or based on the economic performance of the underlying pool of financial assets,
- (b) information on the underlying pool of financial assets for
- (i) the 3 most recently completed financial years ended more than:
    - (A) 90 days before the date of the prospectus, or
    - (B) 120 days before the date of the prospectus, if the issuer is a venture issuer,
  - (ii) if the issuer has not had asset-backed securities outstanding for 3 financial years, each completed financial year ended more than
    - (A) 90 days before the date of the prospectus, or
    - (B) 120 days before the date of the prospectus, if the issuer is a venture issuer,
  - (iii) a period from the date the issuer had asset-backed securities outstanding to a date not more than 90 days before the date of the prospectus if the issuer has not had asset-backed securities outstanding for at least one financial year,
  - (iv) if an issuer changed its financial year end during any of the financial years referred to in this item and the transition year is less than 9 months, the transition year is deemed not to be a financial year for the purposes of the requirement to provide information on the underlying pool of financial assets for a specified number of financial years in this item,
  - (v) notwithstanding paragraph (iv), all information on the underlying pool of financial assets of the issuer for a transition year must be included in the prospectus,
  - (vi) the most recent interim period, if any, ended
    - (A) subsequent to the most recent financial year refer to in paragraphs (i) and (ii) in respect of which information on the underlying pool of financial assets are included in the prospectus, and
    - (B) more than
      - (I) 45 days before the date of the prospectus, or

- (II) 60 days before the date of the prospectus if the issuer is a venture issuer,
- (vii) if the issuer files information on the underlying pool of financial assets for a more recent period than required under paragraphs (i), (ii), (iii), or (vi) before the prospectus is filed, the issuer must include those more recent information on the underlying pool of financial assets in the prospectus, and
- (viii) if information on the underlying pool of financial assets of the issuer is publicly disseminated by, or on behalf of, the issuer through news release or otherwise for a more recent period than required under paragraphs (i), (ii), (iii), or (vi), the issuer must include the content of the news release or public communication in the prospectus,  
including a discussion and analysis of
  - (ix) the composition of the pool as of the end of the period,
  - (x) income and losses from the pool for the period presented on at least an annual basis or such shorter period as is reasonable given the nature of the underlying pool of assets,
  - (xi) the payment, prepayment and collection experience of the pool for the period on at least an annual basis or such shorter period as is reasonable given the nature of the underlying pool of assets,
  - (xii) servicing and other administrative fees, and
  - (xiii) any significant variances experienced in the matters referred to in paragraphs (ix) through (xii),
- (c) the type of financial assets, the manner in which the financial assets originated or will originate and, if applicable, the mechanism and terms of the agreement governing the transfer of the financial assets comprising the underlying pool to or through the issuer, including the consideration paid for the financial assets,
- (d) any person or company who
  - (i) originated, sold or deposited a material portion of the financial assets comprising the pool, or has agreed to do so,
  - (ii) acts, or has agreed to act, as a trustee, custodian, bailee or agent of the issuer or any holder of the asset-backed securities, or in a similar capacity,
  - (iii) administers or services a material portion of the financial assets comprising the pool or provides administrative or managerial services to the issuer, or has agreed to do so, on a conditional basis or otherwise, if

- (A) finding a replacement provider of the services at a cost comparable to the cost of the current provider is not reasonably likely,
  - (B) a replacement provider of the services is likely to achieve materially worse results than the current provider,
  - (C) the current provider of the services is likely to default in its service obligations because of its current financial condition, or
  - (D) the disclosure is otherwise material,
- (iv) provides a guarantee, alternative credit support or other credit enhancement to support the obligations of the issuer under the asset-backed securities or the performance of some or all of the financial assets in the pool, or has agreed to do so, or
  - (v) lends to the issuer in order to facilitate the timely payment or repayment of amounts payable under the asset-backed securities, or has agreed to do so,
- (e) the general business activities and material responsibilities under the asset-backed securities of a person or company referred to in paragraph (d),
  - (f) the terms of any material relationships between
    - (i) any of the persons or companies referred to in paragraph (d) or any of their respective affiliates, and
    - (ii) the issuer,
  - (g) any provisions relating to termination of services or responsibilities of any of the persons or companies referred to in paragraph (d) and the terms on which a replacement may be appointed, and
  - (h) any risk factors associated with the asset-backed securities, including disclosure of material risks associated with changes in interest rates or prepayment levels, and any circumstances where payments on the asset-backed securities could be impaired or disrupted as a result of any reasonably foreseeable event that may delay, divert or disrupt the cash flows dedicated to service the asset-backed securities.

## *INSTRUCTIONS*

- (1) *Present the information required under paragraph (b) in a manner that will enable a reader to easily determine whether, and the extent to which, the events, covenants, standards and preconditions referred to in clause (a)(vi) have occurred, are being satisfied or may be satisfied.*



- (2) *If the information required under paragraph (b) is not compiled specifically from the underlying pool of financial assets, but is compiled from a larger pool of the same assets from which the securitized assets are randomly selected such that the performance of the larger pool is representative of the performance of the pool of securitized assets, then an issuer may comply with paragraph (b) by providing the information required based on the larger pool and disclosing that it has done so.*
- (3) *Issuers are required to summarize contractual arrangements in plain language and may not merely restate the text of the contracts referred to. The use of diagrams to illustrate the roles of, and the relationship among, the persons and companies referred to in paragraph (d), and the contractual arrangements underlying the asset-backed securities is encouraged.*

## **Derivatives**

**10.4** If derivatives are being distributed, describe fully the material attributes and characteristics of the derivatives, including

- (a) the calculation of the value or payment obligations under the derivatives,
- (b) the exercise of the derivatives,
- (c) the settlement of exercises of the derivatives,
- (d) the underlying interest of the derivatives,
- (e) the role of a calculation expert in connection with the derivatives,
- (f) the role of any credit supporter of the derivatives, and
- (g) the risk factors associated with the derivatives.

## **Special warrants, etc.**

**10.5** If the prospectus is used to qualify the distribution of securities issued upon the exercise of special warrants or other securities acquired on a prospectus-exempt basis, disclose that holders of such securities have been provided with a contractual right of rescission and provide the following disclosure in the prospectus, with the bracketed information completed:

“In the event that a holder of a special warrant, who acquires a [identify underlying security] of the issuer upon the exercise of the special warrant as provided for in this prospectus, is or becomes entitled under applicable securities legislation to the remedy of rescission by reason of this prospectus or any amendment thereto containing a misrepresentation, such holder shall be entitled to rescission not only of the holder’s exercise of its special warrant(s) but also of the private placement transaction pursuant to which the special warrant was initially acquired, and shall be entitled in connection with such rescission to a full

refund of all consideration paid to the [underwriter or issuer, as the case may be] on the acquisition of the special warrant. In the event such holder is a permitted assignee of the interest of the original special warrant subscriber, such permitted assignee shall be entitled to exercise the rights of rescission and refund granted hereunder as if such permitted assignee was such original subscriber. The foregoing is in addition to any other right or remedy available to a holder of the special warrant under applicable securities legislation or otherwise at law.”

#### *INSTRUCTION*

*If the prospectus is qualifying the distribution of securities issued upon the exercise of securities other than special warrants, replace the term “special warrant” with the type of the security being distributed.*

#### **Restricted securities**

- 10.6(1)** If the issuer has outstanding, or proposes to distribute under a prospectus restricted securities, subject securities or securities that are, directly or indirectly, convertible into or exercisable or exchangeable for restricted securities or subject securities, provide a detailed description of
- (a) the voting rights attached to the restricted securities that are the subject of the distribution or that will result from the distribution, either directly or following a conversion exchange or exercise, and the voting rights, if any, attached to the securities of any other class of securities of the issuer that are the same or greater on a per security basis than those attached to the restricted securities,
  - (b) any significant provisions under applicable corporate and securities law that do not apply to the holders of the restricted securities that are the subject of the distribution or that will result from the distribution, either directly or following a conversion exchange or exercise, but do apply to the holders of another class of equity securities, and the extent of any rights provided in the constating documents or otherwise for the protection of holders of the restricted securities,
  - (c) any rights under applicable corporate law, in the constating documents or otherwise, of holders of restricted securities that are the subject of the distribution or that will result from the distribution, either directly or following a conversion exchange or exercise, to attend, in person or by proxy, meetings of holders of equity securities of the issuer and to speak at the meetings to the same extent that holders of equity securities are entitled, and
  - (d) how the issuer complied with, or basis upon which it was exempt from, the requirements of Part 12 of this Instrument [*Restricted Securities*].
- (2)** If holders of restricted securities do not have all of the rights referred to in subsection (1) the detailed description referred to in that subsection must include, in bold type, a statement of the rights the holders do not have.

