

**Blackline Showing Proposed Changes to
National Instrument 41-101 *General Prospectus Requirements* and Companion Policy**

**Schedule C-1
National Instrument 41-101 *General Prospectus Requirements***

**NATIONAL INSTRUMENT 41-101
GENERAL PROSPECTUS REQUIREMENTS**

TABLE OF CONTENTS

PART 1	Definitions and Interpretations
1.1	Definitions
1.2	Interpretation of “prospectus”, “preliminary prospectus”, “final prospectus”, “long form prospectus”, and “short form prospectus”
1.3	Interpretation of “business”
1.4	Interpretation of “affiliate”
1.5	Interpretation of “payments to be made”
PART 2	Requirements for All Prospectus Distributions
2.1	Application of the Instrument
2.2	Language
2.3	General requirements
2.4	Special warrants
PART 3	Form of Prospectus
3.1	Form of prospectus
PART 4	Financial Statements and Related Documents in a Long Form Prospectus
4.1	Application
4.2	Audit of financial statements
4.3	Review of unaudited financial statements
4.4	Approval of financial statements and related documents
PART 5	Certificates
5.1	Interpretation
5.2	Date of certificates
5.3	Certificate of issuer
5.4	Corporate issuer
5.5	Trust issuer
5.6	Limited partnership issuer
5.7	Other issuer
5.8	Reverse takeovers
5.9	Certificate of underwriter
5.10	Certificate of investment fund manager
5.11	Certificate of promoter
5.12	Certificate of credit supporter
5.13	Certificate of selling securityholders
5.14	Certificate of operating entity
5.15	Certificate of other persons
PART 6	Amendments
6.1	Form of amendment
6.2	Required documents for filing an amendment
6.3	Auditor’s comfort letter
6.4	Delivery of amendments
6.5	Amendment to a preliminary prospectus
6.6	Amendment to a final prospectus
PART 7	Non-fixed Price Offerings and Reduction of Offering Price under a Final Prospectus

- 7.1 Application
- 7.2 Non-fixed price offerings and reduction of offering price

- PART 8 Best Efforts Distributions
 - 8.1 Application
 - 8.2 Distribution period
 - 8.3 Minimum amount of funds

- PART 9 Requirements for Filing a Long Form Prospectus
 - 9.1 Required documents for filing a preliminary or pro forma long form prospectus
 - 9.2 Required documents for filing a final long form prospectus
 - 9.3 Material contracts

- PART 10 Consents and Licenses, Registrations and Approvals
 - 10.1 Consents of experts
 - 10.2 Licences, registrations and approvals

- PART 11 Over-Allocation and Underwriters
 - 11.1 Over-allocation
 - 11.2 Distribution of securities under a prospectus to an underwriter
 - 11.3 Take-up by underwriter

- PART 12 Restricted Securities
 - 12.1 Application
 - 12.2 Use of restricted security term
 - 12.3 Prospectus filing eligibility

- PART 13 Advertising and Marketing in Connection with Prospectus Offerings
 - 13.1 Legend for communications during the waiting period
 - 13.2 Legend for communications following receipt for the final prospectus
 - 13.3 Advertising for investment funds during the waiting period

- PART 14 Custodianship of Portfolio Assets of an Investment Fund
 - 14.1 General
 - 14.2 Who may act as custodian or sub-custodian
 - 14.3 Standard of care
 - 14.4 Appointment of sub-custodian
 - 14.5 Content of agreements
 - 14.6 Review and compliance reports
 - 14.7 Holding of portfolio assets and payment of fees
 - 14.8 Custodian provisions relating to derivatives and securities lending, repurchases and reverse repurchase agreements
 - 14.9 Separate account for paying expenses

- PART 15 Documents Incorporated by Reference by Investment Funds
 - 15.1 Application
 - 15.2 Incorporation by reference

- PART 16 Distribution of Preliminary Prospectus and Distribution List
 - 16.1 Distribution of preliminary prospectus and distribution list

- PART 17 Lapse Date
 - 17.1 Pro forma prospectus
 - 17.2 Refiling of prospectus

- PART 18 Statement of Rights
 - 18.1 Statement of rights

- PART 19 Exemption
 - 19.1 Exemption
 - 19.2 Application for exemption
 - 19.3 Evidence of exemption

- PART 20 Transition, Effective Date, and Repeal
 - 20.1 Transition
 - 20.2 Effective ~~date~~ Date
 - 20.3 Repeal

- APPENDIX A PERSONAL INFORMATION FORM AND AUTHORIZATION OF INDIRECT COLLECTION, USE AND DISCLOSURE OF PERSONAL INFORMATION
- APPENDIX B ISSUER FORM OF SUBMISSION TO JURISDICTION AND APPOINTMENT OF AGENT FOR SERVICE OF PROCESS
- APPENDIX C NON-ISSUER FORM OF SUBMISSION TO JURISDICTION AND APPOINTMENT OF AGENT FOR SERVICE OF PROCESS

**NATIONAL INSTRUMENT 41-101
GENERAL PROSPECTUS REQUIREMENTS**

PART 1: Definitions and Interpretations

Definitions

1.1 In this Instrument:

“acquisition” has the same meaning as in Part 8 of NI 51-102;

“acquisition date” has the same meaning as in section 1.1 of NI 51-102;

“acquisition of related businesses” has the same meaning as in Part 8 of NI 51-102;

“alternative credit support” has the same meaning as in section 13.4 of NI 51-102;

“approved rating organization” has the same meaning as in section 1.1 of NI 51-102;

“asset-backed security” has the same meaning as in section 1.1 of NI 51-102;

“base offering” means the number or principal amount of the securities distributed under a prospectus by an issuer or selling securityholder, excluding

- (a) any over-allotment option granted in connection with the distribution, or the securities issuable on the exercise of any such over-allotment option, and
- (b) securities issued or paid as compensation to a person or company for acting as an underwriter in respect of securities that are distributed under the prospectus, on an “as-if-converted” basis if these securities include securities that are convertible or exchangeable securities;

“board of directors” has the same meaning as in section 1.1 of NI 51-102;

“business acquisition report” has the same meaning as in section 1.1 of NI 51-102;

“business day” means any day other than a Saturday, a Sunday or a statutory holiday;

“class” has the same meaning as in section 1.1 of NI 51-102;

“credit supporter” has the same meaning as in section 13.4 of NI 51-102;

“custodian” means the institution appointed by an investment fund to act as custodian of the portfolio assets of the investment fund;

“date of ~~acquisition~~transition to IFRS” has the same meaning as in section 1.1 of NI 51-102;

“derivative” means an instrument, agreement or security, the market price, value or payment obligation of which is derived from, referenced to, or based on an underlying interest;

“designated foreign jurisdiction” has the same meaning as in section 1.1 of NI 52-107;

“equity investee” has the same meaning as in section 1.1 of NI 51-102;

“equity security” means a security of an issuer that carries a residual right to participate in the earnings of the issuer and, on the liquidation or winding up of the issuer, in its assets;

“executive officer” means, for an issuer, an individual who is

- (a) a chair, vice-chair or president,
- (b) a vice-president in charge of a principal business unit, division or function including sales, finance or production, or
- (c) performing a policy-making function in respect of the issuer;

“financial statements” includes interim financial reports;

“first IFRS financial statements” has the same meaning as in section 1.1 of NI 51-102:

“foreign disclosure requirements” has the same meaning as in section 1.1 of NI 52-107;

“Form 41-101F1” means Form 41-101F1 *Information Required in a Prospectus* of this Instrument;

“Form 41-101F2” means Form 41-101F2 *Information Required in an Investment Fund Prospectus* of this Instrument;

“Form 44-101F1” means Form 44-101F1 *Short Form Prospectus* of NI 44-101;

“Form 51-101F1” means Form 51-101F1 *Statement of Reserves Data and Other Oil and Gas Information* of NI 51-101;

“Form 51-101F2” means Form 51-101F2 *Report on Reserves Data by Independent Qualified Reserves Evaluator or Auditor* of NI 51-101;

“Form 51-101F3” means Form 51-101F3 *Report of Management and Directors on Oil and Gas Disclosure* of NI 51-101;

“Form 51-102F1” means Form 51-102F1 *Management’s Discussion & Analysis* of NI 51-102;

“Form 51-102F2” means Form 51-102F2 *Annual Information Form* of NI 51-102;

“Form 51-102F4” means Form 51-102F4 *Business Acquisition Report* of NI 51-102;

“Form 51-102F5” means Form 51-102F5 *Information Circular* of NI 51-102;

“Form 51-102F6” means Form 51-102F6 *Statement of Executive Compensation* of NI 51-102;

“Form 52-110F1” means Form 52-110F1 *Audit Committee Information Required in an AIF* of ~~NI~~ NI 52-110;

“Form 52-110F2” means Form 52-110F2 *Disclosure by Venture Issuers* of ~~NI~~ NI 52-110;

“Form 58-101F1” means Form 58-101F1 *Corporate Governance Disclosure* of NI 58-101;

“Form 58-101F2” means Form 58-101F2 *Corporate Governance Disclosure (Venture Issuers)* of NI 58-101;

“full and unconditional credit support” means

- (a) alternative credit support that
 - (i) entitles the holder of the securities to receive payment from the credit supporter, or enables the holder to receive payment from the issuer, within 15 days of any failure by the issuer to make a payment, and
 - (ii) results in the securities receiving the same credit rating as, or a higher credit rating than, the credit rating they would have received if payment had been fully and unconditionally guaranteed by the credit supporter, or would result in the securities receiving such a rating if they were rated, or
- (b) a full and unconditional guarantee of the payments to be made, as interpreted in section 1.5, by the issuer of securities, as stipulated in the terms of the securities or in an agreement governing rights of holders of the securities, that results in the holder of such securities being entitled to receive payment from the credit supporter within 15 days of any failure by the issuer to make a payment;

~~“income from continuing operations” has the same meaning as in section 1.1 of NI 51-102;~~

“independent review committee” means an independent review committee under NI 81-107;

“information circular” has the same meaning as in section 1.1 of NI 51-102;

“interim period” has the same meaning as in

- (a) section 1.1 of NI 51-102 for an issuer other than an investment fund, or
- (b) section 1.1 of NI 81-106 for an investment fund;

“IPO venture issuer” means an issuer that

- (a) files a long form prospectus,
- (b) is not a reporting issuer in any jurisdiction immediately before the date of the final long form prospectus, and
- (c) at the date of the long form prospectus, 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
 - (i) the Toronto Stock Exchange,
 - (ii) a U.S. marketplace, or
 - (iii) a marketplace outside of Canada and the United States of America, other than the Alternative Investment Market of the London Stock Exchange or the PLUS markets operated by PLUS Markets Group plc;

“issuer’s GAAP” has the same meaning as in section 1.1 of NI 52-107;

“junior issuer” means an issuer

- (a) that files a preliminary prospectus,
- (b) that is not a reporting issuer in any jurisdiction,
- (c) whose total consolidated assets as at the date of the most recent ~~balance sheet~~statement of financial position of the issuer included in the preliminary prospectus are less than \$10,000,000,
- (d) whose consolidated revenue as shown in the most recent annual ~~income~~-statement of comprehensive income of the issuer included in the preliminary prospectus is less than \$10,000,000, and
- (e) whose ~~shareholders’~~ equity as at the date of the most recent ~~balance sheet~~statement of financial position of the issuer included in the preliminary prospectus is less than \$10,000,000,

taking into account all adjustments to asset, revenue and ~~shareholders’~~ equity calculations necessary to reflect each significant proposed acquisition of a business or related business by an issuer that has progressed to a state where a reasonable person would believe that the likelihood of the issuer completing the acquisition is high, and each completed significant acquisition of a business or related business that was completed,

- (f) for paragraphs (c) and (e), before the date of the preliminary prospectus and after the date of the issuer’s most recent ~~balance sheet~~statement of financial position included in the preliminary prospectus as if each acquisition had taken place as at the date of the issuer’s most recent ~~balance sheet~~statement of financial position included in the preliminary prospectus, and
- (g) for paragraph (d), after the last day of the most recent annual ~~income~~-statement of comprehensive income of the issuer included in the preliminary prospectus as if each acquisition had taken place at the beginning of the issuer’s most recently completed financial year for which ~~an income~~a statement of comprehensive income is included in the preliminary prospectus;

“labour sponsored or venture capital fund” has the same meaning as in section 1.1 of NI 81-106;

“long form prospectus” means a prospectus filed in the form of Form 41-101F1 or Form 41-101F2;

“marketplace” has the same meaning as in section 1.1 of NI 51-102;

“material contract” means any contract that an issuer or any of its subsidiaries is a party to, that is material to the issuer;

“mineral project” has the same meaning as in section 1.1 of NI 43-101;

~~“MI 52-110” means Multilateral Instrument 52-110 Audit Committees;~~ “NI 14-101” means National Instrument 14-101 *Definitions*;

“NI 33-105” means National Instrument 33-105 *Underwriting Conflicts*;

“NI 43-101” means National Instrument 43-101 *Standards of Disclosure for Mineral Projects*;

“NI 44-101” means National Instrument 44-101 *Short Form Prospectus Distributions*;

“NI 44-102” means National Instrument 44-102 *Shelf Distributions*;

“NI 44-103” means National Instrument 44-103 *Post-Receipt Pricing*;

“NI 45-106” means National Instrument 45-106 *Prospectus and Registration Exemptions*;

“NI 51-101” means National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities*;

“NI 51-102” means National Instrument 51-102 *Continuous Disclosure Obligations*;

“NI 52-107” means National Instrument 52-107 *Acceptable Accounting Principles, ~~and~~ Auditing Standards ~~and~~ Reporting Currency*; ~~±~~

“NI 52-110” means National Instrument 52-110 *Audit Committees*;

“NI 58-101” means National Instrument 58-101 *Disclosure of Corporate Governance Practices*;

“NI 81-101” means National Instrument 81-101 *Mutual Fund Prospectus Disclosure*;

“NI 81-102” means National Instrument 81-102 *Mutual Funds*;

“NI 81-106” means National Instrument 81-106 *Investment Fund Continuous Disclosure*;

“NI 81-107” means National Instrument 81-107 *Independent Review Committee for Investment Funds*;

“non-voting security” means a restricted security that does not carry the right to vote generally, except for a right to vote that is mandated, in special circumstances, by law;

“old financial year” means the financial year of an issuer that immediately precedes a transition year;

“over-allocation position” means the amount, determined as at the closing of a distribution, by which the aggregate number or principal amount of securities that are sold by one or more underwriters of the distribution exceeds the base offering;

“over-allotment option” means a right granted to one or more underwriters by an issuer or a selling securityholder of the issuer in connection with the distribution of securities under a prospectus to acquire, for the purposes of covering the underwriter’s over-allocation position, a security of an issuer that has the same designation and attributes as a security that is distributed under such prospectus, and which

- (a) expires not later than the 60th day after the date of the closing of the distribution, and
- (b) is exercisable for a number or principal amount of securities that is limited to the lesser of
 - (i) the over-allocation position, and
 - (ii) 15% of the base offering;

“principal securityholder” means a person or company who beneficially owns, or controls or directs, directly or indirectly, voting securities carrying 10% or more of the voting rights attached to any class of voting securities of the issuer;

“private issuer” has the same meaning as in section 2.4 of NI 45-106;

“related credit supporter” of an issuer means a credit supporter of the issuer that is an affiliate of the issuer;

“restricted security” means an equity security that is not a preferred security of an issuer if any of the following apply:

- (a) there is another class of securities of the issuer that carries a greater number of votes per security relative to the equity security,
- (b) the conditions attached to the class of equity securities, the conditions attached to another class of securities of the issuer, or the issuer’s constating documents have provisions that nullify or significantly restrict the voting rights of the equity securities,

- (c) the issuer has issued another class of equity securities that entitle the owners of securities of that other class to participate in the earnings or assets of the issuer to a greater extent, on a per security basis, than the owners of the first class of equity securities, or
- (d) except in Ontario and British Columbia, the regulator determines that the equity security is a restricted security;

“restricted security reorganization” means any event resulting in the creation of restricted securities, directly or through the creation of subject securities or securities that are, directly or indirectly, convertible, or exercisable or exchangeable for, restricted securities or subject securities or any change in the rights attaching to restricted securities, subject securities or securities that are, directly or indirectly, convertible into, or exercisable or exchangeable for, restricted securities or subject securities, including

- (a) any
 - (i) amendment to an issuer’s constating documents,
 - (ii) resolution of the board of directors of an issuer setting the terms of a series of securities of the issuer, or
 - (iii) restructuring, recapitalization, reclassification, arrangement, amalgamation or merger, or
- (b) if the issuer has one or more classes of restricted securities outstanding, an amendment to an issuer’s constating documents to increase
 - (i) the per security voting rights attached to any class of securities without at the same time making a proportionate increase in the per security voting rights attached to any other securities of the issuer, or
 - (ii) the number of a class of securities authorized, other than a restricted security;

“restricted security term” means each of the terms “non-voting security”, “subordinate voting security”, and “restricted voting security”;

“restricted voting security” means a restricted security that carries a right to vote subject to a restriction on the number or percentage of securities that may be voted or owned by one or more persons or companies, unless the restriction is

- (a) permitted or prescribed by statute or regulation, and
- (b) is applicable only to persons or companies that are not citizens or residents of Canada or that are otherwise considered as a result of any law applicable to the issuer to be non-Canadians;

“restructuring transaction” has the same meaning as in section 1.1 of NI 51-102;

“reverse takeover” has the same meaning as in section 1.1 of NI 51-102;

“reverse takeover acquirer” has the same meaning as in section 1.1 of NI 51-102;

“SEC issuer” has the same meaning as in section 1.1 of NI 52-107;

“short form prospectus” means a prospectus filed in the form of Form 44-101F1;

“special warrant” means a security that, by its terms or the terms of an accompanying contractual obligation,

- (a) entitles or requires the holder to acquire another security without payment of material additional consideration and obliges the issuer of either security to undertake efforts to file a prospectus to qualify the distribution of the other security, or
- (b) entitles or requires the holder to acquire another security without payment of material additional consideration and the issuer files a prospectus to qualify the distribution of the other security;

“subject security” means a security that results, or would result if and when issued, in an existing class of securities being considered restricted securities;

“subordinate voting security” means a restricted security that carries a right to vote, if there are securities of another class outstanding that carry a greater right to vote on a per security basis;

“transition year” means the financial year of an issuer or business in which the issuer or business changes its financial year-end;

“U.S. GAAP” has the same meaning as in section 1.1 of NI 52-107;

“U.S. AICPA GAAS” has the same meaning as in section 1.1 of NI 52-107;

“U.S. PCAOB GAAS” has the same meaning as in section 1.1 of NI 52-107;

“U.S. marketplace” has the same meaning as in section 1.1 of NI 51-102;

“venture issuer” has the same meaning as in section 1.1 of NI 51-102 except the “applicable time” is the date the prospectus is filed;

“waiting period” means the period of time between the issuance of a receipt by the regulator for a preliminary prospectus and the issuance of a receipt by the regulator for a final prospectus.

Interpretation of “prospectus”, “preliminary prospectus”, “final prospectus”, “long form prospectus”, and “short form prospectus”

- 1.2(1) In this Instrument, a reference to a “prospectus” includes a preliminary long form prospectus, a final long form prospectus, a preliminary short form prospectus, and a final short form prospectus.
- (2) In this Instrument, a reference to a “preliminary prospectus” includes a preliminary long form prospectus and a preliminary short form prospectus.
- (3) In this Instrument, a reference to a “final prospectus” includes a final long form prospectus and a final short form prospectus.
- (4) In this Instrument, a reference to a “long form prospectus” includes a preliminary long form prospectus and a final long form prospectus.
- (5) In this Instrument, a reference to a “short form prospectus” includes a preliminary short form prospectus and a final short form prospectus.
- (6) Despite subsections (1), (2), and (3), in Form 41-101F1 and Form 41-101F2,
 - (a) a reference to a “prospectus” only includes a preliminary long form prospectus and a final long form prospectus,
 - (b) a reference to a “preliminary prospectus” only includes a preliminary long form prospectus, and
 - (c) a reference to a “final prospectus” only includes a final long form prospectus.

Interpretation of “business”

- 1.3 In this Instrument, unless otherwise stated, a reference to a business includes an interest in an oil and gas property to which reserves, as defined in NI 51-101, have been specifically attributed.

Interpretation of “affiliate”

- 1.4 In this Instrument, an issuer is an affiliate of another issuer if the issuer would be an affiliate of the other issuer under subsection 1.1(2) of NI 51-102.

Interpretation of “payments to be made”

- 1.5 For the purposes of the definition of “full and unconditional credit support”, payments to be made by an issuer of securities as stipulated in the terms of the securities include
 - (a) any amounts to be paid as dividends in accordance with, and on the dividend payment dates stipulated in, the provisions of the securities, whether or not the dividends have been declared, and
 - (b) any discretionary dividends, provided that the terms of the securities or an agreement governing rights of holders of the securities expressly provides that the holder of the securities will be entitled, once the

discretionary dividend is declared, to receive payment from the credit supporter within 15 days of any failure by the issuer to pay the declared dividend.

PART 2: Requirements for All Prospectus Distributions

Application of the Instrument

- 2.1(1) Subject to subsection (2), this Instrument applies to a prospectus filed under securities legislation and a distribution of securities subject to the prospectus requirement.
- (2) This Instrument does not apply to a prospectus filed under NI 81-101 or a distribution of securities under such a prospectus.

Language

- 2.2(1) An issuer must file a prospectus and any other document required to be filed under this Instrument or NI 44-101 in French or in English.
- (2) In Québec, a prospectus and any document required to be incorporated by reference into a prospectus must be in French or in French and English.
- (3) Despite subsection (1), if an issuer files a document only in French or only in English but delivers to an investor or prospective investor a version of the document in the other language, the issuer must file that other version not later than when it is first delivered to the investor or prospective investor.
- (4) If an issuer files a document under this Instrument that is a translation of a document prepared in a language other than French or English, the issuer must
 - (a) attach a certificate as to the accuracy of the translation to the filed document, and
 - (b) make a copy of the document in the original language available on request.

General requirements

- 2.3(1) An issuer must not file a final prospectus more than 90 days after the date of the receipt for the preliminary prospectus that relates to the final prospectus.
- (2) An issuer must not file
 - (a) a prospectus more than three business days after the date of the prospectus, and
 - (b) an amendment to a prospectus more than three business days after the date of the amendment to the prospectus.

Special warrants

- 2.4(1) An issuer must not file a prospectus or an amendment to a prospectus to qualify the distribution of securities issued upon the exercise of special warrants or other securities acquired on a prospectus-exempt basis unless holders of the special warrants or other securities have been provided with a contractual right of rescission.
- (2) A contractual right of rescission under subsection (1) must provide that, if a holder of a special warrant who acquires another security of the issuer on exercise of the special warrant as provided for in the prospectus is, or becomes, entitled under the securities legislation of a jurisdiction to the remedy of rescission because of the prospectus or an amendment to the prospectus containing a misrepresentation,
 - (a) the holder is entitled to rescission of both the holder's exercise of its special warrant and the private placement transaction under which the special warrant was initially acquired,
 - (b) the holder is entitled in connection with the 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, and
 - (c) if the holder is a permitted assignee of the interest of the original special warrant subscriber, the holder is entitled to exercise the rights of rescission and refund as if the holder was the original subscriber.

PART 3: Form of Prospectus

Form of prospectus

- 3.1(1) Subject to subsection (2) and (3), an issuer filing a prospectus must file the prospectus in the form of Form 41-101F1.
- (2) An issuer that is an investment fund filing a prospectus must file the prospectus in the form of Form 41-101F2.
- (3) An issuer that is qualified to file a short form prospectus may file a short form prospectus.

PART 4: Financial Statements and Related Documents in a Long Form Prospectus

Application

- 4.1(1) An issuer, other than an investment fund, that files a long form prospectus must include in the long form prospectus the financial statements and the management's discussion and analysis required by this Instrument.
- (2) Subject to Part 15, an investment fund that files a long form prospectus must include in the long form prospectus the financial statements and the management reports of fund performance required by this Instrument.
- (3) For the purposes of this Part, "financial statements" do not include pro forma financial statements.

Audit of financial statements

- 4.2(1) Any financial statements included in a long form prospectus filed in the form of Form 41-101F1 must be audited in accordance with NI 52-107 unless an exception in section 32.5 or subsection 35.1(3) of Form 41-101F1 applies.
- (2) Any financial statements, other than an interim financial ~~statements~~report, included in or incorporated by reference into a long form prospectus of an investment fund filed in the form of Form of 41-101F2 must meet the audit requirements of Part 2 of NI 81-106.

Review of unaudited financial statements

- 4.3(1) Subject to subsection (2) and (3), any unaudited financial statements included in, or incorporated by reference into, a long form prospectus must have been reviewed in accordance with the relevant standards set out in the Handbook for a review of financial statements by the person or company's auditor or a review of financial statements by a public accountant.
- (2) Subsection (1) does not apply to an investment fund's unaudited financial statements filed after the date of filing of the prospectus that are incorporated by reference into the prospectus under Part 15.
- (3) If NI 52-107 permits the financial statements of the person or company in subsection (1) to be audited in accordance with
 - (a) U.S. AICPA GAAS, the unaudited financial statements may be reviewed in accordance with ~~U.S.~~the review standards issued by the American Institute of Certified Public Accountants.
 - (a.1) U.S. PCAOB GAAS, the unaudited financial statements may be reviewed in accordance with the review standards issued by the Public Company Accounting Oversight Board (United States of America).
 - (b) International Standards on Auditing, the unaudited financial statements may be reviewed in accordance with International Standards on Review Engagement issued by the International Auditing and Assurance Standards Board, or
 - (c) auditing standards that meet the foreign disclosure requirements of the designated foreign jurisdiction to which the person or company is subject, the unaudited financial statements
 - (i) may be reviewed in accordance with review standards that meet the foreign disclosure requirements of the designated foreign jurisdiction, or
 - (ii) do not have to be reviewed if
 - (A) the designated foreign jurisdiction does not have review standards for unaudited financial statements, and
 - (B) the long form prospectus includes disclosure that the unaudited financial statements have not been reviewed.