- (3) If the issuer is required to include the disclosure referred to in subsection (1), state the percentage of the aggregate voting rights attached to the issuer's securities that will be represented by restricted securities after giving effect to the issuance of the securities being offered.

### **Other securities**

- 10.7 If securities other than equity securities, debt securities, asset-backed securities or derivatives are being distributed, describe fully the material attributes and characteristics of those securities.

### **Modification of terms**

10.8(1) Describe provisions as to modification, amendment or variation of any rights attached to the securities being distributed.

- (2) If the rights of holders of securities may be modified otherwise than in accordance with the provisions attached to the securities or the provisions of the governing statute relating to the securities, explain briefly.

### **Ratings**

10.9 If the issuer has asked for and received a stability rating, or if the issuer has received any other kind of rating, including a provisional rating, from one or more approved rating organizations for the securities being distributed and the rating or ratings continue in effect, disclose

- (a) each security rating, including a provisional rating or stability rating, received from an approved rating organization,
- (b) the name of each approved rating organization that has assigned a rating for the securities to be distributed,
- (c) a definition or description of the category in which each approved rating organization rated the securities to be distributed and the relative rank of each rating within the organization's classification system,
- (d) an explanation of what the rating addresses and what attributes, if any, of the securities to be distributed are not addressed by the rating,
- (e) any factors or considerations identified by the approved rating organization as giving rise to unusual risks associated with the securities to be distributed,
- (f) a statement that a security rating or a stability rating is not a recommendation to buy, sell or hold securities and may be subject to revision or withdrawal at any time by the rating organization, and

- (g) any announcement made by, or any proposed announcement known to the issuer to be made by, an approved rating organization that the organization is reviewing or intends to revise or withdraw a rating previously assigned and required to be disclosed under this paragraph.

#### **INSTRUCTION**

*There may be factors relating to a security that are not addressed by a ratings agency when they give a rating. For example, in the case of cash settled derivatives, factors in addition to the creditworthiness of the issuer, such as the continued subsistence of the underlying interest or the volatility of the price, value or level of the underlying interest may be reflected in the rating analysis. Rather than being addressed in the rating itself, these factors may be described by an approved rating organization by way of a superscript or other notation to a rating. Any such attributes must be discussed in the disclosure under this item.*

#### **Other attributes**

- 10.10(1)** If the rights attaching to the securities being distributed are materially limited or qualified by the rights of any other class of securities, or if any other class of securities ranks ahead of or equally with the securities being distributed, include information about the other securities that will enable investors to understand the rights attaching to the securities being distributed.
- (2)** If securities of the class being distributed may be partially redeemed or repurchased, state the manner of selecting the securities to be redeemed or repurchased.

#### **INSTRUCTION**

*This item requires only a brief summary of the provisions that are material from an investment standpoint. The provisions attaching to the securities being distributed or any other class of securities do not need to be set out in full. They may, in the issuer's discretion, be attached as a schedule to the prospectus.*

### **ITEM 11 Consolidated Capitalization**

#### **Consolidated capitalization**

- 11.1** Describe any material change in, and the effect of the material change on, the share and loan capital of the issuer, on a consolidated basis, since the date of the issuer's financial statements for its most recently completed financial period included in the prospectus, including any material change that will result from the issuance of the securities being distributed under the prospectus.

### **ITEM 12 Options to Purchase Securities**

## Options to purchase securities

**12.1(1)** For an issuer that is not a reporting issuer immediately before filing the prospectus, state, in tabular form, as at a specified date within 30 days before the date of the prospectus, information as to options to purchase securities of the issuer or a subsidiary of the issuer that are held or will be held upon completion of the distribution by

- (a) all executive officers and past executive officers of the issuer as a group and all directors and past directors of the issuer who are not also executive officers as a group, indicating the aggregate number of executive officers and the aggregate number of directors to whom the information applies,
  - (b) all executive officers and past executive officers of all subsidiaries of the issuer as a group and all directors and past directors of those subsidiaries who are not also executive officers of the subsidiary as a group, in each case, and excluding individuals referred to in paragraph (a), indicating the aggregate number of executive officers and the aggregate number of directors to whom the information applies,
  - (c) all other employees and past employees of the issuer as a group,
  - (d) all other employees and past employees of subsidiaries of the issuer as a group,
  - (e) all consultants of the issuer as a group, and
  - (f) any other person or company, other than the underwriter(s), naming each person or company.
- (2)** Describe any material change to the information required to be included in the prospectus under subsection (1) to the date of the prospectus.

### *INSTRUCTIONS*

- (1) *Describe the options, warrants, or other similar securities stating the material provisions of each class or type of option, including:*
- (a) *the designation and number of the securities under option;*
  - (b) *the purchase price of the securities under option or the formula by which the purchase price will be determined, and the expiration dates of the options;*
  - (c) *if reasonably ascertainable, the market value of the securities under option on the date of grant;*
  - (d) *if reasonably ascertainable, the market value of the securities under option on the specified date; and*

- (e) *with respect to options referred to in paragraph (f) of item 12.1 [Options to purchase securities], the particulars of the grant including the consideration for the grant.*
- (2) *For the purposes of paragraph 12.1(1)(f) [Options to purchase securities], provide the information required for all options except warrants and special warrants.*

### **ITEM 13: Prior Sales**

#### **Prior sales**

- 13.1** For each class of securities of the issuer distributed under the prospectus and securities that are convertible into those classes of securities, state, for the 12-month period before the date of the prospectus,
- (a) the price at which the securities have been sold, and
  - (b) the number of securities sold.

#### **Trading price and volume**

- 13.2(1)** For each class of securities of the issuer that is traded or quoted on a Canadian marketplace, identify the marketplace and the price ranges and volume traded or quoted on the Canadian marketplace on which the greatest volume of trading or quotation generally occurs.
- (2) If a class of securities of the issuer is not traded or quoted on a Canadian marketplace but is traded or quoted on a foreign marketplace, identify the foreign marketplace and the price ranges and volume traded or quoted on the foreign marketplace on which the greatest volume or quotation generally occurs.
- (3) Provide the information required under subsections (1) and (2) on a monthly basis for each month or, if applicable, partial months of the 12-month period before the date of the prospectus.

### **ITEM 14: Escrowed Securities and Securities Subject to Contractual Restriction on Transfer**

#### **Escrowed securities and securities subject to contractual restriction on transfer**

- 14.1(1)** State as of a specified date within 30 days before the date of the prospectus, in substantially the following tabular form, the number of securities of each class of securities of the issuer held, to the knowledge of the issuer, in escrow or that are subject to a contractual restriction on transfer and the percentage that number represents of the outstanding securities of that class.

#### **ESCROWED SECURITIES AND SECURITIES SUBJECT TO CONTRACTUAL RESTRICTION ON TRANSFER**

Designation of class	Number of securities held in escrow or that are subject to a contractual restriction on transfer	Percentage of class

- (2) In a note to the table disclose the name of the depository, if any, and the date of and conditions governing the release of the securities from escrow or the date the contractual restriction on transfer ends, as applicable.
- (3) Describe any material change to the information required to be included in the prospectus under subsection (1) to the date of the prospectus.

*INSTRUCTION*

*For purposes of this item, escrow includes securities subject to a pooling agreement.*

**ITEM 15: Principal Security Holders and Selling Security Holders**

**Principal security holders and selling security holders**

- 15.1(1)** Provide the following information for each principal security holder of the issuer and, if any securities are being distributed for the account of a security holder, for each selling security holder:
- (a) the name;
  - (b) the number or amount of securities owned of the class being distributed;
  - (c) the number or amount of securities of the class being distributed for the account of the security holder;
  - (d) the number or amount of securities of the issuer of any class to be owned after the distribution, and the percentage that number or amount represents of the total outstanding;
  - (e) whether the securities referred to in paragraph (b), (c) or (d) are owned both of record and beneficially, of record only, or beneficially only.
- (2) If securities are being distributed in connection with a restructuring transaction, indicate, to the extent known, the holdings of each person or company described in subsection (1) that will exist after giving effect to the transaction.
  - (3) If any of the securities being distributed are being distributed for the account of a security holder and those securities were purchased by the selling security holder within the 2 years preceding the date of the prospectus, state the date the selling security holder

acquired the securities and, if the securities were acquired in the 12 months preceding the date of the prospectus, the cost to the security holder in the aggregate and on an average cost per security basis.

- (4) If, to the knowledge of the issuer or the underwriter of the securities being distributed, more than 10% of any class of voting securities of the issuer is held, or is to be held, subject to any voting trust or other similar agreement, disclose, to the extent known, the designation of the securities, the number or amount of the securities held or to be held subject to the agreement and the duration of the agreement. State the names and addresses of the voting trustees and outline briefly their voting rights and other powers under the agreement.
- (5) If, to the knowledge of the issuer or the underwriter of the securities being distributed, any principal security holder or selling security holder is an associate or affiliate of another person or company named as a principal security holder, disclose, to the extent known, the material facts of the relationship, including any basis for influence over the issuer held by the person or company other than the holding of voting securities of the issuer.
- (6) In addition to the above, include in a footnote to the table, the required calculation(s) on a fully-diluted basis.
- (7) Describe any material change to the information required to be included in the prospectus under subsection (1) to the date of the prospectus.

#### *INSTRUCTION*

*If a company, partnership, trust or other unincorporated entity is a principal security holder of an issuer, disclose, to the extent known, the name of each individual who, through ownership of or control or direction over the securities of that company, trust or other unincorporated entity, or membership in the partnership, as the case may be, is a principal security holder of that entity.*

### **ITEM 16: Directors and Executive Officers**

#### **Name, occupation and security holding**

**16.1(1)** Provide information for directors and executive officers of the issuer in accordance with item 10.1 of Form 51-102F2 [*Name, Occupation and Security Holding*] as at the date of the prospectus.

- (2) If information similar to the information required under subsection (1) is provided for any director or executive officer, who is not serving in such capacity as at the date of the prospectus, clearly indicate this fact and explain whether the issuer believes that this director or executive officer is liable under the prospectus.



## **Cease trade orders, bankruptcies, penalties or sanctions**

**16.2** Provide information for directors and executive officers of the issuer, and shareholders holding a sufficient number of securities of the issuer to affect materially the control of the issuer, in accordance with item 10.2 of Form 51-102F2 [*Cease Trade Orders, Bankruptcies, Penalties or Sanctions*] as if the references in that item to “date of the AIF” read “date of the prospectus”.

## **Conflicts of interest**

**16.3** Disclose particulars of existing or potential material conflicts of interest between the issuer or a subsidiary of the issuer and a director or officer of the issuer or a subsidiary of the issuer.

## **Management of junior issuers**

**16.4** A junior issuer must provide the following information for each member of management:

- (a) state the individual’s name, age, position and responsibilities with the issuer and relevant educational background;
- (b) state whether the individual works full time for the issuer or what proportion of the individual’s time will be devoted to the issuer;
- (c) state whether the individual is an employee or independent contractor of the issuer;
- (d) state the individual’s principal occupations or employment during the five years before the date of the prospectus, disclosing with respect to each organization as of the time such occupation or employment was carried on:
  - (i) its name and principal business;
  - (ii) if applicable, that the organization was an affiliate of the issuer;
  - (iii) positions held by the individual; and
  - (iv) whether it is still carrying on business, if known to the individual;
- (e) describe the individual’s experience in the issuer’s industry;
- (f) state whether the individual has entered into a non-competition or non-disclosure agreement with the issuer.

## **INSTRUCTIONS**

(1) *For purposes of this item, “management” means all directors, officers, employees and contractors whose expertise is critical to the issuer, its subsidiaries and proposed*

*subsidiaries in providing the issuer with a reasonable opportunity to achieve its stated business objectives.*

- (2) *The description of the principal occupation of a member of management must be specific. The terms “businessman” or “entrepreneur” are not sufficiently specific.*

### **ITEM 17: Executive Compensation**

#### **Disclosure**

- 17.1** Include in the prospectus a Statement of Executive Compensation prepared in accordance with Form 51-102F6 *Statement of Executive Compensation* and describe any intention to make any material changes to that compensation.

### **ITEM 18: Indebtedness of Directors and Executive Officers**

#### **Aggregate indebtedness**

- 18.1** Provide information for the issuer in accordance with item 10.1 of Form 51-102F5 *Information Circular [Aggregate Indebtedness]* as if the reference in that item to “date of the information circular” reads “date of the prospectus”.

#### **Indebtedness of directors and executive officers under securities purchase and other programs**

- 18.2** Provide information for the issuer in accordance with items 10.2 and 10.3 of Form 51-102F5 [*Indebtedness of Directors and Executive Officers*] as if the reference in these items to “date of the information circular” reads “date of the prospectus”.

### **ITEM 19: Audit Committees and Corporate Governance**

#### **Audit committees**

- 19.1(1)** Include in the prospectus the disclosure for the issuer in accordance with Form 52-110F1 *Audit Committee Information Required in an AIF*, as applicable, if the issuer is neither a venture issuer nor an IPO venture issuer.
- (2) Include in the prospectus the disclosure for the issuer in accordance with Form 52-110F2 *Disclosure by Venture Issuers*, as applicable, if the issuer is a venture issuer or an IPO venture issuer.
- (3) An issuer is not required to include the disclosure required by subsections (1) or (2) if the issuer will not be required to comply with Multilateral Instrument 52-110 *Audit Committees* upon obtaining a receipt for the final prospectus because it will be eligible to rely on the exemption in Part 3.2 of MI 11-101 [*Continuous Disclosure Exemption*] to provide the disclosure in BCI 52-509 *Audit Committees*.

- (4) An issuer relying on an exemption in subsection (3) must include in the prospectus
  - (a) the disclosure required under BCI 52-509,
  - (b) a statement that the issuer is providing the disclosure required by BCI 52-509, and
  - (c) a statement that BCI 52-509 differs from MI 52-110, which applies in jurisdictions other than British Columbia.

### **Corporate governance**

- 19.2(1)** Include in the prospectus the disclosure in accordance with Form 58-101F1 *Corporate Governance Disclosure*, as applicable, if the issuer is neither a venture issuer nor an IPO venture issuer.
- (2) Include in the prospectus the disclosure in accordance with Form 58-101F2 *Corporate Governance Disclosure (Venture Issuers)*, as applicable, if the issuer is a venture issuer or an IPO venture issuer.
- (3) For the purposes of the disclosure required under subsection (1) or (2), an issuer may not apply the British Columbia test for independence under subsection 1.2(2) of National Instrument 58-101 *Disclosure of Corporate Governance Practices [Meaning of Independence]* if the issuer will be a reporting issuer in a jurisdiction other than British Columbia upon obtaining a receipt for the final prospectus.

### **ITEM 20: Plan of Distribution**

#### **Name of underwriters**

- 20.1(1)** If the securities are being distributed by an underwriter, state the name of the underwriter and describe briefly the nature of the underwriter's obligation to take up and pay for the securities.
- (2) Disclose the date by which the underwriter is obligated to purchase the securities.

#### **Disclosure of conditions to underwriters' obligations**

- 20.2** If securities are distributed by an underwriter that has agreed to purchase all of the securities at a specified price and the underwriter's obligations are subject to conditions,
  - (a) include a statement in substantially the following form, with the bracketed information completed and with modifications necessary to reflect the terms of the distribution:

“Under an agreement dated [insert date of agreement] between [insert name of issuer or selling security holder] and [insert name(s) of underwriter(s)], as underwriter[s], [insert name of issuer or selling security

shareholder] has agreed to sell and the underwriter[s] [has/have] agreed to purchase on [insert closing date] the securities at a price of [insert offering price], payable in cash to [insert name of issuer or selling security holder] against delivery. The obligations of the underwriter[s] under the agreement may be terminated at [its/their] discretion on the basis of [its/their] assessment of the state of the financial markets and may also be terminated upon the occurrence of certain stated events. The underwriter[s] [is/are], however, obligated to take up and pay for all of the securities if any of the securities are purchased under the agreement.”, and

- (b) describe any other conditions and indicate any information known that is relevant to whether such conditions will be satisfied.

### **Best efforts offering**

**20.3** Outline briefly the plan of distribution of any securities being distributed other than on the basis described in item 20.2 [*Disclosure of conditions to underwriters' obligations*].

### **Minimum distribution**

**20.4** If securities are being distributed on a best efforts basis and minimum funds are to be raised, state

- (a) the minimum funds to be raised,
- (b) that the issuer must appoint a registered dealer authorized to make the distribution, a Canadian financial institution, or a lawyer, or in Québec a notary, who is a practicing member in good standing with a law society of a jurisdiction in which the securities are being distributed, to hold in trust all funds received from subscriptions until the minimum amount of funds stipulated in paragraph (a) has been raised, and
- (c) that if the minimum amount of funds is not raised within the distribution period, the trustee must return the funds to the subscribers without any deductions.

### **Determination of price**

**20.5** Disclose the method by which the distribution price has been or will be determined and, if estimates have been provided, explain the process of determining the estimates.

### **Stabilization**

**20.6** If the issuer, a selling security holder or an underwriter knows or has reason to believe that there is an intention to over-allot or that the price of any security may be stabilized to facilitate the distribution of the securities, describe the nature of these transactions, including the anticipated size of any over-allocation position, and explain how the transactions are expected to affect the price of the securities.