Approval of financial statements and related documents

- 4.4(1) An issuer must not file a long form prospectus unless each financial statement, each management's discussion and analysis, and each management report of fund performance, as applicable, of a person or company included in, or incorporated by reference into, the long form prospectus has been approved by the board of directors of the person or company.
- (2) An investment fund that is a trust must not file a long form prospectus unless each financial statement and each management report of fund performance of the investment fund included in, or incorporated by reference into, the long form prospectus has been approved by the trustee or trustees of the investment fund or another person or company authorized to do so by the constating documents of the investment fund.

PART 5: Certificates

Interpretation

5.1 For the purposes of this Part,

- (a) **"issuer certificate form"** means a certificate in the form set out in
- (i) section 37.2 of Form 41-101F1,
 - (ii) section 39.1 of Form 41-101F2,
 - (iii) section 21.2 of Form 44-101F1,
 - (iv) NI 44-102 in
 - (A) section 1.1 of Appendix A,
 - (B) section 2.1 of Appendix A,
 - (C) section 1.1 of Appendix B, or
 - (D) section 2.1 of Appendix B, or
 - (v) NI 44-103 in
 - (A) paragraph 7 of subsection 3.2(1), or
 - (B) paragraph 3 of subsection 4.5(2), and
- (b) **"underwriter certificate form"** means a certificate in the form set out in
- (i) section 37.3 of Form 41-101F1,
 - (ii) section 39.3 of Form 41-101F2,
 - (iii) section 21.3 of Form 44-101F1,
 - (iv) NI 44-102 in
 - (A) section 1.2 of Appendix A,
 - (B) section 2.2 of Appendix A,
 - (C) section 1.2 of Appendix B, or
 - (D) section 2.2 of Appendix B, or
 - (v) NI 44-103 in
 - (A) paragraph 8 of subsection 3.2(1), or
 - (B) paragraph 4 of subsection 4.5(2).

Date of certificates

5.2 The date of the certificates in a prospectus or an amendment to a prospectus must be the same as the date of the prospectus or the amendment to the prospectus, as applicable.

Certificate of issuer

5.3(1) Except in Ontario, a prospectus must contain a certificate signed by the issuer.

[Note: In Ontario, section 58 of the *Securities Act* (Ontario) imposes a similar requirement that a prospectus contain a certificate of the issuer.]¹

(2) A prospectus certificate that is required to be signed by the issuer under this Instrument or other securities legislation must be in the applicable issuer certificate form.

Corporate issuer

5.4(1) Except in Ontario, if the issuer is a company, a prospectus certificate that is required to be signed by the issuer under this Instrument or other securities legislation must be signed

- (a) by the chief executive officer and the chief financial officer of the issuer, and
- (b) on behalf of the board of directors, by
 - (i) any two directors of the issuer, other than the persons referred to in paragraph (a) above, or
 - (ii) if the issuer has only three directors, two of whom are the persons referred to in paragraph (a), all of the directors of the issuer.

(2) Except in Ontario, if the regulator is satisfied that either or both of the chief executive officer or chief financial officer cannot sign a certificate in a prospectus, the regulator may accept a certificate signed by another officer.

[Note: In Ontario, section 58 of the *Securities Act* (Ontario) imposes similar requirements regarding who must sign the issuer certificate.]

Trust issuer

5.5(1) If the issuer is a trust, a prospectus certificate that is required to be signed by the issuer under this Instrument or other securities legislation must be signed by

- (a) the individuals who perform functions for the issuer similar to those performed by the chief executive officer and the chief financial officer of a company, and
- (b) two trustees of the issuer, on behalf of the trustees of the issuer.

(2) If a trustee that is signing the certificate of the issuer is

- (a) an individual, the individual must sign the certificate,
- (b) a company, the certificate must be signed
 - (i) by the chief executive officer and the chief financial officer of the trustee, and
 - (ii) on behalf of the board of directors of the trustee, by
 - (A) any two directors of the trustee, other than the persons referred to in subparagraph (i), or
 - (B) if the trustee has only three directors, two of whom are the persons referred to in subparagraph (i), all of the directors of the trustee,

¹ In Ontario, a number of prospectus related requirements in this Instrument are either set out in the *Securities Act* (Ontario) or Ontario does not have a similar requirement. We have identified carve-outs from the Instrument where a similar requirement is set out in the *Securities Act* (Ontario). Where no corresponding statutory provision has been identified for an Ontario carve-out, Ontario has generally not adopted a similar requirement. Notes included in this Instrument have been inserted for convenience of reference only and do not form part of this Instrument or have any force or effect as a rule or policy.

- (c) a limited partnership, the certificate must be signed by each general partner of the limited partnership as described in subsection 5.6(2) in relation to an issuer that is a limited partnership, or
 - (d) not referred to in paragraphs (a), (b) or (c), the certificate may be signed by any person or company with authority to bind the trustee.
- (3) Despite subsections (1) and (2), if the issuer is an investment fund and the declaration of trust, trust indenture or trust agreement establishing the investment fund delegates the authority to do so, or otherwise authorizes an individual or company to do so, the certificate may be signed by the individual or company to whom the authority is delegated or that is authorized to sign the certificate.
- (4) Despite subsections (1) and (2), if the trustees of an issuer, other than an investment fund, do not perform functions for the issuer similar to those performed by the directors of a company, the trustees are not required to sign the prospectus certificate of the issuer provided that at least two individuals who do perform functions for the issuer similar to those performed by the directors of a company sign the certificate.
- (5) If the regulator is satisfied that an individual who performs functions for the issuer similar to those performed by either the chief executive officer or the chief financial officer of a company cannot sign a certificate in a prospectus, the regulator may accept a certificate signed by another individual.

Limited partnership issuer

- 5.6(1) If the issuer is a limited partnership, a prospectus certificate that is required to be signed by the issuer under this Instrument or other securities legislation must be signed by
- (a) the individuals who perform functions for the issuer similar to those performed by the chief executive officer and the chief financial officer of a company, and
 - (b) each general partner of the issuer.
- (2) If a general partner of the issuer is
- (a) an individual, the individual must sign the certificate,
 - (b) a company, the certificate must be signed
 - (i) by the chief executive officer and the chief financial officer of the general partner, and
 - (ii) on behalf of the board of directors of the general partner, by
 - (A) any two directors of the general partner, other than the persons referred to in subparagraph (i), or
 - (B) if the general partner has only three directors, two of whom are the persons referred to in subparagraph (i), all of the directors of the general partner,
 - (c) a limited partnership, the certificate must be signed by each general partner of the limited partnership and, for greater certainty, this subsection applies to each general partner required to sign,
 - (d) a trust, the certificate must be signed by the trustees of the general partner as described in subsection 5.5(2) in relation to an issuer that is a trust, or
 - (e) not referred to in paragraphs (a) to (d), the certificate may be signed by any person or company with authority to bind the general partner.
- (3) If the regulator is satisfied that an individual who performs functions for the issuer similar to those performed by either the chief executive officer or the chief financial officer of a company cannot sign a certificate in a prospectus, the regulator may accept a certificate signed by another individual.

Other issuer

- 5.7 If an issuer is not a company, trust or limited partnership, a prospectus certificate that is required to be signed by the issuer under this Instrument or other securities legislation must be signed by the persons or companies that, in relation to the issuer, are in a similar position or perform a similar function to the persons or companies required to sign under sections 5.4, 5.5 and 5.6.

Reverse takeovers

- 5.8** Except in Ontario, if an issuer is involved in a proposed reverse takeover that has progressed to a state where a reasonable person would believe that the likelihood of the reverse takeover being completed is high, a prospectus must contain a certificate, in the applicable issuer certificate form, signed
- (a) by the chief executive officer and the chief financial officer of the reverse takeover acquirer, and
 - (b) on behalf of the board of directors of the reverse takeover acquirer, by
 - (i) any two directors of the reverse takeover acquirer, other than the persons referred to in paragraph (a) above, or
 - (ii) if the reverse takeover acquirer has only three directors, two of whom are the persons referred to in paragraph (a), all of the directors of the reverse takeover acquirer.

Certificate of underwriter

- 5.9(1)** Except in Ontario, a prospectus must contain a certificate signed by each underwriter who, with respect to the securities offered by the prospectus, is in a contractual relationship with the issuer or a securityholder whose securities are being offered by the prospectus.

[**Note:** In Ontario, subsection 59(1) of the *Securities Act* (Ontario) imposes a similar requirement that a prospectus contain a certificate signed by each underwriter in a contractual relationship with the issuer.]

- (2) A prospectus certificate that is required to be signed by an underwriter under this Instrument or other securities legislation must be in the applicable underwriter certificate form.
- (3) Except in Ontario, with the consent of the regulator, a certificate in a prospectus may be signed by the underwriter's agent duly authorized in writing by the underwriter.

[**Note:** In Ontario, subsection 59(2) of the *Securities Act* (Ontario) provides a similar discretion to the Director to permit the certificate to be signed by an underwriter's agent.]

Certificate of investment fund manager

- 5.10(1)** If the issuer has an investment fund manager, a prospectus must contain a certificate, in the applicable issuer certificate form, signed by the investment fund manager.
- (2) If the investment fund manager is a company, the certificate must be signed
 - (a) by the chief executive officer and the chief financial officer of the investment fund manager, and
 - (b) on behalf of the board of directors, by
 - (i) any two directors of the investment fund manager, other than the persons referred to in paragraph (a) above, or
 - (ii) if the investment fund manager has only three directors, two of whom are the persons referred to in paragraph (a), all of the directors of the investment fund manager.
 - (3) If the investment fund manager is a limited partnership, the certificate must be signed by the general partner of such limited partnership as described in subsection 5.6(2) in relation to an issuer that is a limited partnership.

Certificate of promoter

- 5.11(1)** Except in Ontario, a prospectus must contain a certificate signed by each promoter of the issuer.

[**Note:** In Ontario, subsection 58(1) of the *Securities Act* (Ontario) imposes a similar requirement that a prospectus shall contain a certificate signed by each promoter of the issuer.]

- (2) A prospectus certificate required to be signed by a promoter under this Instrument or other securities legislation must be in the applicable issuer certificate form.
- (3) Except in Ontario, the regulator may require any person or company who was a promoter of the issuer within the two preceding years to sign a certificate to the prospectus, in the applicable issuer certificate form.

[**Note:** In Ontario, subsection 58(6) of the *Securities Act* (Ontario) provides the Director with similar discretion to require a person or company who was a promoter of the issuer within the two preceding years to sign a prospectus certificate, subject to such conditions as the Director considers proper.]

- (4) Despite subsection (3), in British Columbia, the powers of the regulator with respect to the matters described in subsection (3) are set out in the *Securities Act* (British Columbia).
- (5) Except in Ontario, with the consent of the regulator, a certificate of a promoter in a prospectus may be signed by an agent duly authorized in writing by the person or company required to sign the certificate.

[**Note:** In Ontario, subsection 58(7) of the *Securities Act* (Ontario) provides the Director with similar discretion to permit a certificate in a prospectus to be signed by an agent of a promoter.]

Certificate of credit supporter

- 5.12(1)** If there is a related credit supporter of the issuer or a subsidiary of the issuer, a prospectus must contain a certificate of the related credit supporter, in the applicable issuer certificate form, signed
- (a) by the chief executive officer and the chief financial officer of the credit supporter, and
 - (b) on behalf of the board of directors of the credit supporter, by
 - (i) any two directors of the credit supporter, other than the persons referred to in paragraph (a) above, or
 - (ii) if the credit supporter has only three directors, two of whom are the persons referred to in paragraph (a), all of the directors of the credit supporter.
- (2) With the consent of the regulator, a certificate in a prospectus may be signed by the credit supporter's agent duly authorized in writing by the credit supporter.
- (3) Except in Ontario, the regulator may require any other person or company that is a credit supporter of either the issuer or a subsidiary of the issuer to sign a certificate to the prospectus, in the applicable issuer certificate form.

[**Note:** In Ontario, subsection 58(6) of the *Securities Act* (Ontario) provides the Director with similar discretion to require a person or company who is a guarantor of the securities being distributed to sign a prospectus certificate, subject to such conditions as the Director considers proper.]

- (4) Despite subsection (3), in British Columbia, the powers of the regulator with respect to the matters described in subsection (3) are set out in the *Securities Act* (British Columbia).

Certificate of selling securityholders

- 5.13(1)** Except in Ontario, the regulator may require any person or company that is a selling securityholder to sign a certificate to the prospectus, in the applicable issuer certificate form.
- (2) Despite subsection (1), in British Columbia, the powers of the regulator with respect to the matters described in subsection (1) are set out in the *Securities Act* (British Columbia).

Certificate of operating entity

- 5.14(1)** For the purposes of this section, the term "operating entity" means, in relation to an issuer, a person or company through which the business of the issuer, or a material part of the business of the issuer, is conducted and for which the issuer is required under securities legislation, or has undertaken, to provide to its securityholders separate financial statements of the person or company if the issuer's financial statements do not include consolidated information concerning the person or company.
- (2) A prospectus of an issuer that is a trust must contain a certificate, in the applicable issuer certificate form, signed
- (a) by the chief executive officer and the chief financial officer of the operating entity, and
 - (b) on behalf of the board of directors of the operating entity, by
 - (i) any two directors of the operating entity, other than the persons referred to in paragraph (a) above, or

- (ii) if the operating entity has only three directors, two of whom are the persons referred to in paragraph (a), all of the directors of the operating entity.

Certificate of other persons

- 5.15(1)** Except in Ontario, the regulator may, in its discretion, require any person or company to sign a certificate to the prospectus, in the form that the regulator considers appropriate.
- (2)** Despite subsection (1), in British Columbia, the powers of the regulator with respect to the matters described in subsection (1) are set out in the *Securities Act* (British Columbia).

PART 6: Amendments

Form of amendment

- 6.1(1)** An amendment to a prospectus must be either
 - (a) an amendment that does not fully restate the text of the prospectus, or
 - (b) an amended and restated prospectus.
- (2)** An amendment to a prospectus must be identified as follows:
 - (a) for an amendment that does not restate the text of the prospectus:

“Amendment no. [insert amendment number] dated [insert date of amendment] to [identify prospectus] dated [insert date of prospectus being amended].”; or
 - (b) for an amended and restated prospectus:

“Amended and restated [identify prospectus] dated [insert date of amendment], amending and restating [identify prospectus] dated [insert date of prospectus being amended].”

Required documents for filing an amendment

- 6.2** An issuer that files an amendment to a prospectus must
 - (a) file a signed copy of the amendment,
 - (b) deliver to the regulator a copy of the prospectus blacklined to show the changes made by the amendment, if the amendment is also a restatement of the prospectus,
 - (c) file or deliver any supporting documents required under this Instrument or other securities legislation to be filed or delivered with a prospectus, unless the documents originally filed or delivered with the prospectus are correct as of the date the amendment is filed, and
 - (d) in case of an amendment to a final prospectus, file any consent letter required to be filed with a final prospectus, dated as of the date of the amendment.

Auditor’s comfort letter

- 6.3** An issuer must deliver a new auditor’s comfort letter, if an amendment to
 - (a) a preliminary long form prospectus materially affects, or relates to, an auditor’s comfort letter delivered under subparagraph 9.1(b)(iii),
 - (b) a preliminary short form prospectus materially affects, or relates to, an auditor’s comfort letter delivered under subparagraph 4.1(b)(ii) of NI 44-101.

Delivery of amendments

- 6.4** Except in Ontario, an issuer must deliver an amendment to a preliminary prospectus as soon as practicable to each recipient of the preliminary prospectus according to the record of recipients required to be maintained under securities legislation.

[Note: In Ontario, subsection 57(3) of the *Securities Act* (Ontario) imposes a similar requirement regarding the delivery of amendments to a preliminary prospectus.]

Amendment to a preliminary prospectus

6.5(1) Except in Ontario, if, after a receipt for a preliminary prospectus is issued but before a receipt for the final prospectus is issued, a material adverse change occurs, an amendment to the preliminary prospectus must be filed as soon as practicable, but in any event within 10 days after the day the change occurs.

[Note: In Ontario, subsection 57(1) of the *Securities Act* (Ontario) imposes a similar requirement to file an amendment to a preliminary prospectus where there has been a material adverse change.]

(2) The regulator must issue a receipt for an amendment to a preliminary prospectus as soon as practicable after the amendment is filed.

Amendment to a final prospectus

6.6(1) Except in Ontario, if, after a receipt for a final prospectus is issued but before the completion of the distribution under the final prospectus, a material change occurs, an issuer must file an amendment to the final prospectus as soon as practicable, but in any event within 10 days after the day the change occurs.

[Note: In Ontario, subsection 57(1) of the *Securities Act* (Ontario) imposes a similar requirement to file an amendment to a final prospectus where there has been a material change.]

(2) Except in Ontario, if, after a receipt for a final prospectus or an amendment to the final prospectus is issued but before the completion of the distribution under the final prospectus or the amendment to the final prospectus, securities in addition to the securities previously disclosed in the final prospectus or the amendment to the final prospectus are to be distributed, an amendment to the final prospectus disclosing the additional securities must be filed, as soon as practicable, but in any event within 10 days after the decision to increase the number of securities offered.

[Note: In Ontario, subsection 57(2) of the *Securities Act* (Ontario) imposes a similar requirement to file an amendment to a prospectus any time there is a proposed distribution of securities in addition to that disclosed under the prospectus.]

(3) Except in Ontario, the regulator must issue a receipt for an amendment to a final prospectus filed under this section unless the regulator considers that there are grounds set out in securities legislation that would cause the regulator not to issue the receipt for a prospectus.

[Note: In Ontario, subsection 57(2.1) of the *Securities Act* (Ontario) imposes a similar obligation for the Director to issue a receipt for an amendment to a prospectus unless there are proper grounds for refusing the receipt.]

(4) Except in Ontario, the regulator must not refuse to issue a receipt under subsection (3) without giving the issuer who filed the prospectus an opportunity to be heard.

[Note: In Ontario, subsections 57(2.1) and 61(3) of the *Securities Act* (Ontario) impose a similar restriction on the Director to refuse to issue a receipt for a prospectus without first giving an issuer an opportunity to be heard.]

(5) Except in Ontario, an issuer must not proceed with a distribution or additional distribution if an amendment to a final prospectus is required to be filed until a receipt for the amendment to the final prospectus is issued by the regulator.

[Note: In Ontario, subsection 57(2.2) of the *Securities Act* (Ontario) imposes a similar restriction in respect of a distribution or additional distribution before a receipt is issued for an amendment to the final prospectus.]

(6) Subsection (5) does not apply to an investment fund in continuous distribution.

[Note: In Ontario, section 2.2 of OSC Rule 41-801 *Implementing National Instrument 41-101 General Prospectus Requirements and Consequential Amendments* provides a similar exemption for an investment fund in continuous distribution from the requirement to obtain a receipt prior to making a distribution or additional distribution under an amendment to a final prospectus.]

PART 7: Non-fixed Price Offerings and Reduction of Offering Price under a Final Prospectus

Application

7.1 This Part does not apply to an investment fund in continuous distribution.

Non-fixed price offerings and reduction of offering price

- 7.2(1) A person or company distributing a security under a prospectus must do so at a fixed price.
- (2) Despite subsection (1), securities may be distributed for cash at non-fixed prices under a prospectus if the securities have received a rating, on a provisional or final basis, from at least one approved rating organization at the time of
- (a) the filing of the preliminary short form prospectus, if the issuer is filing a prospectus in the form of a short form prospectus under NI 44-101, or
 - (b) the filing of the long form prospectus.
- (3) Despite subsection (1), if securities are distributed for cash under a prospectus, the price of the securities may be decreased from the initial offering price disclosed in the prospectus and, after such a decrease, changed from time to time to an amount not greater than the initial offering price, without filing an amendment to the prospectus to reflect the change, if
- (a) the securities are distributed through one or more underwriters that have agreed to purchase all of the securities at a specified price,
 - (b) the proceeds to be received by the issuer or selling securityholders are disclosed in the prospectus as being fixed, and
 - (c) the underwriters have made a reasonable effort to sell all of the securities distributed under the prospectus at the initial offering price disclosed in the final prospectus.
- (4) Despite subsections (2) and (3), the price at which securities may be acquired on exercise of rights must be fixed.

PART 8: Best Efforts Distributions

Application

- 8.1 This Part does not apply to an investment fund in continuous distribution.

Distribution period

- 8.2(1) Unless an amendment to the final prospectus is filed and the regulator has issued a receipt for the amendment, if securities are being distributed on a best efforts basis, the distribution must cease within 90 days after the date of the receipt for the final prospectus.
- (2) Unless a further amendment to the final prospectus is filed and the regulator has issued a receipt for the further amendment, if an amendment to a final prospectus is filed and the regulator has issued a receipt for the amendment under subsection (1), the distribution must cease within 90 days after the date of the receipt for the amendment to the final prospectus.
- (3) The total period of the distribution under subsections (1) and (2) must not end more than 180 days from the date of receipt for the final prospectus.

Minimum amount of funds

- 8.3 If securities are being distributed on a best efforts basis, other than an offering of securities to be distributed continuously, and the prospectus discloses that a minimum amount of funds must be raised,
- (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 a notary in Québec, to hold in trust all funds received from subscriptions until the minimum amount of funds stipulated in the final prospectus has been raised, and
 - (b) if the minimum amount of funds is not raised within the appropriate period of the distribution prescribed by section 8.2, the person or company holding the funds in trust referred to in paragraph (a) must return the funds to the subscribers without any deductions.

PART 9: Requirements for Filing a Long Form Prospectus

Required documents for filing a preliminary or pro forma long form prospectus

- 9.1 An issuer that files a preliminary or pro forma long form prospectus must

- (a) file the following with the preliminary or pro forma long form prospectus
- (i) **Signed Copy** – in the case of a preliminary long form prospectus, a signed copy of the preliminary long form prospectus;
 - (ii) **Documents Affecting the Rights of Securityholders** – a copy of the following documents, and any amendments to the following documents, that have not previously been filed:
 - (A) articles of incorporation, amalgamation, continuation or any other constating or establishing documents of the issuer, unless the constating or establishing document is a statutory or regulatory instrument,
 - (B) by-laws or other corresponding instruments currently in effect,
 - (C) any securityholder or voting trust agreement that the issuer has access to and that can reasonably be regarded as material to an investor in securities of the issuer,
 - (D) any securityholders' rights plans or other similar plans, and
 - (E) any other contract of the issuer or a subsidiary of the issuer that creates or can reasonably be regarded as materially affecting the rights or obligations of the issuer's securityholders generally;
 - (iii) **Material Contracts** – a copy of any material contract required to be filed under section 9.3;
 - (iv) **Investment Fund Documents** – if the issuer is an investment fund, the documents filed under subparagraphs (ii) and (iii) must include a copy of
 - (A) any declaration of trust or trust agreement of the investment fund, limited partnership agreement, or any other constating or establishing documents of the investment fund,
 - (B) any agreement of the investment fund or the trustee with the manager of the investment fund,
 - (C) any agreement of the investment fund, the manager or trustee with the portfolio advisers of the investment fund,
 - (D) any agreement of the investment fund, the manager or trustee with the custodian of the investment fund, and
 - (E) any agreement of the investment fund, the manager or trustee with the principal distributor of the investment fund;
 - (v) **Mining Reports** – if the issuer has a mineral project, the technical reports required to be filed with a preliminary long form prospectus under NI 43-101; and
 - (vi) **Reports and Valuations** – a copy of each report or valuation referred to in the preliminary long form prospectus for which a consent is required to be filed under section 10.1 and that has not previously been filed, other than a technical report that
 - (A) deals with a mineral project or oil and gas activities, and
 - (B) is not otherwise required to be filed under subparagraph (v); and
- (b) deliver to the regulator, concurrently with the filing of the preliminary or pro forma long form prospectus, the following:
- (i) **Blacklined Copy** – in the case of a pro forma prospectus, a copy of the pro forma prospectus blacklined to show changes and the text of deletions from the latest prospectus previously filed;
 - (ii) **Personal Information Form and Authorization to Collect, Use and Disclose Personal Information** – a completed Appendix A for,
 - (A) each director and executive officer of an issuer,

- (B) if the issuer is an investment fund, each director and executive officer of the manager of the issuer,
 - (C) each promoter of the issuer, and
 - (D) if the promoter is not an individual, each director and executive officer of the promoter, for whom the issuer has not previously filed or delivered,
 - (E) a completed personal information form and authorization in the form set out in Appendix A,
 - (F) before March 17, 2008, a completed authorization in
 - (I) the form set out in Appendix B of NI 44-101,
 - (II) the form set out in Ontario Form 41-501F2 *Authorization of Indirect Collection of Personal Information*, or
 - (III) the form set out in Appendix A of Québec Regulation Q-28 *Respecting General Prospectus Requirements*, or
 - (G) before March 17, 2008, a completed personal information form or authorization in a form substantially similar to a personal information form or authorization in clause (E) or (F), as permitted under securities legislation; and
- (iii) **Auditor's Comfort Letter regarding Audited Financial Statements** – if a financial statement of an issuer or a business included in, or incorporated by reference into, a preliminary or pro forma long form prospectus is accompanied by an unsigned auditor's report, a signed letter addressed to the regulator from the auditor of the issuer or of the business, as applicable, prepared in accordance with the form suggested for this circumstance in the Handbook.

Required documents for filing a final long form prospectus

9.2 An issuer that files a final long form prospectus must

- (a) file the following with the final long form prospectus:
 - (i) **Signed Copy** – a signed copy of the final long form prospectus;
 - (ii) **Documents Affecting the Rights of Securityholders** – a copy of any document described under subparagraph 9.1(a)(ii) that has not previously been filed;
 - (iii) **Material Contracts** – a copy of each material contract required to be filed under section 9.3 that has not previously been filed under subparagraph 9.1(a)(iii);
 - (iv) **Investment Fund Documents** – a copy of any document described under subparagraph 9.1(a)(iv) that has not previously been filed;
 - (v) **Other Reports and Valuations** – a copy of any report or valuation referred to in the final long form prospectus, for which a consent is required to be filed under section 10.1 and that has not previously been filed, other than a technical report that
 - (A) deals with a mineral project or oil and gas activities of the issuer, and
 - (B) is not otherwise required to be filed under subparagraph 9.1(a)(v) or 9.1(a)(vi);
 - (vi) **Issuer's Submission to Jurisdiction** – a submission to jurisdiction and appointment of agent for service of process of the issuer in the form set out in Appendix B, if an issuer is incorporated or organized in a foreign jurisdiction and does not have an office in Canada;
 - (vii) **Non-Issuer's Submission to Jurisdiction** – a submission to jurisdiction and appointment of agent for service of process of
 - (A) each selling securityholder, and

- (B) each person or company required to sign a certificate under Part 5 or other securities legislation, other than an issuer,
- in the form set out in Appendix C, if the person or company is incorporated or organized in a foreign jurisdiction and does not have an office in Canada or is an individual who resides outside of Canada;
- (viii) **Expert's Consents** – the consents required to be filed under section 10.1;
- (ix) **Credit Supporter's Consent** – the written consent of the credit supporter to the inclusion of its financial statements in the final long form prospectus, if financial statements of a credit supporter are required under Item 33 of Form 41-101F1 to be included in a final long form prospectus and a certificate of the credit supporter is not required under section 5.12 to be included in the final long form prospectus;
- (x) **Undertaking in Respect of Credit Supporter Disclosure** – an undertaking of the issuer to file the periodic and timely disclosure of a credit supporter similar to the disclosure provided under section 12.1 of Form 44-101F1, so long as the securities being distributed are issued and outstanding;
- (xi) **Undertaking in Respect of Continuous Disclosure** – An undertaking of the issuer to provide to its securityholders separate financial statements for an operating entity that investors need to make an informed decision about investing in the issuer's securities if
- (A) the issuer is an income trust that is formed as a mutual fund trust as that term is used in the *Income Tax Act* (Canada), other than an "investment fund" as defined in section 1.1 of NI 81-106,
- (B) the underlying business or income producing assets of the operating entity generate net cash flow available for distribution to the issuer's securityholders, and
- (C) the issuer's performance and prospects depend primarily on the performance and operations of the operating entity;
- (xii) **Undertaking to File Documents and Material Contracts** – if a document referred to in subparagraph (ii), (iii) or (iv) has not been executed or become effective before the filing of the final long form prospectus but will be executed or become effective on or before the completion of the distribution, the issuer must file with the securities regulatory authority, no later than the time of filing of the final long form prospectus, an undertaking of the issuer to the securities regulatory authority to file the document promptly and in any event within seven days after the completion of the distribution; and
- (xiii) **Undertaking in Respect of Restricted Securities** – for distributions of non-voting securities, an undertaking of the issuer to give notice to holders of non-voting securities of a meeting of securityholders if a notice of such a meeting is given to its registered holders of voting securities; and
- (b) deliver to the regulator, no later than the filing of the final long form prospectus
- (i) **Blackline Copy** – a copy of the final long form prospectus blacklined to show changes from the preliminary or pro forma long form prospectus; and
- (ii) **Communication with Exchange** – if the issuer has made an application to list the securities being distributed on an exchange in Canada, a copy of a communication in writing from the exchange stating that the application for listing has been made and has been accepted subject to the issuer meeting the requirements for listing of the exchange.

Material contracts

- 9.3(1)** Unless previously filed, an issuer that files a long form prospectus must file a material contract entered into
- (a) since the beginning of the last financial year ending before the date of the prospectus, or
- (b) before the beginning of the last financial year ending before the date of the prospectus if that material contract is still in effect.
- (2)** Despite subsection (1), an issuer is not required to file a material contract entered into in the ordinary course of business unless the material contract is

- (a) a contract to which directors, officers, promoters, selling securityholders or underwriters are parties, other than a contract of employment,
 - (b) a continuing contract to sell the majority of the issuer's products or services or to purchase the majority of the issuer's requirements of goods, services, or raw materials,
 - (c) a franchise or licence or other agreement to use a patent, formula, trade secret, process or trade name,
 - (d) a financing or credit agreement with terms that have a direct correlation with anticipated cash distributions,
 - (e) an external management or external administration agreement, or
 - (f) a contract on which the issuer's business is substantially dependent.
- (3) A provision in a material contract filed pursuant to subsections (1) or (2) may be omitted or marked to be unreadable if an executive officer of the issuer reasonably believes that disclosure of that provision would be seriously prejudicial to the interests of the issuer or would violate confidentiality provisions.
- (4) Subsection (3) does not apply if the provision relates to
- (a) debt covenants and ratios in financing or credit agreements,
 - (b) events of default or other terms relating to the termination of the material contract, or
 - (c) other terms necessary for understanding the impact of the material contract on the business of the issuer.
- (5) If a provision is omitted or marked to be unreadable under subsection (3), the issuer must include a description of the type of information that has been omitted or marked to be unreadable immediately after the provision in the copy of the material contract filed by the issuer.
- (6) Despite subsections (1) and (2), an issuer is not required to file a material contract entered into before January 1, 2002 if the issuer is a reporting issuer in at least one jurisdiction immediately before filing the prospectus.

PART 10: Consents and Licences, Registrations and Approvals

Consents of experts

10.1(1) An issuer must file the written consent of

- (a) any solicitor, auditor, accountant, engineer, or appraiser,
- (b) any notary in Québec, and
- (c) any person or company whose profession or business gives authority to a statement made by that person or company

if that person or company is named in a prospectus or an amendment to a prospectus, directly or, if applicable, in a document incorporated by reference,

- (d) as having prepared or certified any part of the prospectus or the amendment,
- (e) as having opined on financial statements from which selected information included in the prospectus has been derived and which audit opinion is referred to in the prospectus directly or in a document incorporated by reference, or
- (f) as having prepared or certified a report, valuation, statement or opinion referred to in the prospectus or the amendment, directly or in a document incorporated by reference.

(2) A consent referred to in subsection (1) must

- (a) be filed no later than the time the final prospectus or the amendment to the final prospectus is filed or, for the purposes of future financial statements that have been incorporated by reference in a prospectus under subsection 15.2(3), no later than the date that those financial statements are filed,
- (b) state that the person or company being named consents

- (i) to being named, and
- (ii) to the use of that person or company's report, valuation, statement or opinion,
- (c) refer to the report, valuation, statement or opinion stating the date of the report, valuation, statement or opinion, and
- (d) contain a statement that the person or company referred to in subsection (1)
 - (i) has read the prospectus, and
 - (ii) has no reason to believe that there are any misrepresentations in the information contained in it that are
 - (A) derived from the report, valuation, statement or opinion, or
 - (B) within the knowledge of the person or company as a result of the services performed by the person or company in connection with the report, financial statements, valuation, statement or opinion.
- (3) In addition to any other requirement of this section, the consent of an auditor or accountant must also state
 - (a) the dates of the financial statements on which the report of the person or company is made, and
 - (b) that the person or company has no reason to believe that there are any misrepresentations in the information contained in the prospectus that are
 - (i) derived from the financial statements on which the person or company has reported, or
 - (ii) within the knowledge of the person or company as a result of the audit of the financial statements.
- (4) Subsection (1) does not apply to an approved rating organization that issues a rating to the securities being distributed under the prospectus.

Licences, registrations and approvals

- 10.2** If the proceeds of the distribution will be used to substantially fund a material undertaking that would constitute a material departure from the business or operations of the issuer and the issuer has not obtained all material licences, registrations and approvals necessary for the stated principal use of proceeds,
- (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 a notary in Québec, to hold in trust all funds received from subscriptions until all material licences, registrations and approvals necessary for the stated principal use of proceeds have been obtained, and
 - (b) if all material licences, registrations and approvals necessary for the operation of the stated principal use of proceeds have not been obtained within 90 days from the date of receipt of the final prospectus, the trustee must return the funds to subscribers.

PART 11: Over-Allocation and Underwriters

Over-allocation

- 11.1** Securities that are sold to create the over-allocation position in connection with a distribution under a prospectus must be distributed under the prospectus.

Distribution of securities under a prospectus to an underwriter

- 11.2** No person or company may distribute securities under a prospectus to any person or company acting as an underwriter in connection with the distribution of securities under the prospectus, other than
- (a) an over-allotment option granted to one or more persons or companies for acting as an underwriter in connection with the distribution or any security issuable or transferable on the exercise of such an over-allotment option; or

- (b) securities issued or paid as compensation to one or more persons or companies for acting as an underwriter in respect of other securities that are distributed under the prospectus, where the number or principal amount of the securities issued as compensation, on an as-if-converted basis, does not in the aggregate exceed 10% of the total of the base offering plus any securities that would be acquired upon the exercise of an over-allotment option.

Take-up by underwriter

- 11.3** If an underwriter has agreed to purchase a specified number or principal amount of the securities at a specified price, the underwriter must take up the securities, if at all, within 42 days after the date of the receipt for the final prospectus.

PART 12: Restricted Securities

Application

12.1 This Part does not apply to

- (a) securities of mutual funds,
- (b) securities that carry a right to vote subject to a restriction on the number or percentage of securities that may be voted or owned by persons or companies that are not citizens or residents of Canada or that are otherwise considered as a result of any law applicable to the issuer to be non-Canadians, but only to the extent of the restriction, and
- (c) securities that are subject to a restriction, imposed by any law governing the issuer, on the level of ownership of the securities by a person, company or combination of persons or companies, but only to the extent of the restriction.

Use of restricted security term

- 12.2(1)** An issuer must not refer to a security in a prospectus by a term or a defined term that includes the word “common” unless the security is an equity security to which are attached voting rights exercisable in all circumstances, irrespective of the number or percentage of securities owned, that are not less, per security, than the voting rights attached to any other outstanding security of the issuer.
- (2) An issuer must not refer in a prospectus to a term or defined term that includes the word “preference” or “preferred”, unless the security is a security, other than an equity security, to which is attached a preference or right over any class of equity security of the issuer.
 - (3) If restricted securities are referred to in the constating documents of the issuer by a term that is different from the appropriate restricted security term, the restricted securities may be described, in one place only in the prospectus, by the term used in the constating documents of the issuer; provided that, the description is not on the front page of the prospectus and is in the same type face and type size as that used generally in the body of the prospectus.
 - (4) A class of securities that is or may become restricted securities must be referred to in a prospectus using a term or a defined term that includes the appropriate restricted security term.

Prospectus filing eligibility

- 12.3(1)** Subject to subsection (3), an issuer must not file a prospectus under which restricted securities, subject securities or securities that are, directly or indirectly, convertible into, or exercisable or exchangeable for, restricted securities or subject securities, are distributed unless
- (a) the distribution has received prior majority approval of the securityholders of the issuer in accordance with applicable law, including approval on a class basis if required and excluding any votes attaching at the time to securities held, directly or indirectly, by affiliates of the issuer or control persons of the issuer, or
 - (b) at the time of any restricted security reorganization related to the securities to be distributed
 - (i) the restricted security reorganization received prior majority approval of the securityholders of the issuer in accordance with applicable law, including approval on a class basis if required and excluding any votes attaching at the time to securities held, directly or indirectly, by affiliates of the issuer or control persons of the issuer,
 - (ii) the issuer was a reporting issuer in at least one jurisdiction, and

- (iii) no purposes or business reasons for the creation of restricted securities were disclosed that are inconsistent with the purpose of the distribution.
- (2) Subject to subsection (3), for each approval referred to in subsection (1), the issuer must have provided prior written disclosure in an information circular or notice to its securityholders that included
- (a) the name of each affiliate of the issuer that was a beneficial owner of securities of the issuer and the number of securities beneficially owned, directly or indirectly, by the affiliate as of the date of the information circular or notice to the extent known to the issuer after reasonable inquiry,
 - (b) the name of each control person and the number of securities beneficially owned, directly or indirectly, by the control person as of the date of the information circular or notice, to the extent known to the issuer after reasonable inquiry,
 - (c) a statement of the number of votes attaching to the securities that were excluded for the purpose of the approval to the extent known to the issuer after reasonable inquiry, and
 - (d) the purpose and business reasons for the creation of restricted securities.
- (3) Subsections (1) and (2) do not apply if
- (a) the securities offered by the prospectus are of an existing class of restricted securities that were created before December 21, 1984,
 - (b) the issuer was a private issuer immediately before filing the prospectus,
 - (c) the securities offered by the prospectus are of the same class as securities distributed under a previous prospectus that was filed by an issuer that was, at the time of filing the previous prospectus, a private issuer,
 - (d) the securities offered by the prospectus are previously unissued restricted securities distributed by way of stock dividend in the ordinary course to securityholders instead of a cash dividend if at the time of distribution there is a published market for the restricted securities,
 - (e) the securities offered by the prospectus are distributed as a stock split that takes the form of a distribution of previously unissued restricted securities by way of stock dividend to holders of the same class of restricted securities if at the time of distribution there is a published market for the restricted securities and the distribution is part of a concurrent distribution by way of stock dividend to holders of all equity securities under which all outstanding equity securities of the issuer are increased in the same proportion, or
 - (f) as of a date not more than seven days before the date of the prospectus, the issuer expects that in each local jurisdiction in which the prospectus will be filed the number of securities of each class of equity securities held by registered holders whose last address as shown on the books of the issuer is in the local jurisdiction, or beneficially owned by persons or companies in the local jurisdiction, will be less than two percent of the outstanding number of securities of the class after giving effect to the proposed distribution.

PART 13: Advertising and Marketing in Connection with Prospectus Offerings

Legend for communications during the waiting period

- 13.1(1)** A notice, circular, advertisement, letter or other communication used in connection with a prospectus offering during the waiting period must contain the following legend or words to the same effect:

“A preliminary prospectus containing important information relating to these securities has been filed with securities commissions or similar authorities in certain jurisdictions of Canada. The preliminary prospectus is still subject to completion or amendment. Copies of the preliminary prospectus may be obtained from [insert name and contact information for dealer or other relevant person or entity.] There will not be any sale or any acceptance of an offer to buy the securities until a receipt for the final prospectus has been issued.”

- (2) If the notice, circular, advertisement, letter or other communication is in writing, set out the language in subsection (1) in boldface type that is at least as large as that used generally in the body of the text.

Legend for communications following receipt for the final prospectus

- 13.2(1)** A notice, circular, advertisement, letter or other communication used in connection with a prospectus offering following the issuance of a receipt for the final prospectus must contain the following legend or words to the same effect:

“This offering is only made by prospectus. The prospectus contains important detailed information about the securities being offered. Copies of the prospectus may be obtained from [insert name and contact information for dealer or other relevant person or entity.] Investors should read the prospectus before making an investment decision.”

- (2) If the notice, circular, advertisement, letter or other communication is in writing, set out the language in subsection (1) in boldface type that is at least as large as that used generally in the body of the text.

Advertising for investment funds during the waiting period

13.3 If the issuer is an investment fund, an advertisement used in connection with a prospectus offering during the waiting period may state only the following information:

- (a) whether the security represents a share in a company or an interest in a non-corporate entity such as a trust unit or a partnership interest;
- (b) the name of the issuer;
- (c) the price of the security;
- (d) the investment objective(s) of the investment fund;
- (e) the name of the manager of the investment fund;
- (f) the name of the portfolio adviser of the investment fund;
- (g) the name and address of a person or company from whom a preliminary prospectus may be obtained and purchases of securities may be made; and
- (h) how many securities will be made available.

Part 14: Custodianship of Portfolio Assets of an Investment Fund

General

14.1(1) This Part applies to an investment fund that prepares a prospectus in accordance with this Instrument, other than an investment fund subject to NI 81-102.

(2) Subject to sections 14.8 and 14.9, all portfolio assets of an investment fund must be held under the custodianship of one custodian that satisfies the requirements of section 14.2.

(3) No manager of an investment fund may act as a custodian or sub-custodian of the investment fund.

Who may act as custodian or sub-custodian

14.2(1) If portfolio assets are held in Canada by a custodian or sub-custodian, the custodian or sub-custodian must be one of the following:

- (a) a bank listed in Schedule I, II or III of the *Bank Act* (Canada);
- (b) a trust company that
 - (i) is incorporated and licenced or registered under the laws of Canada or a jurisdiction, and
 - (ii) has ~~shareholders'~~ equity, as reported in its most recent audited financial statement, of not less than \$10,000,000;
- (c) a company that is incorporated under the laws of Canada or a jurisdiction and is an affiliate of a bank or trust company referred to in paragraph (a) or (b), if
 - (i) the company has ~~shareholders'~~ equity, as reported in its most recent audited financial statements that have been made public, of not less than \$10,000,000, or
 - (ii) the bank or trust company has assumed responsibility for all of the custodial obligations of the company for that investment fund.

- (2) If portfolio assets are held outside of Canada by a sub-custodian, the sub-custodian must be one of the following:
- (a) an entity referred to in subsection (1);
 - (b) an entity that
 - (i) is incorporated or organized under the law of a country, or a political subdivision of a country, other than Canada,
 - (ii) is regulated as a banking institution or trust company by the government, or an agency of the government of the country or political subdivision of the country under whose laws it is incorporated or organized, and
 - (iii) has ~~shareholders'~~ equity, as reported in its most recent audited financial statements of not less than the equivalent of \$100,000,000;
 - (c) an affiliate of an entity referred to in paragraph (a) or (b) if
 - (i) the affiliate has ~~shareholders'~~ equity, as reported in its most recent audited financial statements that have been made public, of not less than the equivalent of \$100,000,000, or
 - (ii) the entity referred to in paragraphs (a) or (b) has assumed responsibility for all of the custodial obligations of the affiliate for that investment fund.

Standard of care

- 14.3(1)** The custodian and each sub-custodian of an investment fund, in carrying out their duties concerning the safekeeping of, and dealing with, the portfolio assets of the investment fund, must exercise
- (a) the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances, or
 - (b) at least the same degree of care as they exercise with respect to their own property of a similar kind, if this is a higher degree of care than the degree of care referred to in paragraph (a).
- (2) No investment fund may relieve the custodian or a sub-custodian of the investment fund from liability to the investment fund or to a securityholder of the investment fund for loss that arises out of the failure of the custodian or sub-custodian to exercise the standard of care imposed by subsection (1).
- (3) An investment fund may indemnify a custodian or sub-custodian against legal fees, judgments and amounts paid in settlement, actually and reasonably incurred by that entity in connection with custodial or sub-custodial services provided by that entity to the investment fund, if those fees, judgments and amounts were not incurred as a result of a breach of the standard of care described in subsection (1).
- (4) No investment fund may incur the cost of any portion of liability insurance that insures a custodian or sub-custodian for a liability, except to the extent that the custodian or sub-custodian may be indemnified for that liability under this section.

Appointment of sub-custodian

- 14.4(1)** The custodian or a sub-custodian of an investment fund may appoint one or more sub-custodians to hold portfolio assets of the investment fund if,
- (a) in the case where the appointment is by the custodian, the investment fund gives written consent to each appointment,
 - (b) in the case where the appointment is by a sub-custodian, the investment fund and the custodian of the investment fund give written consent to each appointment,
 - (c) the sub-custodian is an entity described in subsection 14.2(1) or (2), as applicable,
 - (d) the arrangements under which a sub-custodian is appointed are such that the investment fund may enforce rights directly, or require the custodian or a sub-custodian to enforce rights on behalf of the investment fund, to the portfolio assets held by the appointed sub-custodian, and
 - (e) the appointment is otherwise in compliance with this Instrument.

- (2) Despite paragraphs (1)(a) and (b), a general consent to the appointment of persons or companies that are part of an international network of sub-custodians within the organization of the custodian appointed by the investment fund or the sub-custodian appointed by the custodian is sufficient if that general consent is part of an agreement governing the relationship between the investment fund and the appointed custodian or the custodian and the appointed sub-custodian.
- (3) A custodian or sub-custodian must provide to the investment fund a list of each person or company that is appointed sub-custodian under a general consent referred to in subsection (2).

Content of agreements

- 14.5(1) All agreements between the investment fund and the custodian or the custodian and the sub-custodian of an investment fund must provide for
 - (a) the location of portfolio assets,
 - (b) the appointment of a sub-custodian, if any,
 - (c) the provision of lists of sub-custodians,
 - (d) the method of holding portfolio assets,
 - (e) the standard of care and responsibility for loss,
 - (f) review and compliance reports, and
 - (g) the safekeeping of portfolio assets on terms consistent with the agreement between the investment fund and the custodian, for an agreement between a custodian and a sub-custodian,.
- (2) The provisions of an agreement referred to under subsection (1) must comply with the requirements of this Part.
- (3) An agreement between an investment fund and a custodian or a custodian and a sub-custodian respecting the portfolio assets must not
 - (a) provide for the creation of any security interest on the portfolio assets except for a good faith claim for payment of the fees and expenses of the custodian or sub-custodian for acting in that capacity or to secure the obligations of the investment fund to repay borrowings by the investment fund from a custodian or sub-custodian for the purpose of settling portfolio transactions, or
 - (b) contain a provision that would require the payment of a fee to the custodian or sub-custodian for the transfer of the beneficial ownership of portfolio assets, other than for safekeeping and administrative services in connection with acting as custodian or sub-custodian.

Review and compliance reports

- 14.6(1) The custodian of an investment fund must, on a periodic basis and at least annually,
 - (a) review the agreements referred to in section 14.5 to determine if those agreements are in compliance with this Part,
 - (b) make reasonable enquiries to ensure that each sub-custodian is an entity referred to in subsection 14.2(1) or (2), as applicable, and
 - (c) make or cause to be made any changes that may be necessary to ensure that
 - (i) the agreements are in compliance with this Part, and
 - (ii) each sub-custodian is an entity referred to in subsection 14.2(1) or (2), as applicable.
- (2) The custodian of an investment fund must, within 60 days after the end of each financial year of the investment fund, advise the investment fund in writing
 - (a) of the names and addresses of all sub-custodians of the investment fund,
 - (b) if the agreements are in compliance with this Part, and

- (c) if, to the best of the knowledge and belief of the custodian, each sub-custodian is an entity that satisfies the requirements of subsection 14.2(1) or (2), as applicable.
- (3) A copy of the report referred to in subsection (2) must be delivered by or on behalf of the investment fund to the securities regulatory authority within 30 days after the filing of the annual financial statements of the investment fund.

Holding of portfolio assets and payment of fees

- 14.7(1)** Except as provided in subsections (2) and (3) and sections 14.8 and 14.9, portfolio assets not registered in the name of the investment fund must be registered in the name of the custodian or a sub-custodian of the investment fund or any of their respective nominees with an account number or other designation in the records of the custodian sufficient to show that the beneficial ownership of the portfolio assets is vested in the investment fund.
- (2) The custodian or a sub-custodian of the investment fund or the applicable nominee must segregate portfolio assets issued in bearer form to show that the beneficial ownership of the property is vested in the investment fund.
- (3) A custodian or sub-custodian of an investment fund may deposit portfolio assets with a depository or a clearing agency that operates a book-based system.
- (4) The custodian or sub-custodian of an investment fund arranging for the deposit of portfolio assets with, and their delivery to, a depository, or clearing agency, that operates a book-based system must ensure that the records of any of the applicable participants in that book-based system or the custodian contain an account number or other designation sufficient to show that the beneficial ownership of the portfolio assets is vested in the investment fund.
- (5) No investment fund may pay a fee to a custodian or sub-custodian for the transfer of beneficial ownership of portfolio assets other than for safekeeping and administrative services in connection with acting as custodian or sub-custodian.

Custodial provisions relating to derivatives and securities lending, repurchases and reverse repurchase agreements

- 14.8(1)** For the purposes of subsection (4), "specified derivative" has the same meaning as in NI 81-102.
- (2) An investment fund may deposit portfolio assets as margin for transactions in Canada involving clearing corporation options, options on futures or standardized futures with a dealer that is a member of an SRO that is a participating member of CIPF if the amount of margin deposited does not, when aggregated with the amount of margin already held by the dealer on behalf of the investment fund, exceed 10% of the net assets of the investment fund, taken at market value as at the time of deposit.
- (3) An investment fund may deposit portfolio assets with a dealer as margin for transactions outside Canada involving clearing corporation options, options on futures or standardized futures if
- (a) in the case of standardized futures and options on futures, the dealer is a member of a futures exchange or, in the case of clearing corporation options, is a member of a stock exchange, and, as a result in either case, is subject to a regulatory audit,
- (b) the dealer has a net worth, determined from its most recent audited financial statements that have been made public, in excess of the equivalent of \$50 million, and
- (c) the amount of margin deposited does not, when aggregated with the amount of margin already held by the dealer on behalf of the investment fund, exceed 10% of the net assets of the investment fund, taken at market value as at the time of deposit.
- (4) An investment fund may deposit with its counterparty portfolio assets over which it has granted a security interest in connection with a particular specified derivatives transaction.
- (5) The agreement by which portfolio assets are deposited in accordance with subsection (2), (3) or (4) must require the person or company holding the portfolio assets to ensure that its records show that the investment fund is the beneficial owner of the portfolio assets.
- (6) An investment fund may deliver portfolio assets to a person or company in satisfaction of its obligations under a securities lending, repurchase or reverse purchase agreement if the collateral, cash proceeds or purchased securities that are delivered to the investment fund in connection with the transaction are held under the custodianship of the custodian or a sub-custodian of the investment fund in compliance with this Part.