## **Approvals**

- 20.7** If the purpose of the distribution is to fund in whole or in part a new business of the issuer and the issuer has not obtained all material licences, registrations and approvals necessary for the operation of the business, include a statement that
- (a) the issuer must appoint a registered dealer authorized to make the distribution, a Canadian financial institution, or a lawyer who is a practicing member in good standing with a law society of a jurisdiction in which the securities are being distributed, or in Québec a notary, to hold in trust all funds received from subscriptions until all material licences, registrations and approvals necessary for the operation of the business have been obtained, and
  - (b) if all material licences, registrations and approvals necessary for the operation of the business have not been obtained within 90 days from the date of receipt of the final prospectus, the trustee must return the funds to subscribers.

## **Reduced price distributions**

- 20.8** If the underwriter may decrease the offering price after the underwriter has made a reasonable effort to sell all of the securities at the initial offering price disclosed in the prospectus in accordance with the procedures permitted by this Instrument, disclose this fact and that the compensation realised by the underwriter will be decreased by the amount that the aggregate price paid by purchasers for the securities is less than the gross proceeds paid by the underwriter to the issuer or selling security holder.

## **Listing application**

- 20.9** If application has been made to list or quote the securities being distributed, include a statement, in substantially the following form, with bracketed information completed:

“The issuer has applied to [list/quote] the securities distributed under this prospectus on [name of exchange or other market]. [Listing/Quotation] will be subject to the issuer fulfilling all the listing requirements of [name of exchange or other market].”

## **Conditional listing approval**

- 20.10** If application has been made to list or quote the securities being distributed on an exchange or marketplace and conditional listing approval has been received, include a statement, in substantially the following form, with the bracketed information completed:

“[name of exchange or marketplace] has conditionally approved the [listing/quotation] of these securities. [Listing/Quotation] is subject to the [name of issuer] fulfilling all of the requirements of the [name of exchange or marketplace] on or before [date], [including distribution of these securities to a minimum number of public security holders].”

## **IPO venture issuers**

**20.11** If the issuer has complied with the requirements of this Instrument as an IPO venture issuer, include a statement, in substantially the following form, with bracketed information completed:

“As at the date of the prospectus, [name of issuer] does not have any of its securities listed or quoted, has not applied to list or quote any of its securities, and does not intend to apply to list or quote any of its securities, on the Toronto Stock Exchange, a U.S. marketplace, or a marketplace outside of Canada and the United States of America other than the Alternative Investment Market of the London Stock Exchange or the market known as OFEX.”

## **Constraints**

**20.12** If there are constraints imposed on the ownership of securities of the issuer to ensure that the issuer has a required level of Canadian ownership, describe the mechanism, if any, by which the level of Canadian ownership of the securities of the issuer will be monitored and maintained.

## **Special warrants acquired by underwriters or agents**

**20.13** Disclose the number and dollar value of any special warrants acquired by any underwriter or agent and the percentage of the distribution represented by those special warrants.

## **ITEM 21: Risk Factors**

### **Risk factors**

**21.1(1)** Disclose risk factors relating to the issuer and its business, such as cash flow and liquidity problems, if any, experience of management, the general risks inherent in the business carried on by the issuer, environmental and health risks, reliance on key personnel, regulatory constraints, economic or political conditions and financial history and any other matter that would be likely to influence an investor’s decision to purchase securities of the issuer.

**(2)** If there is a risk that security holders of the issuer may become liable to make an additional contribution beyond the price of the security, disclose that risk.

**(3)** Describe any risk factors material to the issuer that a reasonable investor would consider relevant to an investment in the securities being distributed not otherwise described under subsection (1) or (2).

### ***INSTRUCTION***

*Disclose risks in the order of seriousness from the most serious to the least serious.*

## ITEM 22: Promoters and Substantial Beneficiaries of the Offering

### Promoters and substantial beneficiaries of the offering

- 22.1(1)** For a person or company, that is, or has been within the 3 years immediately preceding the date of the prospectus, a promoter of the issuer or subsidiary of the issuer, or that is a substantial beneficiary of the offering, as defined in section 5.13 [*Certificate of substantial beneficiary of the offering*] of this Instrument, state
- (a) the person or company's name,
  - (b) the number and percentage of each class of voting securities and equity securities of the issuer or any of its subsidiaries beneficially owned, directly or indirectly, or over which control is exercised by the person or company,
  - (c) the nature and amount of anything of value, including money, property, contracts, options or rights of any kind received or to be received by the promoter or substantial beneficiary of the offering directly or indirectly from the issuer or from a subsidiary of the issuer, and the nature and amount of any assets, services or other consideration received or to be received by the issuer or a subsidiary of the issuer in return, and
  - (d) for an asset acquired within the 3 years before the date of the preliminary prospectus, or to be acquired, by the issuer or by a subsidiary of the issuer from a promoter or substantial beneficiary of the offering
    - (i) the consideration paid or to be paid for the asset and the method by which the consideration has been or will be determined,
    - (ii) the person or company making the determination referred to in subparagraph (i) and the person or company's relationship with the issuer, the promoter or substantial beneficiary of the offering, or an affiliate of the issuer, promoter or substantial beneficiary of the offering, and
    - (iii) the date that the asset was acquired by the promoter or substantial beneficiary of the offering and the cost of the asset to the promoter or substantial beneficiary of the offering.
- (2)** If a promoter or a substantial beneficiary of the offering referred to in subsection (1) has been a director, executive officer, or promoter of any person or company during the 10 years ending on the date of the preliminary prospectus, that while that person was acting in that capacity,
- (a) was the subject of an order that denied the person or company access to any exemptions under provincial or territorial securities legislation, for a period of more than 30 consecutive days, state the fact and describe the basis on which the order was made and whether the order is still in effect,

- (b) was subject to an event that resulted, after the director, executive officer or promoter ceased to be a director, executive officer or promoter, in the person or company being subject to an order that denied the relevant person or company access to any exemption under securities legislation, for a period of more than 30 consecutive days, state the fact and describe the basis on which the order was made and whether the order is still in effect, or
  - (c) within a year of that person ceasing to act in that capacity, became bankrupt, made a proposal under any legislation relating to bankruptcy or insolvency or been subject to or instituted any proceedings, arrangement or compromise with creditors or had a receiver, receiver manager or trustee appointed to hold its assets, state the fact.
- (3) If a promoter or a substantial beneficiary of the offering referred to in subsection (1) has, within the 10 years before the date of the prospectus, become bankrupt, made a proposal under any legislation relating to bankruptcy or insolvency, or was subject to or instituted any proceedings, arrangement or compromise with creditors, or had a receiver, receiver manager or trustee appointed to hold the assets of the promoter or substantial beneficiary of the offering, state the fact.
- (4) Describe the penalties or sanctions imposed and the grounds on which they were imposed or the terms of the settlement agreement and the circumstances that gave rise to the settlement agreement, if a promoter or substantial beneficiary of the offering referred to in subsection (1) has been subject to
- (a) any penalties or sanctions imposed by a court relating to provincial or territorial securities legislation or by a provincial or territorial securities regulatory authority or has entered into a settlement agreement with a provincial or territorial securities regulatory authority, or
  - (b) any other penalties or sanctions imposed by a court or regulatory body that would be likely to be considered important to a reasonable investor in making an investment decision.
- (5) Despite subsection (4), no disclosure is required of a settlement agreement entered into before December 31, 2000 unless the disclosure would likely be considered important to a reasonable investor in making an investment decision.

### **ITEM 23: Legal Proceedings and Regulatory Actions**

#### **Legal proceedings**

- 23.1(1)** Describe any legal proceedings the issuer, or that any of its property, is, or was since the beginning of the most recently completed financial year for which financial statements of the issuer are included in the prospectus, the subject of.
- (2) Describe any such legal proceedings the issuer knows are contemplated.



- (3) For each proceeding described in subsections (1) and (2), include the name of the court or agency, the date instituted, the principal parties to the proceedings, the nature of the claim, the amount claimed, if any, whether the proceedings are being contested, and the present status of the proceedings.

#### **INSTRUCTION**

*Information with respect to any proceeding that involves a claim for damages if the amount involved, exclusive of interest and costs, does not exceed 10% of the current assets of the issuer may be omitted. However, if any proceeding presents in large degree the same legal and factual issues as other proceedings pending or known to be contemplated, include the amount involved in the other proceedings in computing the percentage.*

#### **Regulatory actions**

##### **23.2** Describe any

- (a) penalties or sanctions imposed against the issuer by a court relating to securities legislation or by a securities regulatory authority within the 3 years immediately preceding the date of the prospectus,
- (b) any other penalties or sanctions imposed by a court or regulatory body against the issuer for the prospectus to contain full, true and plain disclosure of all material facts relating to the securities being distributed, and
- (c) settlement agreements the issuer entered into with a court relating to securities legislation or with a securities regulatory authority within the 3 years immediately preceding the date of the prospectus.