Separate account for paying expenses

- 14.9 An investment fund may deposit cash in Canada with an entity referred to in paragraph (a) or (b) of subsection 14.2(1) to facilitate the payment of regular operating expenses of the investment fund.

PART 15: Documents Incorporated by Reference by Investment Funds

Application

- 15.1 This Part applies only to an investment fund in continuous distribution, other than scholarship plans.

Incorporation by reference

- 15.2(1) An investment fund must incorporate by reference into its long form prospectus, by means of a statement to that effect, the filed documents listed in section 37.1 of Form 41-101F2.
- (2) If an investment fund does not incorporate by reference into its long form prospectus a document referred to in subsection (1), the document is deemed, for the purposes of securities legislation, to be incorporated by reference in the investment fund's long form prospectus as of the date of the long form prospectus.
- (3) An investment fund must incorporate by reference in its long form prospectus, by means of a statement to that effect, the subsequently filed documents referred to in section 37.2 of Form 41-101F2.
- (4) If an investment fund does not incorporate by reference into its long form prospectus a document referred to in subsection (3), the document is deemed, for the purposes of securities legislation, to be incorporated by reference in the investment fund's long form prospectus as of the date the investment fund filed the document.

PART 16: Distribution of Preliminary Prospectus and Distribution List

Distribution of preliminary prospectus and distribution list

- 16.1 Except in Ontario, any dealer distributing a security during the waiting period must
- (a) send a copy of the preliminary prospectus to each prospective purchaser who indicates an interest in purchasing the security and requests a copy of such preliminary prospectus, and
- (b) maintain a record of the names and addresses of all persons and companies to whom the preliminary prospectus has been forwarded.

[Note: In Ontario, sections 66 and 67 of the *Securities Act* (Ontario) impose similar requirements regarding the distribution of a preliminary prospectus and maintaining a distribution list.]

PART 17: Lapse Date

Pro forma prospectus

- 17.1(1) In this Part, “**pro forma prospectus**” means a long form prospectus that complies with the requirements described in subsection (2).
- (2) A pro forma prospectus must be prepared in the form of a long form prospectus in accordance with Form 41-101F1 or Form 41-101F2, as applicable, and other securities legislation, except that a pro forma prospectus is not required to contain prospectus certificates or to comply with sections 4.2, 4.3 and 4.4 of this Instrument.
- (3) This Part does not apply to a prospectus filed in accordance with NI 44-101, NI 44-102 or NI 44-103.

Refiling of prospectus

- 17.2(1) This section does not apply in Ontario.
- (2) In this section, “**lapse date**” means, with reference to the distribution of a security that has been qualified under a prospectus, the date that is 12 months after the date of the most recent final prospectus relating to the security.
- (3) An issuer must not continue the distribution of a security to which the prospectus requirement applies after the lapse date unless the issuer files a new prospectus that complies with securities legislation and a receipt for that new prospectus is issued by the regulator.
- (4) Despite subsection (3), a distribution may be continued for a further 12 months after a lapse date if,

- (a) the issuer delivers a pro forma prospectus not less than 30 days before the lapse date of the previous prospectus;
 - (b) the issuer files a new final prospectus not later than 10 days after the lapse date of the previous prospectus; and
 - (c) a receipt for the new final prospectus is issued by the regulator within 20 days after the lapse date of the previous prospectus.
- (5) The continued distribution of securities after the lapse date does not contravene subsection (3) unless and until any of the conditions of subsection (4) are not complied with.
- (6) Subject to any extension granted under subsection (7), if a condition in subsection (4) is not complied with, a purchaser may cancel a purchase made in a distribution after the lapse date in reliance on subsection (4) within 90 days after the purchaser first became aware of the failure to comply with the condition.
- (7) The regulator may, on an application of a reporting issuer, extend, subject to such terms and conditions as it may impose, the times provided by subsection (4) where in its opinion it would not be prejudicial to the public interest to do so.

[Note: In Ontario, section 62 of the *Securities Act* (Ontario) imposes similar requirements and procedures regarding refiling of prospectuses.]

PART 18: Statement of Rights

Statement of rights

- 18.1 Except in Ontario, a prospectus must contain a statement of the rights given to a purchaser under securities legislation in case of a failure to deliver the prospectus or in case of a misrepresentation in a prospectus.

[Note: In Ontario, section 60 of the *Securities Act* (Ontario) imposes a similar requirement for the inclusion of a statement of rights in a prospectus.]

PART 19: Exemption

Exemption

- 19.1(1) The regulator or the securities regulatory authority may grant an exemption from the provisions of this Instrument, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.
- (2) Despite subsection (1), in Ontario, only the regulator may grant such an exemption.
- (3) Except in Ontario, an exemption referred to in subsection (1) is granted under the statute referred to in Appendix B of NI 14-101 opposite the name of the local jurisdiction.

Application for exemption

- 19.2 An application made to the securities regulatory authority or regulator for an exemption from the provisions of this Instrument must include a letter or memorandum describing the matters relating to the exemption, and indicating why consideration should be given to the granting of the exemption.

Evidence of exemption

- 19.3(1) Subject to subsection (2) and without limiting the manner in which an exemption under this Part may be evidenced, the granting under this Part of an exemption, other than an exemption from subsection 2.2(2), may be evidenced by the issuance of a receipt for a final prospectus or an amendment to a final prospectus.
- (2) The issuance of a receipt for a final prospectus or an amendment to a final prospectus is not evidence that the exemption has been granted unless
- (a) the person or company that sought the exemption sent to the regulator
 - (i) the letter or memorandum referred to in section 19.2 on or before the date of the filing of the preliminary prospectus, or

- (ii) the letter or memorandum referred to in section 19.2 after the date of the filing of the preliminary prospectus and received a written acknowledgement from the regulator that the exemption may be evidenced in the manner set out in subsection (1), and
- (b) the regulator has not before, or concurrently with, the issuance of the receipt sent notice to the person or company that sought the exemption, that the exemption sought may not be evidenced in the manner set out in subsection (1).

PART 20: Transition, Effective Date, and Repeal

Transition

~~20.1(1) A final prospectus may, at the issuer's option, be prepared in accordance with securities legislation in effect~~

~~(a) at the date of the issuance of a receipt for the preliminary prospectus or the date of filing the pro forma prospectus, as applicable, or~~

~~(b) at the date of issuance of a receipt for the final prospectus.~~

20.1(1) Despite section 20.2, the amendments to this Instrument which came into force on January 1, 2011 only apply to a preliminary prospectus, an amendment to a preliminary prospectus, a final prospectus or an amendment to a final prospectus of an issuer which includes financial statements of the issuer in respect of periods relating to financial years beginning on or after January 1, 2011.

~~(2) Despite this Instrument, securities legislation in effect at the date of the issuance of a receipt for a preliminary prospectus or the filing of a pro forma prospectus, as applicable, applies to a distribution if the issuer prepared the final prospectus in accordance with paragraph (1)(a).~~

(2) [Repealed]

Effective ~~date~~Date

20.2 This Instrument comes into force on March 17, 2008.

Repeal

20.3 National Instrument 41-101 *Prospectus Disclosure Requirements*, which came into force on December 31, 2000, is repealed.

**APPENDIX A TO NATIONAL INSTRUMENT 41-101
GENERAL PROSPECTUS REQUIREMENTS**

**PERSONAL INFORMATION FORM AND
AUTHORIZATION OF INDIRECT COLLECTION,
USE AND DISCLOSURE OF PERSONAL INFORMATION**

In connection with an issuer's (the "Issuer") filing of a prospectus, the attached Schedule 1 contains information (the "Information") concerning every individual for whom the Issuer is required to provide the Information under Part 9 of this Instrument or Part 4 of NI 44-101. The Issuer is required by provincial and territorial securities legislation to deliver the Information to the regulators listed in Schedule 3.

The Issuer confirms that each individual who has completed a Schedule 1:

- (a) has been notified by the Issuer
 - (i) of the Issuer's delivery to the regulator of the Information in Schedule 1 pertaining to that individual,
 - (ii) that the Information is being collected indirectly by the regulator under the authority granted to it by provincial and territorial securities legislation or provincial legislation relating to documents held by public bodies and the protection of personal information,
 - (iii) that the Information collected from each director and executive officer of the investment fund manager may be used in connection with the prospectus filing of the Issuer and the prospectus filing of any other issuer managed by the investment fund manager,
 - (iv) that the Information is being collected and used for the purpose of enabling the regulator to administer and enforce provincial and territorial securities legislation, including those obligations that require or permit the regulator to refuse to issue a receipt for a prospectus if it appears to the regulator that the past conduct of management, an investment fund manager or promoter of the Issuer affords reasonable grounds for belief that the business of the Issuer will not be conducted with integrity and in the best interests of its securityholders, and
 - (v) of the contact, business address and business telephone number of the regulator in the local jurisdiction as set out in the attached Schedule 3, who can answer questions about the regulator's indirect collection of the Information;
- (b) has read and understands the Personal Information Collection Policy attached hereto as Schedule 2; and
- (c) has, by signing the certificate and consent in Schedule 1, authorized the indirect collection, use and disclosure of the Information by the regulator as described in Schedule 2.

Date: _____

Name of Issuer

Per: _____

Name

Official Capacity

(Please print the name of the person signing on behalf of the issuer)

APPENDIX A TO NATIONAL INSTRUMENT 41-101
GENERAL PROSPECTUS REQUIREMENTS

PERSONAL INFORMATION FORM
AND AUTHORIZATION OF INDIRECT COLLECTION,
USE AND DISCLOSURE OF PERSONAL INFORMATION

Schedule 1

Personal Information Form and Authorization of Indirect Collection, Use and Disclosure of Personal Information

This Personal Information Form and Authorization of Indirect Collection, Use and Disclosure of Personal Information (the "Form") is to be completed by every individual who, in connection with an issuer filing a prospectus (the "Issuer"), is required to do so under Part 9 of National Instrument 41-101 *General Prospectus Requirements* or Part 4 of National Instrument 44-101 *Short Form Prospectus Distributions*. Where an individual has submitted a personal information form (an "Exchange Form") to the Toronto Stock Exchange or the TSX Venture Exchange and the information has not changed, the Exchange Form may be delivered in lieu of this Form; provided that the certificate and consent of this Form is completed and attached to the Exchange Form.

The securities regulatory authorities do not make any of the information provided in this Form public.

General Instructions:

- All Questions** **All questions must have a response.** The response of "N/A" or "Not Applicable" for any questions, except Questions 1(B), 2B(iii) and 5 will not be accepted.
- Questions 6 to 9** Please check (✓) in the appropriate space provided. If your answer to any of questions 6 to 9 is "YES", you must, in an attachment, provide complete details, including the circumstances, relevant dates, names of the parties involved and final disposition, if known. **Any attachment must be initialled by the person completing this Form.** Responses must consider all time periods.
- Delivery** **The issuer should deliver completed Forms electronically via the System for Electronic Document Analysis and Retrieval (SEDAR) under the document type "Personal Information Form and Authorization". Access to this document type is not available to the public.**

CAUTION

An individual who makes a false statement commits an offence under securities legislation. Steps may be taken to verify the answers you have given in this Form, including verification of information relating to any previous criminal record.

DEFINITIONS

"Offence" An offence includes:

- (a) a summary conviction or indictable offence under the *Criminal Code* (Canada);
- (b) a quasi-criminal offence (for example under the *Income Tax Act* (Canada), the *Immigration Act* (Canada) or the tax, immigration, drugs, firearms, money laundering or securities legislation of any jurisdiction);
- (c) a misdemeanour or felony under the criminal legislation of the United States of America, or any state or territory therein; or
- (d) an offence under the criminal legislation of any foreign jurisdiction;

NOTE: If you have received a pardon under the *Criminal Records Act* (Canada) and it has not been revoked, you must disclose the pardoned offence in this Form. In such circumstances:

- (a) the appropriate written response would be "Yes, pardon granted on (date)"; and

(b) you must provide complete details in an attachment to this Form.

“Proceedings” means:

- (a) a civil or criminal proceeding or inquiry before a court;
- (b) a proceeding before an arbitrator or umpire or a person or group of persons authorized by law to make an inquiry and take evidence under oath in the matter;
- (c) a proceeding before a tribunal in the exercise of a statutory power of decision making where the tribunal is required by law to hold or afford the parties to the proceeding an opportunity for a hearing before making a decision; or
- (d) a proceeding before a self-regulatory organization authorized by law to regulate the operations and the standards of practice and business conduct of its members and their representatives, in which the self-regulatory organization is required under its by-laws or rules to hold or afford the parties the opportunity for a hearing before making a decision, but does not apply to a proceeding in which one or more persons are required to make an investigation and to make a report, with or without recommendations, if the report is for the information or advice of the person to whom it is made and does not in any way bind or limit that person in any decision the person may have the power to make;

“securities regulatory authority” (or “SRA”) means a body created by statute in any jurisdiction or in any foreign jurisdiction to administer securities law, regulation and policy (e.g. securities commission), but does not include an exchange or other self regulatory or professional organization;

“self regulatory or professional organization” means:

- (a) a stock, commodities, futures or options exchange;
- (b) an association of investment, securities, mutual fund, commodities, or future dealers;
- (c) an association of investment counsel or portfolio managers;
- (d) an association of other professionals (e.g. legal, accounting, engineering); and
- (e) any other group, institution or self-regulatory entity, recognized by a securities regulatory authority, that is responsible for the enforcement of rules, disciplines or codes under any applicable legislation, or considered a self regulatory or professional organization in another country.

1. A. IDENTIFICATION OF INDIVIDUAL COMPLETING FORM

LAST NAME(S)	FIRST NAME(S)	MIDDLE NAME(S) (If none, please state)			
NAME(S) MOST COMMONLY KNOWN BY:					
NAME OF ISSUER					
PRESENT or PROPOSED POSITION(S) WITH THE ISSUER – check (√) all positions below that are applicable.	(√)	IF DIRECTOR / OFFICER DISCLOSE THE DATE ELECTED / APPOINTED			IF OFFICER – PROVIDE TITLE IF OTHER – PROVIDE DETAILS
		Month	Day	Year	
Director					
Officer					
Other					

B.	Other than the name given in Question 1A above, provide any legal names, assumed names or nicknames under which you have carried on business or have otherwise been known, including information regarding any name change(s) resulting from marriage, divorce, court order or any other process. Use an attachment if necessary.	FROM		TO	
		MM	YY	MM	YY

C.	GENDER		DATE OF BIRTH			PLACE OF BIRTH		
			Month	Day	Year	City	Province/State	Country
	Male							
	Female							

D.	MARITAL STATUS	FULL NAME OF SPOUSE – include common-law	OCCUPATION OF SPOUSE

E.	TELEPHONE AND FACSIMILE NUMBERS AND E-MAIL ADDRESS		
	RESIDENTIAL	()	FACSIMILE
	BUSINESS	()	E-MAIL

F.	RESIDENTIAL HISTORY – Provide all residential addresses for the past 10 YEARS starting with your current principal residential address. If you are unable to correctly identify the complete residential address for a period, which is beyond five years from the date of completion of this Form, the municipality and province or state and country must be identified. The regulator reserves the right to require the full address.						
	STREET ADDRESS, CITY, PROVINCE/STATE, COUNTRY & POSTAL/ZIP CODE			FROM		TO	
				MM	YY	MM	YY

2. CITIZENSHIP

A.	CANADIAN CITIZENSHIP	YES	NO
	(i) Are you a Canadian Citizen?		
	(ii) Are you a person lawfully in Canada as an immigrant but are not yet a Canadian citizen?		
	(iii) If "Yes" to Question 2A(ii), the number of years of continuous residence in Canada:		

B. OTHER CITIZENSHIP	YES	NO
(i) Do you hold citizenship in any country other than Canada?		
(ii) If "Yes" to Question 2B(i), the name of the country(s):		
(iii) Please provide U.S. Social Security number, where you have such a number		

3. EMPLOYMENT HISTORY

Provide your employment history for the **10 YEARS** immediately prior to the date of this Form starting with your current employment. Use an attachment if necessary.

EMPLOYER NAME	EMPLOYER ADDRESS	POSITION HELD	FROM		TO	
			MM	YY	MM	YY

4. POSITIONS WITH OTHER ISSUERS

				YES	NO		
A.	While you were a director, officer or insider of an issuer, did any exchange or self-regulatory organization ever refuse approval for listing or quotation of that issuer (including a listing resulting from a qualifying transaction, reverse takeover, backdoor listing or change of business)? If yes, attach full particulars.						
B.	Has your employment in a sales, investment or advisory capacity with any firm or company engaged in the sale of real estate, insurance or mutual funds ever been terminated for cause?						
C.	Has a firm or company registered under the securities laws of any jurisdiction or of any foreign jurisdiction as a securities dealer, broker, investment advisor or underwriter, suspended or terminated your employment for cause?						
D.	Are you or have you during the last 10 years ever been a director, officer, promoter, insider or control person for any reporting issuer?						
E.	If "YES" to 4D above, provide the names of each reporting issuer. State the position(s) held and the period(s) during which you held the position(s). Use an attachment if necessary.						
	NAME OF REPORTING ISSUER	POSITION(S) HELD	MARKET TRADED ON	FROM		TO	
				MM	YY	MM	YY

5. EDUCATIONAL HISTORY

A. PROFESSIONAL DESIGNATION(S) – Provide any professional designation held and professional associations to which you belong. For example, Barrister & Solicitor, C.A., C.M.A., C.G.A., P.Eng., P.Geol., and CFA, etc. and indicate which organization and the date the designations were granted.

PROFESSIONAL DESIGNATION And MEMBERSHIP NUMBER	GRANTOR OF DESIGNATION And JURISDICTION OR FOREIGN JURISDICTION	DATE GRANTED			ACTIVE?	
		MM	DD	YY	YES	NO

B. Provide your post-secondary educational history starting with the most recent.

SCHOOL	LOCATION	DEGREE OR DIPLOMA	DATE OBTAINED		
			MM	DD	YY

6. OFFENCES – If you answer “YES” to any item in Question 6, you must provide complete details in an attachment.

	YES	NO
A. Have you ever pleaded guilty to or been found guilty of an offence?		
B. Are you the subject of any current charge, indictment or proceeding for an offence?		
C. To the best of your knowledge, are you or have you ever been a director, officer, promoter, insider, or control person of an issuer, in any jurisdiction or in any foreign jurisdiction, at the time of events, where the issuer:		
(i) has ever pleaded guilty to or been found guilty of an offence?		
(ii) is the subject of any current charge, indictment or proceeding for an offence?		

7. BANKRUPTCY – If you answer “YES” to any item in Question 7, you must provide complete details in an attachment and attach a copy of any discharge, release or other applicable document.

	YES	NO
A. Have you, in any jurisdiction or in any foreign jurisdiction, within the past 10 years had a petition in bankruptcy issued against you, made a voluntary assignment in bankruptcy, made a proposal under any bankruptcy or insolvency legislation, been subject to any proceeding, arrangement or compromise with creditors, or had a receiver, receiver-manager or trustee appointed to manage your assets?		
B. Are you now an undischarged bankrupt?		
C. To the best of your knowledge, are you or have you ever been a director, officer, promoter, insider, or control person of an issuer, in any jurisdiction or in any foreign jurisdiction, at the time of events, or for a period of 12 months preceding the time of events, where the issuer:		
(i) has made a petition in bankruptcy, a voluntary assignment in bankruptcy, a proposal under any bankruptcy or insolvency legislation, been subject to any proceeding, arrangement or compromise with creditors or had a receiver, receiver-manager or trustee appointed to manage the issuer’s assets?		

(ii) is now an undischarged bankrupt?		
---------------------------------------	--	--

8. PROCEEDINGS – If you answer “YES” to any item in Question 8, you must provide complete details in an attachment.

		YES	NO
A.	CURRENT PROCEEDINGS BY SECURITIES REGULATORY AUTHORITY OR SELF REGULATORY OR PROFESSIONAL ORGANIZATION. Are you now, in any jurisdiction or in any foreign jurisdiction, the subject of:		
	(i) a notice of hearing or similar notice issued by a SRA?		
	(ii) a proceeding or to your knowledge, under investigation, by an exchange or other self regulatory or professional organization?		
	(iii) settlement discussions or negotiations for settlement of any nature or kind whatsoever with a SRA or any self regulatory or professional organization?		
		YES	NO
B.	PRIOR PROCEEDINGS BY SECURITIES REGULATORY AUTHORITY OR SELF REGULATORY OR PROFESSIONAL ORGANIZATION. Have you ever:		
	(i) been reprimanded, suspended, fined, been the subject of an administrative penalty, or otherwise been the subject of any disciplinary proceedings of any kind whatsoever, in any jurisdiction or in any foreign jurisdiction, by a SRA or self regulatory or professional organization?		
	(ii) had a registration or licence for the trading of securities, exchange or commodity futures contracts, real estate, insurance or mutual fund products cancelled, refused, restricted or suspended?		
	(iii) been prohibited or disqualified under securities, corporate or any other legislation from acting as a director or officer of a reporting issuer?		
	(iv) had a cease trading or similar order issued against you or an order issued against you that denied you the right to use any statutory prospectus or registration exemption?		
	(v) had any other proceeding of any nature or kind taken against you?		
C.	SETTLEMENT AGREEMENT(S)		
	Have you ever entered into a settlement agreement with a SRA, self regulatory or professional organization, attorney general or comparable official or body, in any jurisdiction or in any foreign jurisdiction, in a matter that involved actual or alleged fraud, theft, deceit, misrepresentation, conspiracy, breach of trust, breach of fiduciary duty, insider trading, unregistered trading in securities or exchange or commodity futures contracts, illegal distributions, failure to disclose material facts or changes or similar conduct, or any other settlement agreement with respect to any other violation of securities legislation in a jurisdiction or in a foreign jurisdiction or the rules of any self regulatory or professional organization?		

D.	To the best of your knowledge, are you now or have you ever been a director, officer, promoter, insider, or control person of an issuer at the time of such event, in any jurisdiction or in any foreign jurisdiction, for which a securities regulatory authority or self regulatory or professional organization has:		
	(i) refused, restricted, suspended or cancelled the registration or licensing of an issuer to trade securities, exchange or commodity futures contracts, or to sell or trade real estate, insurance or mutual fund products?		
	(ii) issued a cease trade or similar order or imposed an administrative penalty of any nature or kind whatsoever against the issuer, other than an order for failure to file financial statements that was revoked within 30 days of its issuance?		
	(iii) refused a receipt for a prospectus or other offering document, denied any application for listing or quotation or any other similar application, or issued an order that denied the issuer the right to use any statutory prospectus or registration exemptions?		
	(iv) issued a notice of hearing, notice as to a proceeding or similar notice against the issuer?		
	(v) taken any other proceeding of any nature or kind against the issuer, including a trading halt, suspension or delisting of the issuer (other than in the normal course for proper dissemination of information, pursuant to a reverse takeover, backdoor listing or similar transaction)?		
	(vi) entered into a settlement agreement with the issuer in a matter that involved actual or alleged fraud, theft, deceit, misrepresentation, conspiracy, breach of trust, breach of fiduciary duty, insider trading, unregistered trading in securities or exchange or commodity futures contracts, illegal distributions, failure to disclose material facts or changes or similar conduct by the issuer, or involved in any other violation of securities legislation in a jurisdiction or in a foreign jurisdiction or a self regulatory or professional organization's rules?		

9. CIVIL PROCEEDINGS – If you answer “YES” to any item in Question 9, you must provide complete details in an attachment.

		YES	NO
A.	JUDGMENT, GARNISHMENT AND INJUNCTIONS Has a court in any jurisdiction or in any foreign jurisdiction:		
	(i) rendered a judgment, ordered garnishment or issued an injunction or similar ban (whether by consent or otherwise) against <u>you</u> in a claim based in whole or in part on fraud, theft, deceit, misrepresentation, conspiracy, breach of trust, breach of fiduciary duty, insider trading, unregistered trading, illegal distributions, failure to disclose material facts or changes or allegations of similar conduct?		
	(ii) rendered a judgment, ordered garnishment or issued an injunction or similar ban (whether by consent or otherwise) against <u>an issuer</u> , for which you are currently or have ever been a director, officer, promoter, insider or control person, in a claim based in whole or in part on fraud, theft, deceit, misrepresentation, conspiracy, breach of trust, breach of fiduciary duty, insider trading, unregistered trading, illegal distributions, failure to disclose material facts or changes or allegations of similar conduct?		

B.	CURRENT CLAIMS		
	(i) Are <u>you</u> now subject, in any jurisdiction or in any foreign jurisdiction, of a claim that is based in whole or in part on actual or alleged fraud, theft, deceit, misrepresentation, conspiracy, breach of trust, breach of fiduciary duty, insider trading, unregistered trading, illegal distributions, failure to disclose material facts or changes or allegations of similar conduct?		
	(ii) To the best of your knowledge, are you currently or have you ever been a director, officer, promoter, insider or control person of <u>an issuer</u> now subject, in any jurisdiction or in any foreign jurisdiction, of a claim that is based in whole or in part on actual or alleged fraud, theft, deceit, misrepresentation, conspiracy, breach of trust, breach of fiduciary duty, insider trading, unregistered trading, illegal distributions, failure to disclose material facts or changes or allegations of similar conduct?		
C.	SETTLEMENT AGREEMENT		
	(i) Have <u>you</u> ever entered into a settlement agreement, in any jurisdiction or in any foreign jurisdiction, in a civil action that involved actual or alleged fraud, theft, deceit, misrepresentation, conspiracy, breach of trust, breach of fiduciary duty, insider trading, unregistered trading, illegal distributions, failure to disclose material facts or changes or allegations of similar conduct?		
	(ii) To the best of your knowledge, are you currently or have you ever been a director, officer, promoter, insider or control person of <u>an issuer</u> that has entered into a settlement agreement, in any jurisdiction or in any foreign jurisdiction, in a civil action that involved actual or alleged fraud, theft, deceit, misrepresentation, conspiracy, breach of trust, breach of fiduciary duty, insider trading, unregistered trading, illegal distributions, failure to disclose material facts or changes or allegations of similar conduct?		

CERTIFICATE AND CONSENT

I, _____ hereby certify that:

(Please Print – Name of Individual)

- (a) I have read and understood the questions, cautions, acknowledgement and consent in this Form, and the answers I have given to the questions in this Form and in any attachments to it are true and correct, except where stated to be to the best of my knowledge, in which case I believe the answers to be true;
- (b) I have read and understand the Personal Information Collection Policy attached hereto as Schedule 2 (the "Personal Information Collection Policy");
- (c) I consent to the collection, use and disclosure of the information in this Form and to the collection, use and disclosure of further personal information in accordance with the Personal Information Collection Policy; and
- (d) I understand that I am providing this Form to a regulator listed in Schedule 3 attached hereto and I am under the jurisdiction of the regulator to which I submit this Form, and it is a breach of securities legislation to provide false or misleading information to the regulator.

Date [within 30 days of the date of the preliminary prospectus]

Signature of Person Completing this Form

APPENDIX A TO NATIONAL INSTRUMENT 41-101
GENERAL PROSPECTUS REQUIREMENTS

PERSONAL INFORMATION FORM
AND AUTHORIZATION OF INDIRECT COLLECTION,
USE AND DISCLOSURE OF PERSONAL INFORMATION

Schedule 2

Personal Information Collection Policy

The regulators listed in Schedule 3 Regulators collect the personal information in Schedule 1 *Personal Information Form* under the authority granted to them under provincial and territorial securities legislation. Under securities legislation, the regulators do not make any of the information provided in Schedule 1 public.

The regulators collect the personal information in Schedule 1 for the purpose of enabling the regulators to administer and enforce provincial and territorial securities legislation, including those provisions that require or permit the regulators to refuse to issue a receipt for a prospectus if it appears to the regulators that the past conduct of management or promoters of the Issuer affords reasonable grounds for belief that the business of the Issuer will not be conducted with integrity and in the best interests of its securityholders.

You understand that by signing the certificate and consent in Schedule 1, you are consenting to the Issuer submitting your personal information in Schedule 1 (the "Information") to the regulators and to the collection and use by the regulators of the Information, as well as any other information that may be necessary to administer and enforce provincial and territorial securities legislation. This may include the collection of information from law enforcement agencies, other government or non-governmental regulatory authorities, self-regulatory organizations, exchanges, and quotation and trade reporting systems in order to conduct background checks, verify the Information and perform investigations and conduct enforcement proceedings as required to ensure compliance with provincial and territorial securities legislation.

You understand that the Issuer is required to deliver the Information to the regulators because the Issuer has filed a prospectus under provincial and territorial securities legislation. You also understand that you have a right to be informed of the existence of personal information about you that is kept by regulators, that you have the right to request access to that information, and that you have the right to request that such information be corrected, subject to the applicable provisions of the freedom of information and protection of privacy legislation adopted by each province and territory.

You also understand and agree that the Information the regulators collect about you may also be disclosed, as permitted by law, where its use and disclosure is for the purposes described above. The regulators may also use a third party to process the Information, but when this happens, the third party will be carefully selected and obligated to comply with the limited use restrictions described above and with provincial and federal privacy legislation.

Warning: It is an offence to submit information that, in a material respect and at the time and in the light of the circumstances in which it is submitted, is misleading or untrue.

Questions

If you have any questions about the collection, use, and disclosure of the information you provide to the regulators, you may contact the regulator in the jurisdiction in which the required information is filed, at the address or telephone number listed in Schedule 3.

APPENDIX A TO NATIONAL INSTRUMENT 41-101
GENERAL PROSPECTUS REQUIREMENTS

PERSONAL INFORMATION FORM
AND AUTHORIZATION OF INDIRECT COLLECTION,
USE AND DISCLOSURE OF PERSONAL INFORMATION

Schedule 3

Regulators

Local Jurisdiction

Regulator

Alberta

Securities Review Officer
Alberta Securities Commission
Suite 400
300 – 5th Avenue S.W.
Calgary, Alberta T2P 3C4
Telephone: (403) 297-6454
E-mail: inquiries@seccom.ab.ca
www.albertasecurities.com

British Columbia

Review Officer
British Columbia Securities Commission
P.O. Box 10142 Pacific Centre
701 West Georgia Street
Vancouver, British Columbia V7Y 1L2
Telephone: (604) 899-6854
Toll Free within British Columbia and Alberta: (800) 373-6393
E-mail: inquiries@bcsc.bc.ca
www.bcsc.bc.ca

Manitoba

Director, Corporate Finance
The Manitoba Securities Commission
500-400 St. Mary Avenue
Winnipeg, Manitoba R3C 4K5
Telephone: (204) 945-2548
E-mail: securities@gov.mb.ca
www.msc.gov.mb.ca

New Brunswick

Director Corporate Finance and Chief Financial Officer
New Brunswick Securities Commission
85 Charlotte Street, Suite 300
Saint John, New Brunswick E2L 2J2
Telephone: (506) 658-3060
Fax: (506) 658-3059
E-mail: information@nbsc-cvmnb.ca

Newfoundland and Labrador

Director of Securities
Department of Government Services and Lands
P.O. Box 8700
West Block, 2nd Floor, Confederation Building
St. John's, Newfoundland A1B 4J6
Telephone: (709) 729-4189
www.gov.nf.ca/gsl/cca/s

Northwest Territories

Superintendent of Securities ~~Registries~~
Department of Justice
Government of the Northwest Territories
P.O. Box 1320,
Yellowknife, Northwest Territories X1A 2L9
Telephone: (867) 873- 7490

Consolidation: March 17, 2008**Draft: August 28, 2009**

www.justice.gov.nt.ca/SecuritiesRegistry/SecuritiesRegistry.html

Nova Scotia	Deputy Director, Compliance and Enforcement Nova Scotia Securities Commission P.O. Box 458 Halifax, Nova Scotia B3J 2P8 Telephone: (902) 424-5354 www.gov.ns.ca/nssc
Nunavut	Superintendent of Securities Government of Nunavut Legal Registries Division P.O. Box 1000 – Station 570 Iqaluit, Nunavut X0A 0H0 Telephone: (867) 975-6590
Ontario	Administrative Assistant to the Director of Corporate Finance Ontario Securities Commission 19th Floor, 20 Queen Street West Toronto, Ontario M5H 2S8 Telephone: (416) 597-0681 E-mail: Inquiries@osc.gov.on.ca www.osc.gov.on.ca
Prince Edward Island	Deputy Registrar, Securities Division Shaw Building 95 Rochford Street, P.O. Box 2000, 4th Floor Charlottetown, Prince Edward Island C1A 7N8 Telephone: (902) 368-4550 www.gov.pe.ca/securities
Québec	Autorité des marchés financiers Stock Exchange Tower P.O. Box 246, 22nd Floor 800 Victoria Square Montréal, Québec H4Z 1G3 Attention: Responsable de l'accès à l'information Telephone: (514) 395-0337 Toll Free in Québec: (877) 525-0337 www.lautorite.qc.ca
Saskatchewan	Director Saskatchewan Financial Services Commission Suite 601, 1919 Saskatchewan Drive Regina, Saskatchewan S4P 4H2 Telephone: (306) 787-5842 www.sfsc.gov.sk.ca
Yukon	Registrar Superintendent of Securities Department of Justice Andrew A. Philipsen Law Centre 2130 – 2nd Avenue, 3rd Floor Whitehorse, Yukon Territory Y1A 5H6 Telephone: (867) 667-5005

**APPENDIX B TO NATIONAL INSTRUMENT 41-101
GENERAL PROSPECTUS REQUIREMENTS**

**ISSUER FORM OF SUBMISSION TO
JURISDICTION AND APPOINTMENT OF
AGENT FOR SERVICE OF PROCESS**

1. Name of issuer (the "Issuer"):

2. Jurisdiction of incorporation, or equivalent, of Issuer:

3. Address of principal place of business of Issuer:

4. Description of securities (the "Securities"):

5. Date of the prospectus (the "Prospectus") under which the Securities are offered:

6. Name of agent for service of process (the "Agent"):

7. Address for service of process of Agent in Canada (the address may be anywhere in Canada):

8. The Issuer designates and appoints the Agent at the address of the Agent stated above as its agent upon whom may be served any notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal, penal or other proceeding (the "Proceeding") arising out of, relating to or concerning the distribution of the Securities made or purported to be made under the Prospectus or the obligations of the Issuer as a reporting issuer, and irrevocably waives any right to raise as a defence in any such Proceeding any alleged lack of jurisdiction to bring such Proceeding.
9. The Issuer irrevocably and unconditionally submits to the non-exclusive jurisdiction of
 - (a) the judicial, quasi-judicial and administrative tribunals of each of the provinces [and territories] of Canada in which the securities are distributed under the Prospectus; and
 - (b) any administrative proceeding in any such province [or territory],in any Proceeding arising out of or related to or concerning the distribution of the Securities made or purported to be made under the Prospectus or the obligations of the issuer as a reporting issuer.
10. Until six years after it has ceased to be a reporting issuer in any Canadian province or territory, the Issuer shall file a new submission to jurisdiction and appointment of agent for service of process in this form at least 30 days before termination of this submission to jurisdiction and appointment of agent for service of process.
11. Until six years after it has ceased to be a reporting issuer in any Canadian province or territory, the Issuer shall file an amended submission to jurisdiction and appointment of agent for service of process at least 30 days before any change in the name or above address of the Agent.

12. This submission to jurisdiction and appointment of agent for service of process shall be governed by and construed in accordance with the laws of [insert province or territory of above address of Agent].

Dated: _____

Signature of Issuer

Issuer

Print name and title of signing officer of

AGENT

The undersigned accepts the appointment as agent for service of process of [insert name of Issuer] under the terms and conditions of the appointment of agent for service of process stated above.

Dated: _____

Signature of Agent

Print name of person signing and, if Agent is not an individual, the title of the person

**APPENDIX C TO NATIONAL INSTRUMENT 41-101
GENERAL PROSPECTUS REQUIREMENTS**

**NON-ISSUER FORM OF SUBMISSION TO
JURISDICTION AND APPOINTMENT OF
AGENT FOR SERVICE OF PROCESS**

1. Name of issuer (the "Issuer"):

2. Jurisdiction of incorporation, or equivalent, of Issuer:

3. Address of principal place of business of Issuer:

4. Description of securities (the "Securities"):

5. Date of the prospectus (the "Prospectus") under which the Securities are offered:

6. Name of person filing this form (the "Filing Person"):

7. Filing Person's relationship to Issuer:

8. Jurisdiction of incorporation, or equivalent, of Filing Person, if applicable, or jurisdiction of residence of Filing Person:

9. Address of principal place of business of Filing Person:

10. Name of agent for service of process (the "Agent"):

11. Address for service of process of Agent in Canada (the address may be anywhere in Canada):

12. The Filing Person designates and appoints the Agent at the address of the Agent stated above as its agent upon whom may be served any notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal, penal or other proceeding (the "Proceeding") arising out of, relating to or concerning the distribution of the Securities made or purported to be made under the Prospectus, and irrevocably waives any right to raise as a defence in any such Proceeding any alleged lack of jurisdiction to bring the Proceeding.
13. The Filing Person irrevocably and unconditionally submits to the non-exclusive jurisdiction of

- (a) the judicial, quasi-judicial and administrative tribunals of each of the provinces [and territories] of Canada in which the securities are distributed under the Prospectus; and
- (b) any administrative proceeding in any such province [or territory],

in any Proceeding arising out of or related to or concerning the distribution of the Securities made or purported to be made under the Prospectus.

- 14. Until six years after completion of the distribution of the Securities made under the Prospectus, the Filing Person shall file a new submission to jurisdiction and appointment of agent for service of process in this form at least 30 days before termination of this submission to jurisdiction and appointment of agent for service of process.
- 15. Until six years after completion of the distribution of the Securities under the Prospectus, the Filing Person shall file an amended submission to jurisdiction and appointment of agent for service of process at least 30 days before a change in the name or above address of the Agent.
- 16. This submission to jurisdiction and appointment of agent for service of process shall be governed by and construed in accordance with the laws of [insert province or territory of above address of Agent].

Dated: _____

Signature of Filing Person

Filing
person

Print name of person signing and, if the
Person is not an individual, the title of the

AGENT

The undersigned accepts the appointment as agent for service of process of [insert name of Issuer] under the terms and conditions of the appointment of agent for service of process stated above.

Dated: _____

Signature of Agent

not

Print name of person signing and, if Agent is
an individual, the title of the person

Schedule C-2
Form 41-101F1 *Information Required in a Prospectus*

FORM 41-101F1
INFORMATION REQUIRED IN A PROSPECTUS

TABLE OF CONTENTS

GENERAL INSTRUCTIONS

- ITEM 1 Cover Page Disclosure
- 1.1 Required statement
 - 1.2 Preliminary prospectus disclosure
 - 1.3 Basic disclosure about the distribution
 - 1.4 Distribution
 - 1.5 Offering price in currency other than Canadian dollar
 - 1.6 Non-fixed price distributions
 - 1.7 Pricing disclosure
 - 1.8 Reduced price distributions
 - 1.9 Market for securities
 - 1.10 Risk factors
 - 1.11 Underwriter(s)
 - 1.12 International issuers
 - 1.13 Restricted securities
 - 1.14 Earnings coverage
- ITEM 2 Table of Contents
- 2.1 Table of contents
- ITEM 3 Summary of Prospectus
- 3.1 General
 - 3.2 Cautionary language
- ITEM 4 Corporate Structure
- 4.1 Name, address and incorporation
 - 4.2 Intercorporate relationships
- ITEM 5 Describe the Business
- 5.1 Describe the business
 - 5.2 Three-year history
 - 5.3 Issuers with asset-backed securities outstanding
 - 5.4 Issuers with mineral projects
 - 5.5 Issuers with oil and gas operations
- ITEM 6 Use of Proceeds
- 6.1 Proceeds
 - 6.2 Junior issuers
 - 6.3 Principal purposes – generally
 - 6.4 Principal purposes – indebtedness
 - 6.5 Principal purposes – asset acquisition
 - 6.6 Principal purposes – insiders, etc.
 - 6.7 Principal purposes – research and development
 - 6.8 Business objectives and milestones
 - 6.9 Unallocated funds in trust or escrow
 - 6.10 Other sources of funding
 - 6.11 Financing by special warrants, etc.
- ITEM 7 Dividends or Distributions
- 7.1 Dividends or distributions
- ITEM 8 Management's Discussion and Analysis

- 8.1 Interpretation
 - 8.2 MD&A
 - ~~8.3 SEC issuers~~
 - 8.3 [Repealed]
 - 8.4 Disclosure of outstanding security data
 - 8.5 More recent financial information
 - 8.6 Additional disclosure for venture issuers or IPO venture issuers without significant revenue
 - 8.7 Additional disclosure for junior issuers
 - 8.8 Additional disclosure for issuers with significant equity investees
- ITEM 9 Earnings Coverage Ratios
- 9.1 Earnings coverage ratios
- ITEM 10 Description of the Securities Distributed
- 10.1 Equity securities
 - 10.2 Debt securities
 - 10.3 Asset-backed securities
 - 10.4 Derivatives
 - 10.5 Special warrants, etc.
 - 10.6 Restricted securities
 - 10.7 Other securities
 - 10.8 Modification of terms
 - 10.9 Ratings
 - 10.10 Other attributes
- ITEM 11 Consolidated Capitalization
- 11.1 Consolidated capitalization
- ITEM 12 Options to Purchase Securities
- 12.1 Options to purchase securities
- ITEM 13 Prior Sales
- 13.1 Prior sales
 - 13.2 Trading price and volume
- ITEM 14 Escrowed Securities and Securities Subject to Contractual Restriction on Transfer
- 14.1 Escrowed securities and securities subject to contractual restriction on transfer
- ITEM 15 Principal Securityholders and Selling Securityholders
- 15.1 Principal securityholders and selling securityholders
- ITEM 16 Directors and Executive Officers
- 16.1 Name, occupation and security holding
 - 16.2 Cease trade orders, bankruptcies, penalties or sanctions
 - 16.3 Conflicts of interest
 - 16.4 Management of junior issuers
- ITEM 17 Executive Compensation
- 17.1 Disclosure
- ITEM 18 Indebtedness of Directors and Executive Officers
- 18.1 Aggregate indebtedness
 - 18.2 Indebtedness of directors and executive officers under securities purchase and other programs
- ITEM 19 Audit Committees and Corporate Governance
- 19.1 Audit committees
 - 19.2 Corporate governance
- ITEM 20 Plan of Distribution
- 20.1 Name of underwriters
 - 20.2 Disclosure of conditions to underwriters' obligations
 - 20.3 Best efforts offering

- 20.4 Minimum distribution
 - 20.5 Determination of price
 - 20.6 Stabilization
 - 20.7 Approvals
 - 20.8 Reduced price distributions
 - 20.9 Listing application
 - 20.10 Conditional listing approval
 - 20.11 IPO venture issuers
 - 20.12 Constraints
 - 20.13 Special warrants acquired by underwriters or agents
- ITEM 21 Risk Factors
- 21.1 Risk factors
- ITEM 22 Promoters
- 22.1 Promoters
- ITEM 23 Legal Proceedings and Regulatory Actions
- 23.1 Legal proceedings
 - 23.2 Regulatory actions
- ITEM 24 Interests of Management and Others in Material Transactions
- 24.1 Interests of management and others in material transactions
 - 24.2 Underwriting discounts
- ITEM 25 Relationship Between Issuer or Selling Securityholder and Underwriter
- 25.1 Relationship between issuer or selling securityholder and underwriter
- ITEM 26 Auditors, Transfer Agents and Registrars
- 26.1 Auditors
 - 26.2 Transfer agents, registrars, trustees or other agents
- ITEM 27 Material Contracts
- 27.1 Material contracts
- ITEM 28 Experts
- 28.1 Names of experts
 - 28.2 Interest of experts
- ITEM 29 Other Material Facts
- 29.1 Other material facts
- ITEM 30 Rights of Withdrawal and Rescission
- 30.1 General
 - 30.2 Non-fixed price offerings
- ITEM 31 List of Exemptions from Instrument
- 31.1 List of exemptions from Instrument
- ITEM 32 Financial Statement Disclosure for Issuers
- 32.1 Interpretation of "issuer"
 - 32.2 Annual financial statements
 - 32.3 Interim financial ~~statements~~[report](#)
 - 32.4 Exceptions to financial statement requirements
 - 32.5 Exceptions to audit requirement
 - 32.6 Additional financial statements or financial information filed or released
- ITEM 33 Credit Supporter Disclosure, Including Financial Statements
- 33.1 Credit supporter disclosure, including financial statements
- ITEM 34 Exemptions for Certain Issues of Guaranteed Securities
- 34.1 Definitions and interpretation

- 34.2 Issuer is wholly-owned subsidiary of parent credit supporter
- 34.3 Issuer is wholly-owned subsidiary of, and one or more subsidiary credit supporters controlled by, parent credit supporter
- 34.4 One or more credit supporters controlled by issuer

ITEM 35 Significant Acquisitions

- 35.1 Application and definitions
- 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 date
- 35.4 Results consolidated in financial statements of issuer
- 35.5 Recently completed acquisitions
- 35.6 Probable acquisitions
- 35.7 Pro forma financial statements for multiple acquisitions
- 35.8 Additional financial statements or financial information of the business filed or released

ITEM 36 Probable Reverse Takeovers

- 36.1 Probable reverse takeovers

ITEM 37 Certificates

- 37.1 Certificates
- 37.2 Issuer certificate form
- 37.3 Underwriter certificate form
- 37.4 Amendments
- 37.5 Non-offering prospectuses

ITEM 38 Transition

- 38.1 Interim financial report
- 38.2 Asset-backed securities

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. This Form 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 this Form.*
- (2) *Terms used and not defined in this Form that are defined or interpreted in the Instrument bear that definition or interpretation. Other definitions are set out in NI 14-101.*
- (3) *In determining the degree of detail required, a standard of materiality must be applied. Materiality is a matter of judgment in the particular circumstance, and is 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 must 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 this Form 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. 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 this Form, 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 persons or companies that the issuer is required, under the issuer's GAAP, to consolidate, proportionately consolidate or account for using the equity method (for example, including "subsidiaries" as that term is used in ~~the Handbook~~ Canadian GAAP). If it is more likely than not that a person or company will become an entity that the issuer will be required, under the issuer's GAAP, to consolidate, proportionately consolidate or account for using the equity method, it may be necessary to also include disclosure with respect to the person or company.*
- (8) *An issuer that is a special purpose ~~vehicle~~ entity 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 make reference to requirements in another instrument or form. Unless this Form states otherwise, issuers must also follow the instruction or requirement in the other instrument or form. These references include references to Form 51-102F2. 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*
- (13) *Wherever this Form uses the word “subsidiary”, the term includes companies and other types of business organizations such as partnerships, trusts and other unincorporated business entities.*
- (14) *Where requirements in this Form make reference to, or are substantially similar to, requirements in Form 51-102F2, issuers may apply the general provision in subpart 1(d) of Form 51-102F2. However, issuers must supplement this disclosure if the supplemented disclosure is necessary to ensure that the prospectus provides full, true and plain disclosure of all material facts related to the securities to be distributed as required under Item 29 of this Form.*
- (15) *Forward-looking information, as defined in NI 51-102, included in a prospectus must comply with section 4A.2 of NI 51-102 and must include the disclosure described in section 4A.3 of NI 51-102. In addition to the foregoing, FOFI or a financial outlook, each as defined in NI 51-102, included in a prospectus must comply with Part 4B of NI 51-102. If the forward-looking information relates to an issuer or other entity that is not a reporting issuer in any jurisdiction, section 4A.2, section 4A.3 and Part 4B of NI 51-102 apply as if the issuer or other entity were a reporting issuer in at least one jurisdiction.*

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 section 1.1 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 sections 1.1 and 1.2 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 securityholders (c)
Per Security			
Total			

- (2)** If there may be an over allocation position,
- (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 any over-allotment option or an option to increase the size of the distribution before closing.
- (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 boldface 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 securityholder 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 securityholder,
 - (b) consideration other than discounts granted and cash paid or payable by the issuer or selling securityholder, 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 securityholder, state the name of the securityholder and a cross-reference to the applicable section in the prospectus where further information about the selling securityholder is provided. State the portion of the expenses of the distribution to be borne by the selling securityholder and, if none of the expenses of the distribution are being borne by the selling securityholder, 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 boldface 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 securityholder,
 - (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 from purchaser to purchaser 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 securityholder.

Pricing disclosure

- 1.7** If the offering price or the number of securities being distributed, or an estimate of the range of the offering price or of the number of securities being distributed, has been publicly disclosed in a jurisdiction or a foreign jurisdiction as of the date of the preliminary prospectus, include this information in the preliminary prospectus.

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 boldface 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 exists or is expected to exist upon completion of the distribution, state the following in boldface type:

“There is no market through which these securities may be sold and purchasers may not be able to resell securities purchased under this prospectus. 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. See ‘Risk Factors’.”

- (4) If the issuer has complied with the requirements of the 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 Canada and the United States of America other than the Alternative Investment Market of the London Stock Exchange or the PLUS markets operated by PLUS Markets Group plc.”

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 NI 33-105 for front 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 final prospectus.
- (5) If there is no underwriter involved in the distribution, provide a statement in boldface 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

Underwriter’s Position	Maximum size or number of securities available	Exercise period or Acquisition date	Exercise price or average acquisition price
Over-allotment option			
Compensation option			
Any other option granted by issuer or insider of issuer to underwriter			
Total securities under option issuable to underwriter			
Other compensation securities issuable to			

underwriter			
-------------	--	--	--

INSTRUCTION

If the underwriter has been granted compensation securities, state, in a footnote, whether the prospectus qualifies the grant of all or part of the compensation securities and provide a cross-reference to the applicable section in the prospectus where further information about the compensation securities is provided.

International issuers

- 1.12** If the issuer, a selling securityholder, or any person or company required to provide a certificate under Part 5 of the Instrument or other securities legislation, 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 securityholder, or person or company providing a certificate under Part 5 of the Instrument or other 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 address(es) of agent(s) for service] as its agent(s) for service of process in [list jurisdictions] it may not be possible for investors to enforce 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 terms 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 is less than one-to-one, disclose this fact in boldface 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 securityholder, 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 section 10.6, and
 - (ii) include, in boldface 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 section 10.6.
- (2) For the financial information provided under paragraph (1)(e),
 - (a) describe the type of information appearing elsewhere in the prospectus on which the financial information is based,
 - (b) disclose whether the information appearing elsewhere in the prospectus on which the financial information is based has been audited,
 - (c) disclose whether the financial information has been audited, and
 - (d) if neither the information appearing elsewhere in the prospectus on which the financial information is based 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, or controlled or directed, directly or indirectly, by the issuer,
 - (b) the percentage of each class of restricted securities of the subsidiary beneficially owned, or controlled or directed, directly or indirectly, by the issuer, and
 - (c) where the subsidiary was incorporated, continued, formed or organized.

- (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 section 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~~revenue of the subsidiary ~~dedoes~~ not exceed 10% of the consolidated ~~sales and operating revenues~~revenue 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 these 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.
- (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 three 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 three 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 three 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 If the issuer has asset-backed securities outstanding that were distributed under a prospectus, disclose information in accordance with section 5.3 of Form 51-102F2.