#### **ITEM 24: Interests of Management and Others in Material Transactions**

##### **Interests of management and others in material transactions**

- 24.1** Provide information for the issuer for this item in accordance with item 13.1 of Form 51-102F2 [*Interest of Management and Others in Material Transactions*] as if the reference in this item to “within the three most recently completed financial years or during the current financial year that has materially affected or will materially affect your company” reads “within the three years before the date of the prospectus that has materially affected or will materially affect the issuer or a subsidiary of the issuer”.

##### **Underwriting discounts**

- 24.2** Disclose any material underwriting discounts or commissions upon the sale of securities by the issuer if any of the persons or companies listed under item 24.1 [*Interests of management and others in material transactions*] were or are to be an underwriter or are associates, affiliates or partners of a person or company that was or is to be an underwriter.

## **ITEM 25: Relationship Between Issuer or Selling Security Holder and Underwriter**

### **Relationship between issuer or selling security holder and underwriter**

- 25.1(1)** If the issuer or selling security holder is a connected issuer or related issuer of an underwriter of the distribution, or if the issuer or selling security holder is also an underwriter of the distribution, comply with the requirements of NI 33-105.
- (2)** For the purposes of subsection (1), “connected issuer” and “related issuer” have the same meanings as in NI 33-105.

## **ITEM 26: Auditors, Transfer Agents and Registrars**

### **Auditors**

- 26.1** State the name and address of the auditor of the issuer.

### **Transfer agents, registrars, trustees or other agents**

- 26.2** For each class of securities, state the name of any transfer agent, registrar, trustee, or other agent appointed by the issuer to maintain the securities register and the register of transfers for such securities and indicate the location (by municipality) of each of the offices of the issuer or transfer agent, registrar, trustee or other agent where the securities register and register of transfers are maintained or transfers of securities are recorded.

## **ITEM 27: Material Contracts**

### **Material contracts**

- 27.1** Give particulars of every material contract other than a material contract entered into in the ordinary course of business.

### *INSTRUCTIONS*

- (1) Set out a complete list of all contracts for which particulars must be given under this item, indicating those that are disclosed elsewhere in the prospectus. Particulars need only be provided for those contracts that do not have the particulars given elsewhere in the prospectus.*
- (2) Particulars of contracts should include the dates of, parties to, consideration provided for in, and general nature of, the contracts.*

## **ITEM 28: Experts**

## **Names of experts**

### **28.1** Name each person or company

- (a) who is named as having prepared or certified a report, valuation, statement or opinion in the prospectus or an amendment to the prospectus, and
- (b) whose profession or business gives authority to the report, valuation, statement or opinion made by the person or company.

## **Interest of experts**

**28.2** For each person or company referred to in item 28.1 [*Names of experts*], provide the disclosure in accordance with item 16.2 of Form 51-102F2 [*Interests of Experts*], as of the date of the prospectus, as if that person or company were a person or company referred to in item 16.1 of Form 51-102F2 [*Names of Experts*].

## **ITEM 29: Other Material Facts**

### **Other material facts**

**29.1** Give particulars of any material facts about the securities being distributed that are not disclosed under the preceding items and are necessary in order for the prospectus to contain full, true and plain disclosure of all material facts relating to the securities to be distributed.

## **ITEM 30: Rights of Withdrawal and Rescission**

### **General**

**30.1** Include a statement in substantially the following form, with the bracketed information completed:

“Securities legislation in [certain of the provinces [and territories] of Canada/the Province of [insert name of local jurisdiction, if applicable]] provides purchasers with the right to withdraw from an agreement to purchase securities. This right may be exercised within 2 business days after receipt or deemed receipt of a prospectus and any amendment. [In several of the provinces/provinces and territories,] [T/t]he securities legislation further provides a purchaser with remedies for rescission [or [, in some jurisdictions,] damages] if the prospectus and any amendment contains a misrepresentation or is not delivered to the purchaser, provided that the remedies for rescission [or damages] are exercised by the purchaser within the time limit prescribed by the securities legislation of the purchaser’s province [or territory]. The purchaser should refer to any applicable provisions of the securities legislation of the purchaser’s province [or territory] for the particulars of these rights or consult with a legal adviser.”

## **Non-fixed price offerings**

**30.2** In the case of a non-fixed price offering, replace, if applicable in the jurisdiction in which the prospectus is filed, the second sentence in the legend in item 30.1 [*General*] with a statement in substantially the following form:

“This right may only be exercised within 2 business days after receipt or deemed receipt of a prospectus and any amendment, irrespective of the determination at a later date of the purchase price of the securities distributed.”

### **ITEM 31: List of Exemptions from Instrument**

#### **List of exemptions from Instrument**

**31.1** List all exemptions from the provisions of this Instrument, including Form 41-101F1, granted to the issuer applicable to the distribution or the prospectus, including all exemptions to be evidenced by the issuance of a receipt for the prospectus pursuant to section 19.3 of this Instrument [*Evidence of exemption*].

### **ITEM 32: Financial Statement Disclosure for Issuers**

#### **Interpretation of “issuer”**

- 32.1** The financial statements of an issuer required under this Item to be included in a prospectus must include
- (a) the financial statements of any predecessor entity that formed the basis of the business of the issuer, even though the predecessor entity may have been a different legal entity, if the issuer has not existed for 3 years,
  - (b) the financial statements of a business or businesses acquired by the issuer within 3 years before the date of the prospectus, if a reasonable investor reading the prospectus would regard the primary business of the issuer to be the business or businesses acquired by the issuer, and
  - (c) the restated combined financial statements of the issuer and any other entity with which the issuer completed a transaction within 3 years before the date of the prospectus, if the issuer accounted for the transaction as a continuity of interests.

#### **Annual financial statements**

**32.2(1)** Subject to item 32.4 [*Exemptions to financial statement requirements*], include annual financial statements of the issuer consisting of

- (a) an income statement, a statement of retained earnings, and a cash flow statement for each of the 3 most recently completed financial years ended more than
  - (i) 90 days before the date of the prospectus, or

- (ii) 120 days before the date of the prospectus, if the issuer is a venture issuer,
  - (b) a balance sheet as at the end of the 2 most recently completed financial years described in paragraph (a), and
  - (c) notes to the financial statements.
- (2) If the issuer has not completed 3 financial years, include the financial statements described under subsection (1) for each completed financial year ended more than
- (a) 90 days before the date of the prospectus, or
  - (b) 120 days before the date of the prospectus, if the issuer is a venture issuer.
- (3) If the issuer has not included in the prospectus financial statements for a completed financial year, include the financial statements described under subsection (1) or (2) for a period from the date the issuer was formed to a date not more than 90 days before the date of the prospectus.
- (4) If an issuer changed its financial year end during any of the financial years referred to in this item and the transition year is less than 9 months, the transition year is deemed not to be a financial year for the purposes of the requirement to provide financial statements for a specified number of financial years in this item.
- (5) Notwithstanding subsection (4), all financial statements of the issuer for a transition year must be included in the prospectus.
- (6) Subject to item 32.4 [*Exceptions to financial statement requirements*], if financial statements of any business or businesses acquired are required under this item, then include
- (i) income statements, statements of retained earnings, and cash flow statements for the business or businesses acquired for as many periods before the acquisition as may be necessary so that when these periods are added to the periods for which the issuer's income statements, statements of retained earnings, and cash flow statements in the prospectus include the results of the business or businesses acquired, either separately or on a consolidated basis, total 3 years,
  - (ii) balance sheets for the business or businesses acquired for as many periods before the acquisition as may be necessary so that when these periods are added to the periods for which the issuer's balance sheets in the prospectus include the financial position of the business or businesses acquired, either separately or on a consolidated basis, total 2 years,
  - (iii) if the business or businesses acquired has not completed 3 financial years, the financial statements described under subsection (1) for each completed financial year of the business or businesses acquired for which the issuer's financial

statements in the prospectus do not include the financial statements of the business or businesses acquired, either separately or on a consolidated basis, and ended more than

- (a) 90 days before the date of the prospectus, or
- (b) 120 days before the date of the prospectus, if the issuer is a venture issuer.

### **Interim financial statements**

**32.3(1)** Include comparative interim financial statements of the issuer for the most recent interim period, if any, ended

- (a) subsequent to the most recent financial year in respect of which annual financial statements of the issuer are included in the prospectus, and
  - (b) more than
    - (i) 45 days before the date of the prospectus, or
    - (ii) 60 days before the date of the prospectus if the issuer is a venture issuer.
- (2)** The interim financial statements referred to in 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 current financial year, an income statement and a 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.