Issuers with mineral projects

- 5.4 If the issuer has a mineral project, disclose information for the issuer in accordance with section 5.4 of Form 51-102F2.

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
- (a) as at the end of, and for, the most recent financial year for which the prospectus includes an audited ~~balance sheet~~statement of financial position 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~~statement of financial position of the issuer, and for the most recent financial period for which the prospectus includes an audited statement of comprehensive income~~statement~~ of the issuer.
- (2)** Include with the disclosure under subsection (1) a report in the form of Form 51-101F2, 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 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 in respect of material changes that occurred after the applicable ~~balance sheet~~statement of financial position 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 securityholder 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 securityholder 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 estimated 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 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.

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 two 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 disclose 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, identify the vendor and the nature of the relationship to the issuer, and disclose 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 two 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 the nature of the relationship to the issuer, 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 section 6.1, or in the case of a junior issuer, using the funds available described under section 6.2.

- (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 three 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) For MD&A in the form of Form 51-102F1, the issuer
- (a) must read the references to a "venture issuer" in Form 51-102F1 to include an IPO venture issuer,
 - (b) must disregard
 - (i) the Instruction to section 1.11 of Form 51-102F1, and
 - (ii) section 1.15 of Form 51-102F1, and
 - (c) must include the disclosure required by section 1.10 of Form 51-102F1 in the prospectus.

INSTRUCTION

For the purposes of paragraph (2)(c), an issuer cannot satisfy the requirement in section 1.10 of Form 51-102F1 by incorporating by reference its fourth quarter MD&A into the prospectus.

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, and
 - (b) the most recent interim financial ~~statements~~report of the issuer included in the prospectus under Item 32.
- (2) If the prospectus includes the issuer's annual ~~income~~ statements of comprehensive income, statements of ~~retained earnings~~changes in equity, and statements of cash flow ~~statements~~ for three financial years under Item 32, provide MD&A for the second most recent annual financial statements of the issuer included in the prospectus under Item 32.
- (3) Despite subsection (2), MD&A for the second most recent annual financial statements of the issuer included in the prospectus under Item 32 may omit disclosure regarding ~~balance sheet~~statement of financial position items.

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 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~~

[Repealed]

~~(a) are based on financial statements of the issuer prepared in accordance with U.S. GAAP, and~~

8.3(1) [Repealed]

~~(b) would contain material differences if they were based on financial statements of the issuer prepared in accordance with Canadian GAAP.~~

(2) [Repealed]

Disclosure of outstanding security data

8.4(1) Disclose 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 historical financial information in the prospectus under subsection 32.6(1), 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 two financial years, disclose a breakdown of material components of
- (a) ~~capitalized or expensed~~ exploration and ~~development costs~~ evaluation assets or expenditures,
 - (b) expensed research and development costs,
 - (c) ~~deferred~~ intangible assets arising from development ~~costs~~,
 - (d) general and administrative expenses, and
 - (e) any material costs, whether ~~capitalized, deferred or~~ expensed or recognized as assets, not referred to in paragraphs (a) through (d).
- (2) Present the analysis of ~~capitalized or expensed~~ exploration and ~~development costs~~ evaluation assets or expenditures 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) the two most recently completed financial years; and
 - (b) the most recent year-to-date interim period and the comparative year-to-date period presented in the interim financial ~~statements~~ report 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 included in the prospectus.

Additional disclosure for junior issuers

- 8.7 For a junior issuer that had negative cash flow from operating ~~cash flow~~ activities in its most recently completed financial year for which financial statements have been included in the prospectus, disclose
- (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.

In determining cash flow from operating activities, the issuer must include dividends and borrowing costs.

Additional disclosure for issuers with significant equity investees

- 8.8(1) An issuer that has a significant equity investee must disclose
- (a) summarized financial information ~~as to the~~ of the equity investee, including the aggregated amounts of assets, liabilities ~~and results of operations of the equity investee,~~ revenue and profit or loss, 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 profit or loss.
- (2) Provide the disclosure in subsection (1) for the following periods:
- (a) the two most recently completed financial years;
 - (b) the most recent year-to-date interim period and the comparative year-to-date period presented in the interim financial statements report included in the prospectus, if any.
- (3) Subsection (1) does not apply if
- (a) the information required under that subsection has been disclosed in the financial statements included in the prospectus, or
 - (b) the issuer includes in the prospectus separate financial statements of the equity investee for the periods referred to in subsection (2).

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 annual financial statements included in the prospectus,
 - (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 an interim financial statements report of the issuer have has 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 financial statements or interim financial statements report, and
 - (ii) the repurchase, redemption or other retirement of all preferred shares repurchased, redeemed, or otherwise retired since the date of the annual financial statements or interim financial statements report 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 financial statements or interim financial statements report, and
 - (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 financial statements or interim financial statements report 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~~
- ~~(e) [Repealed]~~
- ~~(c) the earnings coverage ratios for the periods referred to in subsection (1), calculated as though those securities had been accounted for as debt.~~
- (3) [Repealed]
- (4) If the earnings coverage ratio is less than one-to-one, disclose in the prospectus the dollar amount of the earnings numerator 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) Cash flow coverage may be disclosed but only as a supplement to earnings coverage and only if the method of calculation is fully disclosed.
- (2) Earnings coverage is calculated by dividing an entity's earnings profit or loss (the numerator) by its interest borrowing costs and dividend obligations (the denominator).
- (3) For the earnings coverage calculation
- ~~(a) the numerator should be calculated using consolidated net income profit or loss before interest borrowing costs 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;~~
- (c) [Repealed]
- (d) for distributions of debt securities, the appropriate denominator is interest expense determined in accordance with the issuer's GAAP borrowing costs, after giving effect to the new debt securities issue and any retirement of obligations, plus the amount of interest borrowing costs that has have 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 borrowing cost requirements, including the amount of interest borrowing costs that has have 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 securities being offered pursuant to the prospectus.
- (4) The denominator represents a pro forma calculation of the aggregate of an issuer's ~~interest~~borrowing cost obligations on all ~~long-term debt~~financial liabilities 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~~financial liabilities and, in addition in the case of an issuance of preferred shares, all preferred shares issued, since the date of the annual financial statements or interim financial ~~statements~~report;
- (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; and
- (c) the repayment or redemption of all ~~long-term debt~~financial liabilities since the date of the annual financial statements or interim financial ~~statements~~report, all ~~long-term debt~~financial liabilities 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 financial statements or interim financial ~~statements~~report 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.~~
- ~~(5) 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) 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), 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~~
- ~~(d) [Repealed]~~
- ~~(c) the earnings coverage ratios for the periods referred to in subsection 9.1(1), calculated as though those debt securities had been classified as long-term debt.~~
- ~~(5) [Repealed]~~
- (6) For debt securities, disclosure of earnings coverage shall include language similar to the following, with the bracketed and bulleted information completed:
- "[Name of the issuer]'s interestborrowing cost 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 earningsprofit or loss before interestborrowing costs and income tax for the 12 months then ended was \$•, which is • times [name of the issuer]'s interestborrowing cost requirements for this period."
- (7) For preferred share issues, disclosure of earnings coverage shall include language similar to the following, with the bracketed and bulleted 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 interestborrowing cost requirements for the 12 months then ended amounted to \$•. [Name of the issuer]'s earningsprofit or loss before interestborrowing costs and income tax for the 12 months ended • was \$•, which is • times [name of the issuer]'s aggregate dividend and interestborrowing cost requirements for this period."

- (8) *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 securityholder 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(1)** This section applies only if any asset-backed securities are being distributed under the prospectus.

- (2) Describe the material attributes and characteristics of the asset-backed securities, including
- (a) the rate of interest or stipulated yield and any premium,
 - (b) 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,
 - (c) provisions for the accumulation of cash flows to provide for the repayment of principal or return of capital,
 - (d) provisions permitting or restricting the issuance of additional securities and any other material negative covenants applicable to the issuer,
 - (e) 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
 - (f) 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.
- (3) Provide financial disclosure that describes the underlying pool of financial assets for
- (a) the three 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) if the issuer has not had asset-backed securities outstanding for three financial years, each completed financial year 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,
 - (c) 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.
- (4) For the purposes of the financial disclosure required by subsection (3), if an issuer changed its financial year end during any of the financial years referred to in subsection (3) and the transition year is less than nine months, the transition year is not a financial year.
- (5) Despite subsection (4), all financial disclosure that describes the underlying pool of financial assets of the issuer for a transition year must be included in the prospectus for the most recent interim period, if any, ended
- (a) subsequent to the most recent financial year refer to in paragraphs (3)(a) and (3)(b) in respect of which financial disclosure on the underlying pool of financial assets is 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.

- (6) If the issuer files financial disclosure that describes the underlying pool of financial assets for a more recent period than required under subsection (3) or (5) before the prospectus is filed, the issuer must include that more recent financial disclosure that describes the underlying pool of financial assets in the prospectus.
- (7) If financial disclosure that describes 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 subsection (3) or (5), the issuer must include the content of the news release or public communication in the prospectus.
- (8) The disclosure in subsections (3) and (5) must include a discussion and analysis of
- (a) the composition of the pool as at the end of the period,
 - (b) ~~income~~profit 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,
 - (c) 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,
 - (d) servicing and other administrative fees, and
 - (e) any significant variances experienced in the matters referred to in paragraphs (a) through (d).
- (9) Describe 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.
- (10) Describe any person or company who
- (a) originated, sold or deposited a material portion of the financial assets comprising the pool, or has agreed to do so,
 - (b) 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,
 - (c) 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
 - (i) finding a replacement provider of the services at a cost comparable to the cost of the current provider is not reasonably likely,
 - (ii) a replacement provider of the services is likely to achieve materially worse results than the current provider,
 - (iii) the current provider of the services is likely to default in its service obligations because of its current financial condition, or
 - (iv) the disclosure is otherwise material,
 - (d) 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
 - (e) 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.
- (11) Describe the general business activities and material responsibilities under the asset-backed securities of a person or company referred to in subsection (10).
- (12) Describe the terms of any material relationships between

- (a) any of the persons or companies referred to in subsection (10) or any of their respective affiliates, and
 - (b) the issuer.
- (13)** Describe any provisions relating to termination of services or responsibilities of any of the persons or companies referred to in subsection (10) and the terms on which a replacement may be appointed.
- (14)** Describe 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 subsections (3) through (8) 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 paragraph (2)(f) have occurred, are being satisfied or may be satisfied.*
- (2) *If the information required under subsections (3) through (8) 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 so that the performance of the larger pool is representative of the performance of the pool of securitized assets, then an issuer may comply with subsections (3) through (8) by providing the financial disclosure 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 subsection (10), 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) settlements that are the result of the exercise 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:

“The issuer has granted to each holder of a special warrant a contractual right of rescission of the prospectus-exempt transaction under which the special warrant was initially acquired. The contractual right of rescission provides that if a holder of a special warrant who acquires another security of the issuer on exercise of the special warrant as provided for in the prospectus is, or

becomes, entitled under the securities legislation of a jurisdiction to the remedy of rescission because of the prospectus or an amendment to the prospectus containing a misrepresentation,

- (a) the holder is entitled to rescission of both the holder's exercise of its special warrant and the private placement transaction under which the special warrant was initially acquired,
- (b) the holder is entitled in connection with the 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, and
- (c) if the holder is a permitted assignee of the interest of the original special warrant subscriber, the holder is entitled to exercise the rights of rescission and refund as if the holder was the original subscriber."

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 as or greater than, on a per security basis, 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 the basis upon which it was exempt from, the requirements of Part 12 of the Instrument.
- (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 boldface 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 effect has been given 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 about the 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 is aware that it 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 overall 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 that is to be made by, an approved rating organization to the effect that the organization is reviewing or intends to revise or withdraw a rating previously assigned and required to be disclosed under this section.

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~~ derivative instruments, 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 section.

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 section 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 in any jurisdiction immediately before filing the prospectus, state, in tabular form, as at a specified date within 30 days before the date of the prospectus, information about 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, excluding, in each case, 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 (1)(f), the particulars of the grant including the consideration for the grant.*
- (2) *For the purposes of paragraph (1)(f), 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 for 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 issued or are to be issued by the issuer or sold by the selling securityholder,
 - (b) the number of securities issued or sold at that price, and
 - (c) the date on which the securities were issued or 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.

INSTRUCTIONS

- (1)** *For purposes of this section, escrow includes securities subject to a pooling agreement.*
- (2)** *For the purposes of this section, securities subject to contractual restrictions on transfer as a result of pledges made to lenders are not required to be disclosed.*

ITEM 15: Principal Securityholders and Selling Securityholders

Principal securityholders and selling securityholders

- 15.1(1)** Provide the following information for each principal securityholder of the issuer and, if any securities are being distributed for the account of a securityholder, for each selling securityholder:
- (a) the name;

- (b) the number or amount of securities owned, controlled or directed of the class being distributed;
 - (c) the number or amount of securities of the class being distributed for the account of the securityholder;
 - (d) the number or amount of securities of the issuer of any class to be owned, controlled or directed 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 paragraph (1)(a) that will exist after effect has been given to the transaction.
- (3) If any of the securities being distributed are being distributed for the account of a securityholder and those securities were purchased by the selling securityholder within the two years preceding the date of the prospectus, state the date the selling securityholder acquired the securities and, if the securities were acquired in the 12 months preceding the date of the prospectus, the cost to the securityholder 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 securityholder or selling securityholder is an associate or affiliate of another person or company named as a principal securityholder, 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 securityholder 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 securityholder 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 section 10.1 of Form 51-102F2 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 in accordance with section 10.2 of Form 51-102F2 as if the references in that section 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 of 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.

INSTRUCTION

For purposes of this section, “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.

ITEM 17: Executive Compensation

Disclosure

- 17.1** Include in the prospectus a Statement of Executive Compensation prepared in accordance with Form 51-102F6 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 section 10.1 of Form 51-102F5 as if the reference in that section to “date of the information circular” read “date of the prospectus”.

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

- 18.2(1)** Provide information for the issuer in accordance with section 10.2 of Form 51-102F5 as if the reference in this section to “date of the information circular” read “date of the prospectus”.

- (2)** Do not disclose the information required under subsection (1) for

- (a) any indebtedness that has been entirely repaid on or before the date of the prospectus, or
- (b) routine indebtedness (as defined in paragraph 10.3(c) of Form 51-102F5 as if reference in this paragraph to “the company” read “the issuer”).

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, 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, as applicable, if the issuer is a venture issuer or an IPO venture issuer.

Corporate governance

- 19.2(1)** Include in the prospectus the disclosure in accordance with Form 58-101F1, 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, as applicable, if the issuer is a venture issuer or an IPO venture issuer.

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 securityholder] 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 securityholder] 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 section 20.2.

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 who is a practicing member in good standing with a law society of a jurisdiction in which the securities are being distributed, or a notary in Québec, 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 securityholder 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 proceeds of the distribution will be used to substantially fund a material undertaking that would constitute a material departure from the business or operations of the issuer and the issuer has not obtained all material licences, registrations and approvals necessary for the stated principal use of proceeds, include a statement that
- (a) the issuer will 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 a notary in Québec, to hold in trust all funds received from subscriptions until all material licences, registrations and approvals necessary for the stated principal use of proceeds have been obtained, and
 - (b) if all material licences, registrations and approvals necessary for the operation of the material undertaking have not been obtained within 90 days from the date of receipt of the final prospectus, the trustee will 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 the 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 securityholder.

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]’s 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 securityholders].”

IPO venture issuers

- 20.11** If the issuer has complied with the requirements of the 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 PLUS markets operated by PLUS Markets Group plc.”

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 securityholders 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 and that are not otherwise described under subsection (1) or (2).

INSTRUCTIONS

- (1)** *Disclose risks in the order of seriousness from the most serious to the least serious.*
- (2)** *A risk factor must not be de-emphasized by including excessive caveats or conditions.*

ITEM 22: Promoters

Promoters

- 22.1(1)** For a person or company that is, or has been within the two years immediately preceding the date of the prospectus, a promoter of the issuer or subsidiary of the issuer, 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, or controlled or directed, directly or indirectly, 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 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 two 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,
 - (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 or the promoter, or an affiliate of the issuer or the promoter, and
 - (iii) the date that the asset was acquired by the promoter and the cost of the asset to the promoter.
- (2)** If a promoter referred to in subsection (1) is, as at the date of the preliminary prospectus, or was within 10 years before the date of the preliminary prospectus, a director, chief executive officer, or chief financial officer of any person or company, that
- (a) was subject to an order that was issued while the promoter was acting in the capacity as director, chief executive officer or chief financial officer, or
 - (b) was subject to an order that was issued after the promoter ceased to be a director, chief executive officer or chief financial officer and which resulted from an event that occurred while the promoter was acting in the capacity as director, chief executive officer or chief financial officer,
- state the fact and describe the basis on which the order was made and whether the order is still in effect.
- (3)** For the purposes of subsection (2), "order" means:
- (a) a cease trade order,
 - (b) an order similar to a cease trade order, or
 - (c) an order that denied the relevant person or company access to any exemption under securities legislation,
- that was in effect for a period of more than 30 consecutive days.
- (4)** If a promoter referred to in subsection (1)
- (a) is, as at the date of the preliminary prospectus, or has been within the 10 years before the date of the preliminary prospectus, a director or executive officer of any person or company that, while the promoter was acting in that capacity, or 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 was 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, or
 - (b) has, within the 10 years before the date of the preliminary prospectus, become bankrupt, made a proposal under any legislation relating to bankruptcy or insolvency, or become 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, state the fact.

- (5) 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 referred to in subsection (1) has been subject to
- (a) any penalties or sanctions imposed by a court relating to provincial and territorial securities legislation or by a provincial and territorial securities regulatory authority or has entered into a settlement agreement with a provincial and 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.
- (6) Despite subsection (5), 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.

INSTRUCTIONS

- (1) *The disclosure required by subsections (2), (4) and (5) also applies to any personal holding companies of any of the persons referred to in subsections (2), (4), and (5).*
- (2) *A management cease trade order which applies to a promoter referred to in subsection (1) is an "order" for the purposes of paragraph (2)(a) and must be disclosed, whether or not the director, chief executive officer or chief financial officer was named in the order.*
- (3) *For the purposes of this section, a late filing fee, such as a filing fee that applies to the late filing of an insider report, is not a "penalty or sanction".*
- (4) *The disclosure in paragraph (2)(a) only applies if the promoter was a director, chief executive officer or chief financial officer when the order was issued against the person or company. The issuer does not have to provide disclosure if the promoter became a director, chief executive officer or chief financial officer after the order was issued.*

ITEM 23: Legal Proceedings and Regulatory Actions

Legal proceedings

- 23.1(1)** Describe any legal proceedings the issuer is or was a party to, or that any of its property is or was the subject of, since the beginning of the most recently completed financial year for which financial statements of the issuer are included in the prospectus.
- (2) Describe any such legal proceedings the issuer knows to be 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 proceeding, the nature of the claim, the amount claimed, if any, whether the proceeding is being contested, and the present status of the proceeding.

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 provincial and territorial securities legislation or by a securities regulatory authority within the three years immediately preceding the date of the prospectus,

- (b) any other penalties or sanctions imposed by a court or regulatory body against the issuer necessary 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 before a court relating to provincial and territorial securities legislation or with a securities regulatory authority within the three 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 section in accordance with section 13.1 of Form 51-102F2 as if the reference in that section to “within the three most recently completed financial years or during the current financial year that has materially affected or is reasonably expected to materially affect your company” read “within the three years before the date of the prospectus that has materially affected or is reasonably expected to 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 in section 13.1 of Form 51-102F2 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 Securityholder and Underwriter

Relationship between issuer or selling securityholder and underwriter

- 25.1(1)** If the issuer or selling securityholder is a connected issuer or related issuer of an underwriter of the distribution, or if the issuer or selling securityholder 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 any material contract
- (a) required to be filed under section 9.3 of the Instrument, or
 - (b) that would be required to be filed under section 9.3 of the Instrument but for the fact that it was previously filed.

INSTRUCTIONS

- (1) *Set out a complete list of all contracts for which particulars must be given under this section, 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 must include the dates of, parties to, consideration provided for in, and general nature and key terms 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 section 28.1, provide the disclosure in accordance with section 16.2 of Form 51-102F2, as of the date of the prospectus, as if that person or company were a person or company referred to in section 16.1 of Form 51-102F2.

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 any other 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 two 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,] revisions of the price or damages] if the prospectus and any amendment contains a misrepresentation or is not delivered to the purchaser, provided that the remedies for rescission[, revisions of the price 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 section 30.1 with a statement in substantially the following form:

“This right may only be exercised within two 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 the Instrument, including this Form, 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 the Instrument.

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, or will form, the basis of the business of the issuer, even though the predecessor entity is, or may have been, a different legal entity, if the issuer has not existed for three years,
 - (b) the financial statements of a business or businesses acquired by the issuer within three years before the date of the prospectus or proposed to be acquired, if a reasonable investor reading the prospectus would regard the primary business of the issuer to be the business or businesses acquired, or proposed to be 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 three years before the date of the prospectus or proposes to complete a transaction, if the issuer accounted for or will account for the transaction as a continuity of interests combination in which all of the combining entities or businesses ultimately are controlled by the same party or parties both before and after the combination, and that control is not temporary.

Annual financial statements

- 32.2(1) Subject to section 32.4, include annual financial statements of the issuer consisting of
- (a) ~~an income~~a statement of comprehensive income, a statement of ~~retained earnings~~changes in equity, and a ~~statement of cash flow~~statement of flows for each of the three 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~~statement of financial position as at the end of the two most recently completed financial years described in paragraph (a), ~~and~~
 - (c) a statement of financial position as at the beginning of the earliest comparative period for which financial statements that are included in the prospectus comply with IFRS in the case of an issuer that
 - (i) discloses in its annual financial statements an explicit and unreserved statement of compliance with IFRS, and
 - (ii) does any of the following
 - (A) applies an accounting policy retrospectively in its annual financial statements,
 - (B) makes a retrospective restatement of items in its annual financial statements, or
 - (C) reclassifies items in its annual financial statements,
 - (d) in the case of an issuer's first IFRS financial statements, the opening IFRS statement of financial position at the date of transition to IFRS, and

(e) _____ notes to the annual financial statements.

(1.1) If an issuer presents the components of profit or loss in a separate income statement, the separate income statement must be displayed immediately before the statement of comprehensive income filed under subsection (1).

(2) If the issuer has not completed three 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 section and the transition year is less than nine 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 section.

(5) Notwithstanding subsection (4), all financial statements of the issuer for a transition year referred to in subsection (4) must be included in the prospectus.

(6) Subject to section 32.4, if financial statements of any predecessor entity, business or businesses acquired by the issuer, or of any other entity are required under this section, then include

(a) statements of comprehensive income, statements, ~~statements of retained earnings, and cash flow statements of changes in equity, and statements of cash flow~~ for the entities or businesses 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 statements of comprehensive income, statements, ~~statements of retained earnings, and cash flow statements of changes in equity, and statements of cash flow~~ are included in the prospectus, the results of the entities or businesses, either separately or on a consolidated basis, total three years,

(b) ~~balance sheets~~statements of financial position for the entities or businesses 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~~statements of financial position are included in the prospectus, the financial position of the entities or businesses, either separately or on a consolidated basis, total two years, ~~and~~

(c) if the entities or businesses have not completed three financial years, the financial statements described under paragraphs (a) and (b) for each completed financial year of the entities or businesses for which the issuer's financial statements in the prospectus do not include the financial statements of the entities or businesses, either separately or on a consolidated basis, and 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.

(d) if an entity's or business's first IFRS financial statements are included under paragraphs (a), (b) or (c), the opening IFRS statement of financial position at the date of transition to IFRS, and

(e) a statement of financial position as at the beginning of the earliest comparative period for which financial statements that are included in the prospectus comply with IFRS in the case of an issuer that

(i) discloses in its annual financial statements an explicit and unreserved statement of compliance with IFRS, and

(ii) does any of the following

(A) applies an accounting policy retrospectively in its financial statements,

(B) makes a retrospective restatement of items in its financial statements, or

(C) reclassifies items in its financial statements.

Interim financial ~~statements~~report

32.3(1) Include a comparative interim financial ~~statements~~report 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~~report referred to in subsection (1) must include

- (a) ~~a balance sheet~~statement of financial position as at the end of the interim period and a ~~balance sheet~~statement of financial position as at the end of the immediately preceding financial year, if any,
- (b) ~~an income~~statement of comprehensive income, a statement of ~~retained earnings~~changes in equity, and a ~~statement of cash flow~~statement of flows, 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~~an issuer's financial year, ~~and a statement of comprehensive 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 immediately preceding financial year, if any, ~~and~~

(d) a statement of financial position as at the beginning of the earliest comparative period for which financial statements that are included in the prospectus comply with IFRS in the case of an issuer that

(i) discloses in its interim financial report compliance with International Accounting Standard 34 Interim Financial Reporting, and

(ii) does any of the following

(A) applies an accounting policy retrospectively in its interim financial report,

(B) makes a retrospective restatement of items in its interim financial report, or

(C) reclassifies items in its interim financial report.

(e) in the case of the first interim financial report required to be filed in the year of adopting IFRS, the opening IFRS statement of financial position at the date of transition to IFRS, and

(f) notes to the interim financial report.

(3) If an issuer presents the components of profit or loss in a separate income statement, the separate income statement must be displayed immediately before the statement of comprehensive income filed under subsection (2).

- (4) If the issuer is required to include under subsection 32.3(1), a comparative interim financial report of the issuer for the second or third interim period in the year of adopting IFRS, include
- (a) the issuer's first interim financial report in the year of adopting IFRS, or
 - (b) both
 - (i) the opening IFRS statement of financial position at the date of transition to IFRS, and
 - (ii) the annual and date of transition to IFRS reconciliations required by IFRS 1 *First-time Adoption of International Financial Reporting Standards* to explain how the transition from previous GAAP to IFRS affected the issuer's reported financial position, financial performance and cash flows.
 - ~~(d) notes to the financial statements.~~
- (5) Subsection (4) does not apply to an issuer that was a reporting issuer in at least one jurisdiction immediately before filing the prospectus.

Exceptions to financial statement requirements

- 32.4** Despite section 32.2, an issuer is not required to include the following financial statements in a prospectus
- (a) the ~~income statement of comprehensive income~~, the statement of ~~retained earnings~~changes in equity, and the statement of cash flow statement flows for the third most recently completed financial year, if the issuer is a reporting issuer in at least one jurisdiction immediately before filing the prospectus,
 - (b) the statement of comprehensive income, the ~~statement, the statement of retained earnings of changes in equity~~, and the statement of cash flow statement flows 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 in at least one jurisdiction 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 statement of comprehensive income, the ~~statement, the statement of retained earnings of changes in equity~~, and the ~~cash flow~~ statement of cash flows for the third most recently completed financial year, and the ~~balance sheet~~ statement of financial position for the second most recently completed financial year, if the issuer includes financial statements for a financial year ended less than 90 days before the date of the prospectus,
 - (d) the statement of comprehensive income, the ~~statement, the statement of retained earnings of changes in equity~~, and the statement of cash flow statement flows 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 in at least one jurisdiction immediately before filing the prospectus,
 - (ii) the issuer includes audited financial statements for a period of at least nine months commencing the day after the most recently completed financial year for which financial statements are required under section 32.2,
 - (iii) the business of the issuer is not seasonal, and

- (iv) none of the financial statements required under section 32.2 are for a financial year that is less than nine months,
- (e) the ~~income statement of comprehensive income~~, the statement of ~~retained earnings~~changes in equity, and the ~~statement of cash flow statement~~flows for the third most recently completed financial year, and the ~~balance sheet~~statement of financial position for the second most recently completed financial year, if
 - (i) the issuer includes audited financial statements for a period of at least nine months commencing the day after the most recently completed financial year for which financial statements are required under section 32.2,
 - (ii) the business of the issuer is not seasonal, and
 - (iii) none of the financial statements required under section 32.2 are for a financial year that is less than nine months, or
- (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).

Exceptions to audit requirement

32.5 The audit requirement in section 4.2 of the Instrument does not apply to the following financial statements

- (a) any financial statements for the second and third most recently completed financial years required under section 32.2, 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 section 32.2, if
 - (i) the issuer is a junior issuer, and
 - (ii) the financial statements for the most recently completed financial year required under section 32.2 is not less than 12 months in length, or
- (c) any interim financial ~~statements~~report required under section 32.3.

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 section 32.2 or 32.3 before the prospectus is filed, the issuer must include in the prospectus those more recent financial statements.
- (2)** If historical 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 section 32.2, 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, 5, 8, 9, 16, 21, 23, 25, 26, and 32 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 three percent of the total consolidated amounts,
- (b) a parent entity has “limited independent operations” if each item of its summary financial information represents less than three percent of the total consolidated amounts,
- (c) a subsidiary is a “finance subsidiary” if it has minimal assets, operations, ~~revenues~~revenue 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 and 34.3 and an issuer for the purpose of section 34.4,
- (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;~~
(i) revenue;
 - (ii) ~~income~~profit or loss from continuing operations;
 - (iii) ~~net earnings~~profit 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~~statement of financial position 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, 5, 8, 9, 21, 23, 25, 26, and 32, 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 consolidated interim financial report and consolidated annual ~~consolidated~~ financial statements included in the prospectus under Item 33, 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, 5, 8, 9, 21, 23, 25, 26, and 32, or the credit supporter disclosure of one or more subsidiary credit supporters required by Item 33, 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, 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, if
- (a) one or more credit supporters have each provided full and unconditional credit support for the securities being distributed,
 - (b) 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, 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 transaction by the issuer that was or will be ~~accounted for as~~ a reverse takeover or a transaction that is a proposed reverse takeover that has progressed to a state where a reasonable person would believe that the likelihood of the reverse takeover being completed is high.
- (2)** The requirements in sections 35.5 and 35.6 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 the Instrument 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 in at least one jurisdiction on the ~~date of the~~ acquisition date, is determined to be a significant acquisition under section 8.3 of NI 51-102, or
 - (b) if the issuer was not a reporting issuer in any jurisdiction on the ~~date of the~~ acquisition date, would be determined to be a significant acquisition under section 8.3 of NI 51-102, as if
 - (i) the issuer was a reporting issuer on the ~~date of the~~ acquisition date,
 - (ii) the references to a “venture issuer” were read as an “IPO venture issuer” if the issuer is an IPO venture issuer,
 - (iii) for the purposes of the optional tests, the issuer used 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~~ profit or loss test, the most recently completed financial year of the business or related businesses were 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 were 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 did not apply,
 - (vi) references to “~~annual~~ audited annual statements filed” meant “audited annual financial statements included in the long form prospectus”, and

- (vii) in subsection 8.3(15) of NI 51-102, the reference to “been required to file, and has not filed,” meant “been required to include, and has not included, in the long form 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 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~~ date

35.3(1) 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 in any jurisdiction on the ~~date of the~~ acquisition date,
 - (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, as if
- (a) the issuer was a reporting issuer in at least one jurisdiction on the ~~date of the~~ acquisition date,
 - (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 date, if the issuer is an IPO venture issuer,
 - (d) subsections 8.4(4) and 8.4(6) of NI 51-102 did not apply, and
 - (e) references to financial statements filed or required to be filed meant financial statements included in the prospectus.

Results consolidated in financial statements of issuer

35.4 Despite section 35.2 and subsection 35.3(1), an issuer may omit the financial statements or other information of a business required to be included in the prospectus, if at least nine 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 section 35.2 or subsection 35.3(2).

- (2) For a significant acquisition to which subsection (1) applies, include the following
- (a) the information required by sections 2.1 through 2.6 of Form 51-102F4, and
 - (b) the financial statements of or other information about the acquisition under subsection (3) for the acquired business or related businesses, if
 - (i) the issuer was not a reporting issuer in any jurisdiction immediately before filing the prospectus, or
 - (ii) the issuer was a reporting issuer in at least one jurisdiction 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 paragraph (2)(b) must be satisfied by including
- (a) if the issuer was a reporting issuer in at least one jurisdiction on the ~~date of~~ acquisition date, 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,
 - (b) if the issuer was not a reporting issuer in any jurisdiction on the ~~date of~~ acquisition date, the financial statements or other information that would be required by subsection 35.3(2), or
 - (c) satisfactory alternative financial statements or other information.

Probable acquisitions

35.6(1) Include the information required under subsection (2) for any proposed acquisition of a business or related businesses by an issuer that has progressed to a state where a reasonable person would believe that the likelihood of the issuer completing the acquisition is high, and that, if completed by the issuer at the date of the prospectus, would be a significant acquisition.

- (2) For a proposed acquisition of a business or related businesses by the issuer that has progressed to a state where a reasonable person would believe that the likelihood of the issuer completing the acquisition is high and to which subsection (1) applies, include
- (a) the information required by sections 2.1 through 2.6 of Form 51-102F4, 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 in any jurisdiction immediately before filing the prospectus, or
 - (ii) the issuer was a reporting issuer in at least one jurisdiction 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 proposed acquisition of a business or related businesses by the issuer that has progressed to a state where a reasonable person would believe that the likelihood of the issuer completing the acquisition is high and 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 in at least one jurisdiction 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, as if the ~~date of the~~ acquisition date were the date of the prospectus,

- (b) if the issuer was not a reporting issuer in any jurisdiction immediately before filing the prospectus, the financial statements or other information that would be required to be included by subsection 35.3(2), as if the acquisition had been completed before the filing of the prospectus and the ~~date of the~~ acquisition date were the date of the prospectus, or
- (c) satisfactory alternative financial statements or other information.

Pro forma financial statements for multiple acquisitions

35.7 Despite sections 35.2, 35.3, 35.5 and 35.6, 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) reflects 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) is prepared as if each acquisition had 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) is prepared in accordance with
 - (i) if no disclosure is otherwise required for a probable acquisition under section 35.6, the section in this Item that applies to the most recently completed acquisition, or
 - (ii) section 35.6.

Additional financial statements or financial information of business filed or released

35.8(1) An issuer must include in its prospectus annual financial statements and an interim financial ~~statements~~report of a business or related businesses for a financial period that ended before the ~~date of the~~ acquisition date and is more recent than the periods for which financial statements are required under section 35.5 or 35.6 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, historical financial information of a business or related businesses for a period more recent than the period for which financial statements are required under section 35.5 or 35.6, 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 proposed reverse takeover that has progressed to a state where a reasonable person would believe that the likelihood of the reverse takeover being completed is high, include statements by the reverse takeover acquirer providing disclosure about the reverse takeover acquirer that would be required under this Form, 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 4, 5, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 23, 24, 25, 27, 28, and 32.

ITEM 37: Certificates

Certificates

37.1 Include the certificates required by Part 5 of the Instrument or by 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, change “prospectus” to “prospectus dated [insert date] as amended by this amendment” wherever it appears in the statements in sections 37.2 and 37.3.

(2) For an amended and restated prospectus, change “prospectus” to “amended and restated prospectus” wherever it appears in the statements in sections 37.2 and 37.3.

Non-offering prospectuses

37.5 For a non-offering prospectus, change “securities offered by this prospectus” to “securities previously issued by the issuer” wherever it appears in the statements in sections 37.2 and 37.3.

ITEM 38: Transition

Interim financial report

38.1(1) Despite subsection 32.3(1), an issuer may include a comparative interim financial report 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) _____ 75 days before the date of the prospectus, or

(ii) _____ 90 days before the date of the prospectus if the issuer is a venture issuer.

(2) Subsection (1) does not apply unless

(a) _____ the comparative interim financial report is the first interim financial report required to be filed in the year of adopting IFRS in respect of an interim period beginning on or after January 1, 2011,

(b) _____ the issuer is a reporting issuer in any jurisdiction immediately before the date of the final long form prospectus, and

(c) _____ the final long form prospectus is filed before July 5, 2012.

Asset-backed securities

38.2(1) Despite subsection 10.3(5), all financial disclosure that describes the underlying pool of financial assets of the issuer for a transition year must be included in the prospectus for the most recent interim period, if any, ended

- (a) subsequent to the most recent financial year referred to in paragraphs 10.3(3)(a) and 10.3(3)(b) in respect of which financial disclosure on the underlying pool of financial assets is included in the prospectus, and
- (b) more than
 - (i) 75 days before the date of the prospectus, or
 - (ii) 90 days before the date of the prospectus if the issuer is a venture issuer.
- (2) Subsection (1) does not apply unless**
 - (a) the financial disclosure in respect of the interim period is the first interim financial report required to be filed in the year of adopting IFRS in respect of an interim period beginning on or after January 1, 2011,
 - (b) the issuer is a reporting issuer in any jurisdiction immediately before the date of the final long form prospectus, and
 - (c) the final long form prospectus is filed before July 5, 2012.

Schedule C-3
Companion Policy 41-101CP Companion Policy to National Instrument 41-101 General
Prospectus Requirements

COMPANION POLICY
TO NATIONAL INSTRUMENT 41-101
GENERAL PROSPECTUS REQUIREMENTS

TABLE OF CONTENTS

PART 1	Introduction, Interrelationship with Securities Legislation, and Definitions
1.1	Introduction and purpose
1.2	Interrelationship with other securities legislation
1.3	Definitions
PART 2	General Requirements
2.1	Experience of officers and directors
2.2	Role of underwriter
2.3	Indirect distributions
2.4	Over-allocation
2.5	Distribution of securities under a prospectus to an underwriter
2.6	Certificates
2.7	Promoters of issuers of asset-backed securities
2.8	Special warrants
2.9	Offerings of convertible or exchangeable securities
2.10	Lapse date
PART 3	Filing and Receipting Requirements
3.1	Extension of 90-day period for issuance of final receipt
3.2	Confidential material change reports
3.3	Supporting documents
3.4	Consents of lawyers
3.5	Documents affecting the rights of securityholders
3.6	Material contracts
3.7	Response letters and marked-up copies
3.8	Undertaking in respect of credit supporter disclosure, including financial statements
3.9	Disclosure of investigations or proceedings
3.10	Amendments
3.11	Reduced price distributions
3.12	Licences, registrations and approvals
3.13	Registration requirements
PART 4	General Content of Long Form Prospectus
4.1	Style of long form prospectus
4.2	Pricing disclosure
4.3	Principal purposes – generally
4.4	MD&A
4.5	Distribution of asset-backed securities
4.6	Distribution of derivatives and underlying securities
4.7	Restricted securities
4.8	Credit supporter disclosure
4.9	Exemptions for certain issues of guaranteed securities
4.10	Previously disclosed material forward-looking information
PART 5	Content of Long Form Prospectus (Financial Statements)
5.1	Exemptions from financial disclosure requirements
<u>5.1.1</u>	<u>Presentation of Financial Results</u>
5.2	General financial statement requirements
5.3	Interpretation of issuer – primary business
5.4	Interpretation of issuer – predecessor entity
5.5	Sufficiency of financial history included in a long form prospectus

- 5.6 Applications for exemption from requirement to include financial statements of the issuer
- 5.7 Additional information
- 5.8 Audit and review of financial statements included or incorporated by reference into a long form prospectus
- 5.9 Financial statement disclosure for significant acquisitions
- 5.10 Pro forma financial statements for acquisitions of a predecessor entity, a business or businesses acquired by the issuer, or other entity

PART 6 Advertising or Marketing Activities in Connection with a Prospectus Offering

- 6.1 Scope
- 6.2 The prospectus requirement
- 6.3 Advertising or marketing activities
- 6.4 Pre-marketing and solicitations of expressions of interest in the context of a bought deal
- 6.5 Advertising or marketing activities during the waiting period
- 6.6 Green sheets
- 6.7 Advertising or marketing activities following the issuance of a receipt for a final prospectus
- 6.8 Sanctions and enforcement
- 6.9 Media reports and coverage
- 6.10 Disclosure practices
- 6.11 Misleading or untrue statements

PART 7 TRANSITION

- 7.1 Transition – Application of Amendments

Appendix A Financial Statement Disclosure Requirements for Significant Acquisitions

**COMPANION POLICY
TO NATIONAL INSTRUMENT 41-101
GENERAL PROSPECTUS REQUIREMENTS**

PART 1: Introduction, Interrelationship with Securities Legislation, and Definitions

Introduction and purpose

- 1.1 This Policy describes how the provincial and territorial securities regulatory authorities (or “we”) intend to interpret or apply the provisions of the Instrument. Some terms used in this Policy are defined or interpreted in the Instrument, NI 14-101, or a definition instrument in force in the jurisdiction.

Interrelationship with other securities legislation

This Policy

- 1.2(1) The Instrument applies to any prospectus filed under securities legislation and any distribution of securities subject to the prospectus requirement, other than a prospectus filed under NI 81-101 or a distribution of securities under such a prospectus, or unless otherwise stated. Parts of this Policy may not apply to all issuers.

Local securities legislation

- (2) The Instrument, while being the primary instrument regulating prospectus distributions, is not exhaustive. Issuers should refer to the implementing law of the jurisdictions and other securities legislation of the local jurisdiction for additional requirements that may apply to the issuer’s prospectus distribution.

Continuous disclosure (NI 51-102 and NI 81-106)

- (3) NI 51-102, NI 81-106 and other securities legislation imposes ongoing disclosure and filing obligations on reporting issuers. The regulator may consider issues raised in the context of a continuous disclosure review when determining whether it is in the public interest to refuse to issue a receipt for a prospectus. Consequently, unresolved issues may delay or prevent the issuance of a receipt.

Reporting issuers are generally required to file periodic and timely disclosure documents under applicable securities legislation. Reporting issuers may also be required to file periodic and timely disclosure documents pursuant to an order issued by the securities regulatory authority or an undertaking to the securities regulatory authority. Failure to comply with any requirement to file periodic and timely disclosure documents could cause the regulator to refuse a receipt for the prospectus.

Short form prospectus distributions (NI 44-101)

- (4) As set out in section 2.1 of NI 44-101, an issuer must not file a prospectus in the form of Form 44-101F1 unless the issuer is qualified under any of sections 2.2 through 2.6 of NI 44-101 to file a short form prospectus. An issuer that is qualified to file a short form prospectus must satisfy the requirements of NI 44-101, including the filing requirements of Part 4 of NI 44-101, as well as any applicable requirements of the Instrument. Therefore, issuers qualified to file a short form prospectus and selling securityholders of those issuers that wish to distribute securities under the short form system should refer to the Instrument, this Policy, and NI 44-101 and its companion policy.

Shelf distributions (NI 44-102)

- (5) Issuers qualified under NI 44-101 to file a prospectus in the form of a short form prospectus and their securityholders can distribute securities under a short form prospectus using the shelf distribution procedures under NI 44-102. The Companion Policy to NI 44-102 explains that the distribution of securities under the shelf system is governed by the requirements and procedures of NI 44-101 and securities legislation, except as supplemented or varied by NI 44-102. Therefore, issuers qualified to file a short form prospectus and selling securityholders of those issuers that wish to distribute securities under the shelf system should refer to the Instrument, this Policy, NI 44-101 and its companion policy, and NI 44-102 and its companion policy.

PREP procedures (NI 44-103)

- (6) NI 44-103 contains the post-receipt pricing (PREP) procedures. All issuers and selling securityholders can use the PREP procedures of NI 44-103 to distribute securities, other than rights under a rights offering. Issuers and selling securityholders that wish to distribute securities using the PREP procedures as provided for in NI 44-103 should refer to the Instrument, this Policy, and NI 44-103 and its companion policy. Issuers and selling securityholders that wish to distribute securities under a short form prospectus using the PREP procedures should also refer to NI 44-101 and its companion policy for any additional requirements.

Process for prospectus reviews in multiple jurisdictions (NP 11-202)

- (7) National Policy 11-202 *Process for Prospectus Reviews in Multiple Jurisdictions* (“NP 11-202”) describes the process for filing and review of prospectuses, including investment fund and shelf prospectuses, amendments to prospectuses and related materials in multiple jurisdictions. NP 11-202 represents the means by which an issuer can enjoy the benefits of co-ordinated review by the securities regulatory authorities in the various jurisdictions in which the issuer has filed a prospectus. Under NP 11-202, one securities regulatory authority acts as the principal regulator for all materials relating to a filer.

Definitions

Asset-backed security

- 1.3(1) The definition of “asset-backed security” is the same definition used in NI 51-102.

The definition is designed to be flexible to accommodate future developments in asset-backed securities. For example, it does not include a list of “eligible” assets that can be securitized. Instead, the definition is broad, referring to “receivables or other financial assets” that by their terms convert into cash within a finite time period. These would include, among other things, notes, leases, instalment contracts and interest rate swaps, as well as other financial assets, such as loans, credit card receivables, accounts receivable and franchise or servicing arrangements. The reference to “and any rights or other assets...” in the definition is sufficiently broad to include “ancillary” or “incidental” assets, such as guarantees, letters of credit, financial insurance or other instruments provided as a credit enhancement for the securities of the issuer or which support the underlying assets in the pool, as well as cash arising upon collection of the underlying assets that may be reinvested in short-term debt obligations.

The term, a “discrete pool” of assets, can refer to a single group of assets as a “pool” or to multiple groups of assets as a “pool”. For example, a group or pool of credit card receivables and a pool of mortgage receivables can, together, constitute a “discrete pool” of assets. The reference to a “discrete pool” of assets is qualified by the phrase “fixed or revolving” to clarify that the definition covers “revolving” credit arrangements, such as credit card and short-term trade receivables, where balances owing revolve due to periodic payments and write-offs.

While typically a pool of securitized assets will consist of financial assets owed by more than one obligor, the definition does not currently include a limit on the percentage of the pool of securitized assets that can be represented by one or more financial assets owing by the same or related obligors (sometimes referred to as an “asset concentration test”).

Business day

- (2) Section 1.1 of the Instrument defines business day as any day other than a Saturday, Sunday or a statutory holiday. In some cases, a statutory holiday may only be a statutory holiday in one jurisdiction. The definition of business day should be applied in each local jurisdiction in which a prospectus is being filed. For example, subsection 2.3(2) of the Instrument states that an issuer must not file a prospectus more than three business days after the date of the prospectus. A prospectus is dated Day 1. Day 2 is a statutory holiday in Québec but not in Alberta. If the prospectus is filed in both Alberta and Québec, it must be filed no later than Day 4, despite the fact that Day 2 was not a business day in Québec. If the prospectus is filed only in Québec, it could be filed on Day 5.

Accounting terms

- (3) The Instrument uses accounting terms that are defined, or referred to, in Canadian GAAP. In certain cases, some of those terms are defined differently in securities legislation. In deciding which meaning applies, you should consider that NI 14-101 provides that a term used in the Instrument and defined in the securities

statute of a local jurisdiction has the meaning given to it in the statute unless: (a) the definition in that statute is restricted to a specific portion of the statute that does not govern prospectuses; or (b) the context otherwise requires.

Acceptable accounting principles other than Canadian GAAP

(4) If an issuer is permitted under NI 52-107 to file financial statements in accordance with acceptable accounting principles other than Canadian GAAP, then the issuer may interpret any reference in the Instrument to a term or provision defined, or referred to, in Canadian GAAP as a reference to the corresponding term or provision in the other acceptable accounting principles.

PART 2: General Requirements

Experience of officers and directors

2.1 Securities legislation requires that a securities regulatory authority or regulator refuse to issue a receipt for a prospectus if it appears that the proceeds received from the sale of securities to be paid to the treasury of the issuer, together with other resources of the issuer, will be insufficient to accomplish the purposes stated in the prospectus. In addition to financial resources, resources include people. If a sufficient number of the directors and officers of the issuer do not have relevant knowledge and experience, the securities regulatory authority or regulator may conclude that the human and other resources are insufficient to accomplish these purposes. If the requisite knowledge and experience are not possessed by the directors and officers, a securities regulatory authority or regulator may be satisfied that the human and other resources are sufficient if it is shown that the issuer has contracted to obtain the knowledge and experience from others.

Role of underwriter

2.2 The due diligence investigation undertaken by an underwriter in relation to the business of the issuer often results in enhanced quality of disclosure in the prospectus. In addition, an underwriter typically provides valuable advice regarding the pricing and marketing of securities. For these reasons, we strongly encourage underwriter participation in prospectus offerings, particularly where the offering is an initial public offering.

Indirect distributions

2.3 Securities legislation prohibits a person from distributing a security unless a prospectus is filed and receipted or the distribution is exempt from the prospectus requirement. Securities legislation also prohibits a person from trading in a security where the trade would be a distribution of such security, unless a prospectus is filed and receipted or the distribution is exempt from the prospectus requirement. Securities legislation defines distribution as including a trade in a security that has not been previously issued, a trade out of a control block and any transaction or series of transactions involving a purchase and sale of or a repurchase and resale in the course of or incidental to a distribution. In Québec, the definition of "distribution" is broad enough to include these transactions.

Occasionally, a prospectus is filed to qualify securities for sale to one purchaser or to a small group of related purchasers where it appears that the purchaser does not have a *bona fide* intention to invest in the securities but rather is acquiring the securities with a view to immediately reselling them in the secondary market. This can be the case where the purchaser is a lender to the issuer or where the securities are issued as consideration for the acquisition of assets.

Where the offering and subsequent resale are in substance a single distribution, in order to comply with securities legislation, the distribution to the public purchasers should be made by way of prospectus in order that the subsequent purchasers have the benefit of prospectus disclosure and all the rights and remedies provided to prospectus purchasers under securities legislation.

Considerations relevant to determining whether a distribution under a prospectus is only one transaction in a series of transactions in the course of or incidental to the ultimate distribution include:

- the number of persons or companies who are likely to purchase securities in each transaction;
- whether the purchasers' traditional business is that of financing as opposed to investing;

- whether a purchaser is likely to acquire more of a specified class of securities of the issuer than it is legally entitled to, or practically wishes to, hold (e.g., more than 10% of a class of equity securities where the purchaser wishes to avoid becoming an insider or 20% of a class of equity securities where the purchaser wishes to avoid becoming a control person);
- the type of security distributed (e.g., loan repayment rights) and whether or not the security is convertible into publicly traded securities of the issuer;
- whether the purchase price of the securities is set at a substantial discount to their market price; and
- whether the purchaser is committed to hold the securities it acquires for any specified time period.

Over-allocation

- 2.4** Underwriters of a distribution may over-allocate a distribution in order to hold a short position in the securities following closing. This over-allocation position allows the underwriters to engage in limited market stabilization to compensate for the increased liquidity in the market following the distribution. If the market price of the securities decreases following the closing of the distribution, the short position created by the over-allocation position may be filled through purchases in the market. This creates upward pressure on the price of the securities. If the market price of the securities increases following the closing of the distribution, the over-allocation position may be filled through the exercise of an over-allotment option (at the issue offering price). Underwriters would not generally engage in market stabilization activities without the protection provided by an over-allotment option.

Over-allotment options are permitted solely to facilitate the over-allocation of the distribution and consequent market stabilization. Accordingly, an over-allotment option may only be exercised for the purpose of filling the underwriters' over-allocation position. The exercise of an over-allotment option for any other purpose would raise public policy concerns.

To form part of the over-allocation position, securities must be sold to *bona fide* purchasers as of the closing of the offering. Securities held by an underwriter or in proprietary accounts of an underwriter for sale at a future date do not form part of the over-allocation position. Further, as discussed below, section 11.2 of the Instrument restricts the distribution of securities under a prospectus to an underwriter. Since section 11.1 of the Instrument requires that all securities that are sold to create the over-allocation position be distributed under the prospectus, securities cannot be sold to an underwriter to increase the size of the over-allocation position.