### **Exceptions to financial statement requirements**

**32.4** Despite item 32.2 [*Annual financial statements*], an issuer is not required to include the following financial statements in a prospectus:

- (a) the income statement, the statement of retained earnings, and the cash flow statement for the third most recently completed financial year, if the issuer is a reporting issuer immediately before filing the prospectus;

- (b) the income statement, the statement of retained earnings, and the cash flow statement for the third most recently completed financial year, and the financial statements for the second most recently completed financial year, if
  - (i) the issuer is a reporting issuer immediately before filing the prospectus, and
  - (ii) the issuer includes financial statements for a financial year ended less than
    - (A) 90 days before the date of the prospectus, or
    - (B) 120 days before the date of the prospectus, if the issuer is a venture issuer;
- (c) the income statement, the statement of retained earnings, and the cash flow statement for the third most recently completed financial year, and the balance sheet for the second most recently completed financial year, if the issuer includes financial statements for a financial year ended less than
  - (i) 90 days before the date of the prospectus, or
  - (ii) 120 days before the date of the prospectus, if the issuer is a venture issuer;
- (d) the income statement, the statement of retained earnings, and the cash flow statement for the third most recently completed financial year, and the financial statements for the second most recently completed financial year, if
  - (i) the issuer is a reporting issuer immediately before filing the prospectus,
  - (ii) the issuer includes audited financial statements for a period of at least 9 months commencing the day after the most recently completed financial year for which financial statements are required under item 32.2 [*Annual financial statements*],
  - (iii) the business of the issuer is not seasonal, and
  - (iv) none of the financial statements required under item 32.2 [*Annual financial statements*] are for a financial year that is less than 9 months;
- (e) the income statement, the statement of retained earnings, and the cash flow statement for the third most recently completed financial year, and the balance sheet for the second most recently completed financial year, if
  - (i) the issuer includes audited financial statements for a period of at least 9 months commencing the day after the most recently completed financial year for which financial statements are required under item 32.2 [*Annual financial statements*],

- (ii) the business of the issuer is not seasonal, and
  - (iii) none of the financial statements required under item 32.2 [*Annual financial statements*] are for a financial year that is less than 9 months;
- (f) the separate financial statements of the issuer and the other entity for periods prior to the date of the continuity of interest transaction, if the restated combined financial statements of the issuer and the other entity are included in the prospectus under paragraph 32.1(c) [*Interpretation of “issuer”*].

### **Exceptions to audit requirement**

**32.5** The audit requirement in section 4.2 of this Instrument [*Audit of financial statements*] does not apply to the following financial statements

- (a) any financial statements for the second and third most recently completed financial years required under item 32.2 [*Annual financial statements*], if
  - (i) those financial statements were previously included in a final prospectus without an auditor’s report pursuant to an exemption under applicable securities legislation, and
  - (ii) an auditor has not issued an auditor’s report on those financial statements,
- (b) any financial statements for the second and third most recently completed financial years required under item 32.2 [*Annual financial statements*], if
  - (i) the issuer is a junior issuer, and
  - (ii) the financial statements for the most recently completed financial year required under item 32.2 [*Annual financial statements*] is not less than 12 months in length, or
- (c) any interim financial statements required under item 32.3 [*Interim financial statements*].

### **Additional financial statements or financial information filed or released**

**32.6(1)** If the issuer files financial statements for a more recent period than required under item 32.2 [*Annual financial statements*] or 32.3 [*Interim financial statements*] before the prospectus is filed, the issuer must include those more recent financial statements in the prospectus.

**(2)** If financial information about the issuer is publicly disseminated by, or on behalf of, the issuer through news release or otherwise for a more recent period than required under item 32.2 [*Annual financial statements*] or 32.3 [*Interim financial statements*], the issuer must include the content of the news release or public communication in the prospectus.



## ITEM 33: Credit Supporter Disclosure, Including Financial Statements

### Credit supporter disclosure, including financial statements

- 33.1** If a credit supporter has provided a guarantee or alternative credit support for all or substantially all of the payments to be made under the securities being distributed, include statements by the credit supporter providing disclosure about the credit supporter that would be required under Items 4 [*Corporate Structure*], 5 [*Describe the Business*], 8 [*Management’s Discussion and Analysis*], 9 [*Earnings Coverage Ratios*], 21 [*Risk Factors*], 23 [*Legal Proceedings and Regulatory Actions*], 25 [*Relationship Between Issuer or Selling Security Holder and Underwriter*], 26 [*Auditor, Transfer Agent and Registrar*], and 32 [*Financial Statement Disclosure for the Issuer*] if the credit supporter were the issuer of the securities to be distributed and such other information about the credit supporter as is necessary to provide full, true and plain disclosure of all material facts relating to the securities to be distributed.

## ITEM 34: Exemptions for Certain Issues of Guaranteed Securities

### Definitions and interpretation

#### 34.1(1) In this item

- (a) the impact of subsidiaries, on a combined basis, on the financial statements of the parent entity is “minor” if each item of the summary financial information of the subsidiaries, on a combined basis, represents less than 3% of the total consolidated amounts,
- (b) a parent entity has “limited independent operations” if each item of its summary financial information represents less than 3% of the total consolidated amounts,
- (c) a subsidiary is a “finance subsidiary” if it has minimal assets, operations, revenues or cash flows other than those related to the issuance, administration and repayment of the security being distributed and any other securities guaranteed by its parent entity,
- (d) “parent credit supporter” means a credit supporter of which the issuer is a subsidiary,
- (e) “parent entity” means a parent credit supporter for the purposes of sections 34.2 [*Issuer is wholly-owned subsidiary of parent credit supporter*] and 34.3 [*Issuer is wholly-owned subsidiary of, and one or more subsidiary credit supporters controlled by, parent credit supporter*] and an issuer for the purpose of section 34.4 [*One or more credit supporters controlled by issuer*],
- (f) “subsidiary credit supporter” means a credit supporter that is a subsidiary of the parent credit supporter, and
- (g) “summary financial information” includes the following line items:

- (i) sales or revenues;
  - (ii) income from continuing operations;
  - (iii) net earnings or loss; and
  - (iv) unless the accounting principles used to prepare the financial statements of the entity permits the preparation of the entity's balance sheet without classifying assets and liabilities between current and non-current and the entity provides alternative meaningful financial information which is more appropriate to the industry,
    - (A) current assets;
    - (B) non-current assets;
    - (C) current liabilities; and
    - (D) non-current liabilities.
- (2) For the purposes of this Item, consolidating summary financial information must be prepared on the following basis
- (a) an entity's annual or interim summary financial information must be derived from the entity's financial information underlying the corresponding consolidated financial statements of the parent entity included in the prospectus,
  - (b) the parent entity column must account for investments in all subsidiaries under the equity method, and
  - (c) all subsidiary entity columns must account for investments in non-credit supporter subsidiaries under the equity method.

**Issuer is wholly-owned subsidiary of parent credit supporter**

**34.2** An issuer is not required to include the issuer disclosure required by Items 4 [*Corporate Structure*], 5 [*Describe the Business*], 8 [*Management's Discussion and Analysis*], 9 [*Earnings Coverage Ratios*], 21 [*Risk Factors*], 23 [*Legal Proceedings and Regulatory Actions*], 25 [*Relationship Between Issuer or Selling Security Holder and Underwriter*], 26 [*Auditor, Transfer Agent and Registrar*], and 32 [*Financial Statement Disclosure for the Issuer*], if

- (a) a parent credit supporter has provided full and unconditional credit support for the securities being distributed,

- (b) the securities being distributed are non-convertible debt securities, non-convertible preferred shares, or convertible debt securities or convertible preferred shares that are convertible, in each case, into non-convertible securities of the parent credit supporter,
- (c) the parent credit supporter is the beneficial owner of all the issued and outstanding voting securities of the issuer,
- (d) no other subsidiary of the parent credit supporter has provided a guarantee or alternative credit support for all or substantially all of the payments to be made under the securities being distributed, and
- (e) the issuer includes in the prospectus
  - (i) a statement that the financial results of the issuer are included in the consolidated financial results of the parent credit supporter, if
    - (A) the issuer is a finance subsidiary, and
    - (B) the impact of any subsidiaries of the parent credit supporter on a combined basis, excluding the issuer, on the consolidated financial statements of the parent credit supporter is minor, or
  - (ii) for the periods covered by the parent credit supporter's interim and annual consolidated financial statements included in the prospectus under Item 33 [*Credit Supporter Disclosure, Including Financial Statements*], consolidating summary financial information for the parent credit supporter presented with a separate column for each of the following:
    - (A) the parent credit supporter;
    - (B) the issuer;
    - (C) any other subsidiaries of the parent credit supporter on a combined basis;
    - (D) consolidating adjustments;
    - (E) the total consolidated amounts.

**Issuer is wholly-owned subsidiary of, and one or more subsidiary credit supporters controlled by, parent credit supporter**

**34.3(1)** An issuer is not required to include the issuer disclosure required by Items 4 [*Corporate Structure*], 5 [*Describe the Business*], 8 [*Management's Discussion and Analysis*], 9 [*Earnings Coverage Ratios*], 21 [*Risk Factors*], 23 [*Legal Proceedings and Regulatory Actions*], 25 [*Relationship Between Issuer or Selling Security Holder and Underwriter*],

26 [*Auditor, Transfer Agent and Registrar*], and 32 [*Financial Statement Disclosure for the Issuer*], or the credit supporter disclosure of one or more subsidiary credit supporters required by Item 33 [*Credit Supporter Disclosure, Including Financial Statements*], if

- (a) a parent credit supporter and one or more subsidiary credit supporters have each provided full and unconditional credit support for the securities being distributed,
- (b) the guarantees or alternative credit supports are joint and several,
- (c) the securities being distributed are non-convertible debt securities, non-convertible preferred shares, or convertible debt securities or convertible preferred shares that are convertible, in each case, into non-convertible securities of the parent credit supporter,
- (d) the parent credit supporter is the beneficial owner of all the issued and outstanding voting securities of the issuer,
- (e) the parent credit supporter controls each subsidiary credit supporter and the parent credit support has consolidated the financial statements of each subsidiary credit supporter into the parent credit supporter's financial statements that are included in the prospectus, and
- (f) the issuer includes in the prospectus, for the periods covered by the parent credit supporter's financial statements included in the prospectus under Item 33 [*Credit Supporter Disclosure, Including Financial Statements*], consolidating summary financial information for the parent credit supporter presented with a separate column for each of the following:
  - (i) the parent credit supporter;
  - (ii) the issuer;
  - (iii) each subsidiary credit supporter on a combined basis;
  - (iv) any other subsidiaries of the parent credit supporter on a combined basis;
  - (v) consolidating adjustments;
  - (vi) the total consolidated amounts.

- (2) Despite paragraph (1)(f), the information set out in a column in accordance with
- (a) subparagraph (1)(f)(iv), may be combined with the information set out in accordance with any of the other columns in paragraph (1)(f); if the impact of any subsidiaries of the parent credit supporter on a combined basis, excluding the issuer and all subsidiary credit supporters, on the consolidated financial statements of the parent credit supporter is minor, and
  - (b) subparagraph (1)(f)(ii), may be combined with the information set out in accordance with any of the other columns in paragraph (1)(f); if the issuer is a finance subsidiary.

### **One or more credit supporters controlled by issuer**

**34.4** An issuer is not required to include the credit supporter disclosure for one or more credit supporters required by Item 33 [*Credit Supporter Disclosure, Including Financial Statements*], if

- (a) one or more credit supporters have each provided full and unconditional credit support for the securities being distributed,
- (b) if there is more than one credit supporter, the guarantee or alternative credit supports are joint and several,
- (c) the securities being distributed are non-convertible debt securities, non-convertible preferred shares, or convertible debt securities or convertible preferred shares that are convertible, in each case, into non-convertible securities of the issuer,
- (d) the issuer controls each credit supporter and the issuer has consolidated the financial statements of each credit supporter into the issuer's financial statements that are included in the prospectus, and
- (e) the issuer includes in the prospectus
  - (i) a statement that the financial results of the credit supporter(s) are included in the consolidated financial results of the issuer, if
    - (A) the issuer has limited independent operations, and
    - (B) the impact of any subsidiaries of the issuer on a combined basis, excluding the credit supporter(s) but including any subsidiaries of the credit supporter(s) that are not themselves credit supporters, on the consolidated financial statements of the issuer is minor, or
  - (ii) for the periods covered by the issuer's financial statements included in the prospectus under Item 32 [*Financial Statement Disclosure for the Issuer*],

consolidating summary financial information for the issuer, presented with a separate column for each of the following:

- (A) the issuer;
- (B) the credit supporters on a combined basis;
- (C) any other subsidiaries of the issuer on a combined basis;
- (D) consolidating adjustments;
- (E) the total consolidated amounts.

### **ITEM 35: Significant Acquisitions**

#### **Application and definitions**

**35.1(1)** This Item does not apply to a completed or proposed acquisition by the issuer that was or will be accounted for as a reverse takeover or a transaction that is a probable reverse takeover.

- (2) The requirements in items 35.5 [*Recently completed acquisitions*] and 35.6 [*Probable acquisitions*] are not applicable to an initial distribution by prospectus by a Capital Pool Company, as that term is defined in TSX Venture Exchange Policy 2.4 entitled *Capital Pool Companies*, as amended from time to time.
- (3) The audit requirement in section 4.2 of this Instrument [*Audit of financial statements*] does not apply to any financial statements or other information included in the prospectus under this Item, other than the financial statements or other information for the most recently completed financial year of a business or related businesses acquired, or proposed to be acquired, by the issuer.
- (4) In this Item, “**significant acquisition**” means an acquisition of a business or related businesses that,
  - (a) if the issuer was a reporting issuer on the date of the acquisition, is determined to be a significant acquisition under section 8.3 of NI 51-102 [*Determination of Significance*], or
  - (b) if the issuer was not a reporting issuer on the date of the acquisition, would be determined to be a significant acquisition under section 8.3 of NI 51-102 [*Determination of Significance*], as if
    - (i) the issuer was a reporting issuer on the date of the acquisition,
    - (ii) the references to a “venture issuer” are read as an “IPO venture issuer” if the issuer is an IPO venture issuer,

- (iii) for the purposes of the optional tests, the issuer uses its financial statements for the most recently completed interim period or financial year that is included in the prospectus,
- (iv) for the purposes of the optional income tests, the most recently completed financial year of the business or related businesses should be the financial year of the business ended before the date of the prospectus, and the 12 months ended on the last day of the most recently completed interim period of the business or related businesses should be the 12 months ended on the last day of the most recently completed interim period before the date of the prospectus,
- (v) subsection 8.3(11.1) of NI 51-102 [*Application of the Optional Income Test based on Pro Forma Financial Information*] does not apply, and
- (vi) references to annual audited statements filed or required to be filed means audited annual financial statements included in the prospectus.

**Completed acquisitions for which issuer has filed business acquisition report**

**35.2** If an issuer completed an acquisition of a business or related businesses since the beginning of its most recently completed financial year for which financial statements are included in the prospectus, and it has filed a business acquisition report under Part 8 of NI 51-102 [*Business Acquisition Report*] for the acquisition, include all of the disclosure included in, or incorporated by reference into, that business acquisition report.

**Completed acquisitions for which issuer has not filed business acquisition report because issuer was not reporting issuer on date of acquisition**

**35.3(1)** Subject to subsection (3), an issuer must include the disclosure required under subsection (2), if

- (a) the issuer completed an acquisition of a business or related businesses since the beginning of the issuer's most recently completed financial year for which financial statements of the issuer are included in the prospectus,
- (b) the issuer was not a reporting issuer on the date of the acquisition,
- (c) the acquisition is a significant acquisition, and
- (d) the acquisition was completed more than
  - (i) 90 days before the date of the prospectus, if the financial year of the acquired business ended 45 days or less before the acquisition, or
  - (ii) 75 days before the date of the prospectus.

- (2) For an acquisition to which subsection (1) applies, include all the disclosure that would be required to be included in, or incorporated by reference into, a business acquisition report filed under Part 8 of NI 51-102 [*Business Acquisition Report*], as if
- (a) the issuer was a reporting issuer on the date of the acquisition,
  - (b) the business acquisition report was filed as at the date of the prospectus,
  - (c) the issuer was a venture issuer at the date of the acquisition, if the issuer is an IPO venture issuer,
  - (d) subsections 8.4(4) [*Earlier Interim Financial Statements Permitted*] and 8.4(6) [*Pro Forma Financial Statements based on Earlier Interim Financial Statements Permitted*] of NI 51-102 do not apply, and
  - (e) references to financial statements filed or required to be filed means audited annual financial statements included in the prospectus.

#### **Results consolidated in financial statements of issuer**

**35.4** Despite item 35.2 [*Completed acquisitions for which the issuer has filed a business acquisition report*] and subsection 35.3(1) [*Completed acquisitions for which the issuer has not filed a business acquisition report because the issuer was not a reporting issuer on the date of acquisition*], an issuer may omit the financial statements or other information of a business required to be included in the prospectus, if at least 9 months of the acquired business or related businesses operations have been reflected in the issuer's most recent audited financial statements included in the prospectus.

#### **Recently completed acquisitions**

**35.5(1)** Include the information required under subsection (2) for any significant acquisition completed by the issuer

- (a) since the beginning of the issuer's most recently completed financial year for which financial statements of the issuer are included in the prospectus, and
  - (b) for which the issuer has not included any disclosure under item 35.2 [*Completed acquisitions for which the issuer has filed a business acquisition report*] or subsection 35.3(2) [*Completed acquisitions for which the issuer has not filed a business acquisition report because the issuer was not a reporting issuer on the date of acquisition*].
- (2) For a significant acquisition to which subsection (1) applies, include the following
- (a) the information required by items 2.1 through 2.6 of Form 51-102F4 [*Content of Business Acquisition Report*], and



- (b) the financial statements or other information of the acquisition under subsection (3) for the acquired business or related businesses, if
  - (i) the issuer was not a reporting issuer immediately before filing the prospectus, or
  - (ii) the issuer was a reporting issuer immediately before filing the prospectus, and the inclusion of the financial statements or other information is necessary for the prospectus to contain full, true and plain disclosure of all material facts relating to the securities to be distributed.
- (3) The requirement to include financial statements or other information under subsection (2)(b) must be satisfied by including
  - (a) if the issuer was a reporting issuer on the date of acquisition, the financial statements or other information that will be required to be included in, or incorporated by reference into, a business acquisition report filed under Part 8 of NI 51-102 [*Business Acquisition Report*],
  - (b) if the issuer was not a reporting issuer on the date of acquisition, the financial statements or other information that would be required by subsection 35.3(2) [*Completed acquisitions for which the issuer has not filed a business acquisition report because the issuer was not a reporting issuer on date of acquisition*], or
  - (c) satisfactory alternative financial statements or other information.

### **Probable acquisitions**

**35.6(1)** Include the information required under subsection (2) for any probable acquisition of a business or related businesses that, if completed by the issuer at the date of the prospectus, would be a significant acquisition.

- (2) For a probable acquisition of a business or related businesses to which subsection (1) applies, include
  - (a) the information required by sections 2.1 through 2.6 of Form 51-102F4 [*Content of Business Acquisition Report*], modified as necessary to convey that the acquisition has not been completed, and
  - (b) the financial statements or other information of the probable acquisition under subsection (3) for the acquired business or related businesses, if
    - (i) the issuer was not a reporting issuer immediately before filing the prospectus, or
    - (ii) the issuer was a reporting issuer immediately before filing the prospectus, and the inclusion of the financial statements or other information is

necessary for the prospectus to contain full, true and plain disclosure of all material facts relating to the securities to be distributed.

- (3) For a probable acquisition of a business or related businesses to which subsection (2) applies, the requirement to include financial statements or other information under subsection (2)(b) must be satisfied by including
- (a) if the issuer was a reporting issuer immediately before filing the prospectus, the financial statements or other information that would be required to be included in, or incorporated by reference into, a business acquisition report filed under Part 8 of NI 51-102 [*Business Acquisition Report*],
  - (b) if the issuer was not a reporting issuer immediately before filing the prospectus, the financial statements or other information that would be required to be included by subsection 35.3(2) [*Completed acquisitions for which the issuer has not filed a business acquisition report because the issuer was not a reporting issuer on date of acquisition*], as if the acquisition had been completed before the filing of the prospectus, or
  - (c) satisfactory alternative financial statements or other information.

***Pro Forma financial statements for multiple acquisitions***

**35.7** Despite items 35.2 [*Completed acquisitions for which issuer has filed business acquisition report*], 35.3 [*Completed acquisitions for which issuer has not filed business acquisition report because issuer was not reporting issuer on date of acquisition*], 35.5 [*Recently completed acquisitions*] and 35.6 [*Probable acquisitions*], an issuer is not required to include in its prospectus the *pro forma* financial statements otherwise required for each acquisition, if the issuer includes in its prospectus one set of *pro forma* financial statements that

- (a) reflect the results of each acquisition since the beginning of the issuer's most recently completed financial year for which financial statements of the issuer are included in the prospectus,
- (b) are prepared as if each acquisition occurred at the beginning of the most recently completed financial year of the issuer for which financial statements of the issuer are included in the prospectus, and
- (c) are prepared in accordance with
  - (i) if no disclosure is otherwise required for a probable acquisition under item 35.6 [*Probable acquisitions*], the item in this Item that applies to the most recently completed acquisition, or
  - (ii) item 35.6 [*Probable acquisitions*].

## **Additional financial statements or financial information of business filed or released**

- 35.8(1)** An issuer must include in its prospectus annual and interim financial statements of a business or related businesses for a financial period that ended before the date of the acquisition and is more recent than the periods for which financial statements are required under item 35.5 [*Recently completed acquisitions*] or 35.6 [*Probable acquisitions*] if, before the prospectus is filed, the financial statements of the business for the more recent period have been filed.
- (2) If, before the prospectus is filed, financial information of a business or related businesses for a period more recent than the period for which financial statements are required under item 35.5 [*Recently completed acquisitions*] or 35.6 [*Probable acquisitions*], is publicly disseminated by news release or otherwise by or on behalf of the issuer, the issuer shall include in the prospectus the content of the news release or public communication.

## **ITEM 36: Probable Reverse Takeovers**

### **Probable reverse takeovers**

- 36.1** If the issuer is involved in a probable reverse takeover, include statements by the reverse takeover acquirer providing disclosure about the reverse takeover acquirer that would be required under Form 41-101F1, as applicable, if the reverse takeover acquirer were the issuer of the securities to be distributed and such other information about the reverse takeover acquirer as is necessary to provide full, true and plain disclosure of all material facts relating to the securities to be distributed, including the disclosure required by Items
- (a) 4 [*Corporate Structure*],
  - (b) 5 [*Describe the Business*],
  - (c) 7 [*Dividends or Distributions*],
  - (d) 8 [*Management's Discussion and Analysis*],
  - (e) 9 [*Earnings Coverage Ratios*],
  - (f) 11 [*Consolidated Capitalization*],
  - (g) 12 [*Options to Purchase Securities*],
  - (h) 13 [*Prior Sales*],
  - (i) 14 [*Escrowed Securities and Securities Subject to Contractual Restriction on Transfer*],
  - (j) 15 [*Principal Security Holders and Selling Security Holders*],
  - (k) 16 [*Directors and Executive Officers*],

- (l) 17 [*Executive Compensation*],
- (m) 18 [*Indebtedness of Directors and Executive Officers*],
- (n) 19 [*Audit Committees and Corporate Governance*],
- (o) 21 [*Risk Factors*],
- (p) 22 [*Promoters and Substantial Beneficiaries of the Offering*],
- (q) 23 [*Legal Proceedings and Regulatory Actions*],
- (r) 24 [*Interests of Management and Others in Material Transactions*],
- (s) 25 [*Relationship Between Issuer or Selling Security Holder and Underwriter*],
- (t) 27 [*Material Contracts*],
- (u) 28 [*Experts*], and
- (v) 32 [*Financial Statement Disclosure for Issuers*].

### **ITEM 37: Certificates**

#### **Certificates**

**37.1** Include the certificates required by Part 5 of this Instrument [*Certificates*] or securities legislation.

#### **Issuer certificate form**

**37.2** An issuer certificate form must state

“This prospectus constitutes full, true and plain disclosure of all material facts relating to the securities offered by this prospectus as required by the securities legislation of [insert the jurisdictions in which qualified].”

#### **Underwriter certificate form**

**37.3** An underwriter certificate form must state

“To the best of our knowledge, information and belief, this prospectus constitutes full, true and plain disclosure of all material facts relating to the securities offered by this prospectus as required by the securities legislation of [insert the jurisdictions in which qualified].”

#### **Amendments**

**37.4(1)** For an amendment to a prospectus that does not restate the prospectus, omit the references in the language in sections 37.2 [*Issuer certificate form*] and 37.3 [*Underwriter certificate form*] to “prospectus” and replace it with “prospectus dated [insert date] as amended by this amendment”.

(2) For an amended and restated prospectus, omit the references in the language in sections 37.2 [*Issuer certificate form*] and 37.3 [*Underwriter certificate form*] to “prospectus” and replace it with “amended and restated prospectus”.

#### **Non-offering prospectuses**

**37.5** For a non-offering prospectus, omit the references in the language in sections 37.2 [*Issuer certificate form*] and 37.3 [*Underwriter certificate form*] to “securities offered by this prospectus” and replace it with “securities previously issued by the issuer”.