Distribution of securities under a prospectus to an underwriter

- 2.5 Section 11.2 of the Instrument restricts the distribution of securities under a prospectus to a person acting as an underwriter. Issuers should determine the 10% limit in that section as if all convertible or exchangeable securities offered under the prospectus were exercised for the underlying securities.

Certificates

Public interest

- 2.6(1) Securities legislation provides the regulator with discretion to refuse a receipt for a prospectus where it is not in the public interest to issue the receipt. Securities legislation imposes statutory liability in connection with prospectus disclosure to provide investors with a remedy if a prospectus does not contain full, true and plain disclosure of all material facts relating to the securities being distributed and to protect the integrity of the Canadian public markets. Where an offering is structured in a manner that circumvents the objects and purposes of securities legislation and results in a person or company accessing the Canadian public markets, who is not clearly accountable for the information in the prospectus, the regulator may have significant public interest concerns. Such public interest concerns will be addressed on a case by case basis as part of the analysis of whether a receipt should be issued for a final prospectus. There may be circumstances in which it will be appropriate for the regulator to request a person or company, that is not otherwise required to do so, to certify a prospectus as a means of resolving such public interest concerns. For example, where it appears that a person or company is organizing its business and affairs to avoid a requirement to sign a prospectus certificate or to avoid prospectus liability, a regulator may conclude that there is sufficient public interest concerns that the regulator should require that person or company to certify a prospectus.

Discretion of the regulator to request certificates

- (2) Subsection 5.15(1) of the Instrument provides the regulator in each jurisdiction except Ontario with the discretion to require additional certificates. The exercise of this discretion will generally be informed by public interest concerns, including those discussed in subsection (1) above.

Signatories

- (3) Part 5 of the Instrument contains requirements regarding who must sign prospectus certificates. Certificates signed on behalf of the identified signatories by an agent or attorney will generally not be acceptable. For example, an income trust issuer with an active board of trustees would be required to arrange for the signature of two trustees on behalf of the board, rather than the signature of an attorney or agent.

Trustee certificates

- (4) Subsection 5.5(4) of the Instrument provides an exception to the trust certificate requirement where the trustees of the issuer do not perform functions similar to those of corporate directors. In this type of situation, a prospectus certificate is instead required from two individuals who do perform those functions for the issuer on behalf of all such individuals. In a situation where a regulated trust company is a trustee but does not perform functions similar to those of corporate directors, the regulated trust company and its officers and directors will not be required to sign a prospectus certificate if two other individuals who perform those functions do provide a certificate.

Chief executive officer and chief financial officer

- (5) The Instrument and other securities legislation require that prospectus certificates of certain persons or companies are to be signed by the chief executive officer and chief financial officer of such persons or companies. The terms chief executive officer and chief financial officer should be read to include the

individuals who have the responsibilities normally associated with these positions or act in a similar capacity. This determination should be made irrespective of an individual's corporate title or whether that individual is employed directly or acts pursuant to an agreement or understanding.

Selling securityholder certificates

- (6) Subsection 5.13(1) of the Instrument provides the regulator in each jurisdiction except Ontario with the discretion to require selling securityholders to sign a prospectus certificate. Under securities legislation, selling securityholders are liable for misrepresentations in a prospectus whether or not they sign a prospectus certificate. There are circumstances, however, where the regulator may determine that it is in the public interest to require the selling securityholder to affirmatively certify the prospectus. Generally, the regulator would only exercise this discretion where the securities being distributed by the selling securityholder represent a substantial portion of the securities being distributed under the prospectus.

Promoters of issuers of asset-backed securities

- 2.7 Securities legislation in some jurisdictions in Canada define "promoter" and require, in certain circumstances, a promoter of an issuer to assume statutory liability for prospectus disclosure. Asset-backed securities are commonly issued by a "special purpose" entity, established for the sole purpose of facilitating one or more asset-backed offerings. The securities regulatory authorities are of the opinion that special purpose issuers of asset-backed securities will have a promoter because someone will typically have taken the initiative in founding, organizing or substantially reorganizing the business of the issuer. We interpret the business of such issuers to include the business of issuing asset-backed securities and entering into the supporting contractual arrangements.

For example, in the context of a securitization program under which assets of one or more related entities are financed by issuing asset-backed securities (sometimes called a "single seller program"), we will usually consider an entity transferring or originating a significant portion of such assets, an entity initially agreeing to provide on-going collection, administrative or similar services to the issuer, and the entity for whose primary economic benefit the asset-backed program is established, to be a promoter of the issuer if it took the initiative in founding, organizing or substantially reorganizing the business of the issuer. Persons or companies contracting with the issuer to provide credit enhancements, liquidity facilities or hedging arrangements or to be a replacement servicer of assets, and investors who acquire subordinated investments issued by the issuer, will not typically be promoters of the issuer solely by virtue of such involvement.

In the context of a securitization program established to finance assets acquired from numerous unrelated entities (sometimes called a "multi-seller program"), we will usually consider the person or company (frequently a bank or an investment bank) establishing and administering the program in consideration for the payment of an on-going fee, for example, to be a promoter of the issuer if it took the initiative in founding, organizing or substantially reorganizing the business of the issuer. Individual sellers of the assets into a multi-seller program are not ordinarily considered to be promoters of the issuer, despite the economic benefits accruing to such persons or companies from utilizing the program. As with single-seller programs, other persons or companies contracting with the issuer to provide services or other benefits to the issuer of the asset-backed securities will not typically be promoters of the issuer solely by virtue of such involvement.

Where an entity is determined to be a promoter of an issuer at the time of the issuer's initial public offering, the entity continues to be a promoter of the issuer, in the case of subsequent offerings by the issuer, if the entity's relationship to the issuer and involvement in the offerings remains substantially the same. Accordingly, where an entity establishes a special purpose issuer to act as a dedicated securitization vehicle, and the prospectus filed in connection with a subsequent offering continues to include disclosure relating to the entity's securitization program, we will expect the entity to certify the prospectus as a promoter.

While we have included this discussion of promoters as guidance to issuers of asset-backed securities, the question of whether a particular person or company is a "promoter" of an issuer is ultimately a question of fact to be determined in light of the particular circumstances.

Special warrants

Distributions to resale market

- 2.8(1)** In certain special warrant transactions, the dealer involved in the private placement may itself have purchased special warrants from the issuer on an exempt basis, despite not disclosing any commitment to do so.

Securities legislation generally requires that a dealer not acting as agent of the purchaser who receives an order or subscription for a security offered in a distribution to which a prospectus requirement applies to deliver to the purchaser the latest prospectus. Where a dealer acquires special warrants, with a view to exercising them and reselling the underlying securities, such a resale would be a distribution that must be made by way of a prospectus or pursuant to an exemption from the prospectus requirements.

It is a requirement, therefore, that any dealer who has acquired special warrants with a view to their distribution or the distribution of the underlying securities deliver a prospectus during the period of distribution to its purchasers (where the sale to such purchasers is made otherwise than pursuant to a prospectus exemption) in order that such purchasers have the benefit of all rights and remedies provided to prospectus purchasers under securities legislation. In Québec, prospectus purchasers are notably conferred with a contractual right of rescission under s.1443 of the *Québec Civil Code*.

In connection with its prospectus review procedure, the regulator may request information from the issuer of all beneficial purchasers of special warrants. The regulator will generally keep this information confidential.

Underwriters' certificate and due diligence

- (2)** While the special warrant transaction is, in form, two separate distributions, the first an exempt private placement distribution and the second a conversion of the warrants under a prospectus, such a transaction is, in substance, a single distribution under a prospectus of the underlying securities to the warrant investors.

The registrants involved in placing the special warrants are, therefore, also involved in the prospectus distribution and such registrants in a contractual relationship with the issuer must include their certificate in the prospectus under subsection 5.9(1) of the Instrument or other securities legislation. We note that the resulting incentive to such registrants to participate in the due diligence investigation of the issuer is also beneficial to the secondary market.

The obligation to deliver an underwriter's certificate as described in this Policy does not extend the scope of distributions any registrant is authorized to make under applicable securities legislation.

Contractual right of rescission

- (3)** Under section 2.4 of the Instrument, an issuer must not file a prospectus or an amendment to a prospectus to qualify the distribution of securities issued on the exercise of special warrants or other securities acquired on a prospectus-exempt basis, unless the issuer has provided holders of the special warrants or other securities with a contractual right of rescission. We would not generally consider the disclosure of the contractual right of rescission in the prospectus as satisfying this condition unless there is a prior contract between the issuer and the holder of the special warrant or other security under which the issuer granted this right to the holder.

Offerings of convertible or exchangeable securities

- 2.9** Investor protection concerns may arise where the distribution of a convertible or exchangeable security is qualified under a prospectus and the subsequent exercise of the convertible or exchangeable security is made on a prospectus-exempt basis. Examples of such offerings include issuing instalment receipts, subscription receipts and stand-alone warrants or long-term warrants. Reference to stand-alone warrants or long-term warrants is intended to refer to warrants and other forms of exchangeable or convertible securities that are offered under a prospectus as a separate and independent form of investment. This would not apply to an offering of warrants where the warrants may reasonably be regarded as incidental to the offering as a whole.

The investor protection concern arises because the conversion or exchange feature of the security may operate to limit the remedies available to an investor for incomplete or inaccurate disclosure in a prospectus. For example, an investor may pay part of the purchase price at the time of the purchase of the convertible security and part of the purchase price at the time of the conversion. To the extent that an investor makes a further "investment decision" at the time of conversion, the investor should continue to enjoy the benefits of statutory rights or comparable contractual rights in relation to this further investment. In such circumstances, issuers should ensure that:

- (a) the distribution of both the convertible or exchangeable securities and the underlying securities will be qualified by the prospectus; or
- (b) the statutory rights that an investor would have if he or she purchased the underlying security offered under a prospectus are otherwise provided to the investor by way of a contractual right of action.

Lapse date

- 2.10** An amendment to a prospectus, even if it amends and restates the prospectus, does not change the lapse date under section 17.2 of the Instrument or other securities legislation.

PART 3: Filing and Receipting Requirements

Extension of 90-day period for issuance of final receipt

- 3.1** The effect of subsection 2.3(1) of the Instrument is to ensure that issues are not being marketed by means of preliminary prospectuses containing outdated information.

Confidential material change reports

- 3.2** An issuer cannot meet the standard of “full, true and plain” disclosure, while a material change report has been filed but remains undisclosed publicly. Accordingly, an issuer who has filed a confidential material change report may not file a prospectus until the material change that is the subject of the report is generally disclosed or the decision to implement the change has been rejected and the issuer so notified the regulator of each jurisdiction where the confidential material change report was filed, and an issuer may not file a confidential material change report during a distribution and continue with the distribution. If circumstances arise that cause an issuer to file a confidential material change report during the distribution period of securities under a prospectus, the issuer should cease all activities related to the distribution until

- (a) the material change is generally disclosed and an amendment to the prospectus is filed, if required, or
- (b) the decision to implement the material change has been rejected and the issuer has so notified the regulator of each jurisdiction where the confidential material change report was filed.

Supporting documents

- 3.3** Material that is filed in a jurisdiction will be made available for public inspection in that jurisdiction, subject to the provisions of securities legislation in the local jurisdiction regarding confidentiality of filed material. Material that is delivered to a regulator, but not filed, is not generally required under securities legislation to be made available for public inspection.

Consents of lawyers

- 3.4** The names of lawyers or law firms frequently appear in prospectuses in two ways. First, the underwriters, the issuer and selling securityholders may name the lawyers upon whose advice they are relying. Second, the opinions of counsel that the securities may be eligible for investment under certain statutes may be expressed or opinions on the tax consequences of the investment may be given.

In the first case, we are of the view that the lawyer is not, in the words of subsection 10.1(1) of the Instrument, named as having prepared or certified a part of the prospectus and is not named as having prepared or certified a report, valuation, statement or opinion referred to in the prospectus. Accordingly, this subsection does not require the written consent of the lawyer. In the second case, because the opinions or similar reports are prepared for the purpose of inclusion in the prospectus, we are of the view that this subsection applies and requires the consent.

Documents affecting the rights of securityholders

- 3.5(1)** Subclause 9.1(a)(ii)(A) of the Instrument requires issuers to file copies of their articles of incorporation, amalgamation, continuation or any other constating or establishing documents, unless the document is a

statutory or regulatory instrument. This carve out for a statutory or regulatory instrument is very narrow. For example, the carve out would apply to Schedule I or Schedule II banks under the *Bank Act*, whose charter is the *Bank Act*. It would not apply when only the form of the constating document is prescribed under statute or regulation, such as articles under the *Canada Business Corporations Act*.

- (2) Subclause 9.1(a)(ii)(E) of the Instrument requires issuers to file copies of contracts that can reasonably be regarded as materially affecting the rights of their securityholders generally. A warrant indenture is one example of this type of contract. We would expect that contracts entered into in the ordinary course of business would not usually affect the rights of securityholders generally, and so would not be required to be filed under this subclause.

Material contracts

Definition

- 3.6(1) Under section 1.1 of the Instrument, a material contract is defined as a contract that an issuer or any of its subsidiaries is a party to, that is material to the issuer. A material contract generally includes a schedule, side letter or exhibit referred to in the material contract and any amendment to the material contract. The redaction and omission provisions in subsections 9.3(3) and (4) of the Instrument apply to these schedules, side letters, exhibits or amendments.

Filing requirements

- (2) Subject to the exceptions in paragraphs 9.3(2)(a) through (f) of the Instrument, subsection 9.3(2) of the Instrument provides an exemption from the filing requirement for a material contract entered into in the ordinary course of business. Whether an issuer entered into a material contract in the ordinary course of business is a question of fact that the issuer should consider in the context of its business and industry.

Paragraphs 9.3(2)(a) through (f) of the Instrument describe specific types of material contracts that are not eligible for the ordinary course of business exemption. Accordingly, if subsection 9.3(1) of the Instrument requires an issuer to file a material contract of a type described in these paragraphs, the issuer must file that material contract even if the issuer entered into it in the ordinary course of business.

Contract of employment

- (3) Paragraph 9.3(2)(a) of the Instrument provides that a material contract with certain individuals is not eligible for the ordinary course of business exemption, unless it is a “contract of employment”. One way for issuers to determine whether a contract is a contract of employment is to consider whether the contract contains payment or other provisions that are required disclosure under Form 51-102F6 as if the individual were a named executive officer or director of the issuer.

External management and external administration agreements

- (4) Under paragraph 9.3(2)(e) of the Instrument, external management and external administration agreements are not eligible for the ordinary course of business exemption. External management and external administration agreements include agreements between the issuer and a third party, the issuer’s parent entity, or an affiliate of the issuer, under which the latter provides management or other administrative services to the issuer.

Material contracts on which the issuer’s business is substantially dependent

- (5) Paragraph 9.3(2)(f) of the Instrument provides that a material contract on which the “issuer’s business is substantially dependent” is not eligible for the ordinary course of business exemption. Generally, a contract on which the issuer’s business is substantially dependent is a contract so significant that the issuer’s business depends on the continuance of the contract. Some examples of this type of contract include
- (a) a financing or credit agreement providing a majority of the issuer’s capital requirements for which alternative financing is not readily available at comparable terms,
 - (b) a contract calling for the acquisition or sale of substantially all of the issuer’s property, plant and equipment, long-lived assets, or total assets, and

- (c) an option, joint venture, purchase or other agreement relating to a mining or oil and gas property that represents a majority of the issuer's business.

Confidentiality provisions

- (6) Under subsection 9.3(3) of the Instrument, an issuer may omit or redact a provision of a material contract that is required to be filed if an executive officer of the issuer reasonably believes that disclosure of the omitted or redacted provision would violate a confidentiality provision. A provision of the type described in paragraphs 9.3(4)(a), (b) or (c) of the Instrument may not be omitted or redacted even if disclosure would violate a confidentiality provision, including a blanket confidentiality provision covering the entire material contract.

When negotiating material contracts with third parties, reporting issuers should consider their disclosure obligations under securities legislation. A regulator or securities regulatory authority may consider granting an exemption to permit a provision of the type listed in subsection 9.3(4) of the Instrument to be redacted if

- (a) the disclosure of that provision would violate a confidentiality provision, and
- (b) the material contract was negotiated before the effective date of the Instrument.

The regulator may consider the following factors, among others, in deciding whether to grant an exemption:

- (c) whether an executive officer of the issuer reasonably believes that the disclosure of the provision would be prejudicial to the interests of the issuer;
- (d) whether the issuer is unable to obtain a waiver of the confidentiality provision from the other party.

Disclosure seriously prejudicial to interests of issuer

- (7) Under subsection 9.3(3) of the Instrument, an issuer may omit or redact certain provisions of a material contract that is required to be filed if an executive officer of the issuer reasonably believes that disclosure of the omitted or redacted provision would be seriously prejudicial to the interests of the issuer. One example of disclosure that may be seriously prejudicial to the interests of the issuer is disclosure of information in violation of applicable Canadian privacy legislation. However, in situations where securities legislation requires disclosure of the particular type of information, applicable privacy legislation generally provides an exemption for the disclosure. Generally, disclosure of information that an issuer or other party has already publicly disclosed is not seriously prejudicial to the interests of the issuer.

Terms necessary for understanding impact on business of issuer

- (8) An issuer may not omit or redact a provision of a type described in paragraph 9.3(4)(a), (b), or (c) of the Instrument. Paragraph 9.3(4)(c) of the Instrument provides that an issuer may not omit or redact "terms necessary for understanding the impact of the material contract on the business of the issuer". Terms that may be necessary for understanding the impact of the material contract on the business of the issuer include the following:
 - (a) the duration and nature of a patent, trademark, license, franchise, concession, or similar agreement;
 - (b) disclosure about related party transactions;
 - (c) contingency, indemnification, anti-assignability, take-or-pay clauses, or change-of-control clauses.

Summary of omitted or redacted provisions

- (9) Under subsection 9.3(5) of the Instrument, an issuer must include a description of the type of information that has been omitted or redacted in the copy of the material contract filed by the issuer. A brief one-sentence description immediately following the omitted or redacted information is generally sufficient.

Response letters and marked up copies

- 3.7 In response to a comment letter for a preliminary prospectus, an issuer should include draft wording for the changes it proposes to make to a prospectus to address staff's comments. When the comments of the various securities regulators have been resolved, an issuer should clearly mark a draft of the prospectus with all proposed changes from the preliminary prospectus and submit it as far as possible in advance of the filing of final material. These procedures may prevent delay in the issuing of a receipt for the prospectus, particularly if the number or extent of changes are substantial.

Undertaking in respect of credit supporter disclosure, including financial statements

- 3.8 Under subparagraph 9.2(a)(x) of the Instrument, an issuer must file an undertaking to file the periodic and timely disclosure of a credit supporter. For credit supporters that are reporting issuers with a current AIF (as defined in NI 44-101), the undertaking will likely be to continue to file the documents it is required to file under NI 51-102. For credit supporters registered under the 1934 Act, the undertaking will likely be to file the types of documents that would be required to be incorporated by reference into a Form S-3 or Form F-3 registration statement. For other credit supporters, the types of documents to be filed pursuant to the undertaking will be determined through discussions with the regulators on a case-by-case basis.

If an issuer, a parent credit supporter, and a subsidiary credit supporter satisfy the conditions of the exemption in section 34.3 of Form 41-101F1, an undertaking may provide that the subsidiary credit supporter will file periodic and timely disclosure if the issuer and the credit supporters no longer satisfy the conditions of the exemption in that section.

If an issuer and a credit supporter satisfy the conditions the exemption in section 34.4 of Form 41-101F1, an undertaking may provide that the credit supporter will file periodic and timely disclosure if the issuer and the credit supporter no longer satisfy the conditions of the exemption in that section.

For the purposes of such an undertaking, references to disclosure included in the prospectus should be replaced with references to the issuer or parent credit supporter's continuous disclosure filings. For example, if an issuer and subsidiary credit supporter(s) plan to continue to satisfy the conditions of the exemption in section 34.4 of Form 41-101F1 for continuous disclosure filings, the undertaking should provide that the issuer will file with its consolidated financial statements,

- (a) a statement that the financial results of the credit supporter(s) are included in the consolidated financial results of the issuer if
 - (i) the issuer continues to have limited independent operations, and
 - (ii) 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 continues to be minor, or
- (b) for any periods covered by issuer's consolidated financial statements, consolidating summary financial information for the issuer presented in the format set out in subparagraph 34.4(e)(ii) of Form 41-101F1.

Disclosure of investigations or proceedings

- 3.9 Securities legislation provides that, subject to certain conditions, the securities regulatory authorities or the regulator must issue a receipt for a prospectus unless it appears that it would not be in the public interest to do so. The securities regulatory authority or the regulator will consider whether there are ongoing or recently concluded investigations or proceedings relating to

- an issuer,
- a promoter,
- a principal securityholder, director or officer of the issuer, or
- an underwriter or other person or company involved in a proposed distribution

when it determines if it should refuse to issue a receipt for the prospectus. That decision will be made on a case-by-case basis and will depend upon the facts known at the time.

If the facts and circumstances do not warrant the denial of a receipt for a prospectus, securities legislation nonetheless imposes an obligation to provide full, true and plain disclosure of all material facts relating to the securities offered by the prospectus. Disclosure of an ongoing or recently concluded investigation or proceeding relating to a person or company involved in a proposed distribution may be necessary to meet this standard. The circumstances in which disclosure will be required and the nature and extent of the disclosure will also be determined on a case-by-case basis. In making this determination, all relevant facts, including the allegations that gave rise to the investigation or proceeding, the status of the investigation or proceeding, the seriousness of the alleged breaches that are the subject of the investigation or proceeding and the degree of involvement in the proposed distribution by the person or company under investigation will be considered.

Amendments

3.10(1) Subsection 6.5(1) of the Instrument and other securities legislation provides that if a material adverse change occurs after a receipt for a preliminary prospectus is obtained, an amendment to the preliminary prospectus must be filed as soon as practicable, but in any event within 10 days after the change occurs. If a preliminary prospectus indicates the number or value of the securities to be distributed under the prospectus, an increase in the number or value is, absent unusual circumstances, unlikely to constitute a material adverse change requiring an amendment to the preliminary prospectus.

(2) If, after filing a preliminary prospectus, an issuer decides to attach or add to the securities offered under a prospectus a right to convert into, or a warrant to acquire, the security of the issuer being offered under the preliminary prospectus, the attachment or addition of the conversion feature or warrant is, absent unusual circumstances, unlikely to constitute a material adverse change requiring an amendment to the preliminary prospectus.

(3) Securities legislation provides that no person or company shall distribute securities, unless a preliminary prospectus and a prospectus have been filed and receipts have been issued by the securities regulatory authority or regulator. If an issuer intends to add a new class of securities to the distribution under the prospectus after the preliminary prospectus has been filed and receipted, we interpret this requirement to mean an issuer must file an amended and restated preliminary prospectus.

Similarly, if an issuer wishes to add a new class of securities to a prospectus before the distribution under that prospectus is completed the issuer must file a preliminary prospectus for that class of securities and an amended and restated prospectus and obtain receipts for both the preliminary prospectus and the amended prospectus. Alternatively the issuer may file a separate preliminary prospectus and prospectus for the new class of securities. We interpret this requirement to also apply to mutual funds. If a mutual fund adds a new class or series of securities to a prospectus that is referable to a new separate portfolio of assets, a preliminary prospectus must be filed. However, if the new class or series of securities is referable to an existing portfolio of assets, the new class or series may be added by way of amendment.

(4) Any changes to the terms or conditions of the security being distributed, such as the deletion of a conversion feature, may constitute a material adverse change requiring an amendment to the preliminary prospectus.

(5) Under securities legislation, a regulator must not issue a receipt for a prospectus in certain circumstances, including if the regulator considers it prejudicial to the public interest to do so. The purpose of subsection 6.6(3) of the Instrument is to clarify that these receipt refusal grounds apply to an amendment to a final prospectus or a final short form prospectus in certain jurisdictions.

Reduced price distributions

3.11 Subsection 7.2(3) of the Instrument permits an issuer to reduce the offering price of the securities being distributed without filing an amendment to the prospectus if certain conditions are satisfied. Satisfying the conditions in this subsection means the underwriter's compensation should decrease 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 securityholder. Section 20.8 of Form 41-101F1 requires disclosure of this fact.

Licences, registrations and approvals

- 3.12 For the purposes of section 10.2 of the Instrument, we would generally conclude that an issuer has all material licences, registrations and approvals necessary for the stated principal use of proceeds if the issuer could use a material portion of the proceeds of the distribution in the manner described in the prospectus without obtaining the licence, registration or approval.

Registration requirements

- 3.13 Issuers filing a prospectus and other market participants are reminded to ensure that members of underwriting syndicates are in compliance with registration requirements under securities legislation in each jurisdiction in which syndicate members are participating in the distribution of securities under the prospectus. Failure to comply with the registration requirements could cause the regulator to refuse to issue a receipt for the prospectus.

PART 4: General Content of Long Form Prospectus

Style of long form prospectus

- 4.1 Securities legislation requires that a long form prospectus contain “full, true and plain” disclosure. Issuers should apply plain language principles when they prepare a long form prospectus including:

- using short sentences;
- using definite everyday language;
- using the active voice;
- avoiding superfluous words;
- organizing the document into clear, concise sections, paragraphs and sentences;
- avoiding jargon;
- using personal pronouns to speak directly to the reader;
- avoiding reliance on glossaries and defined terms unless it facilitates understanding of the disclosure;
- avoiding vague boilerplate wording;
- avoiding abstract terms by using more concrete terms or examples;
- avoiding multiple negatives;
- using technical terms only when necessary and explaining those terms;
- using charts, tables and examples where it makes disclosure easier to understand.

Question and answer and bullet point formats are consistent with the disclosure requirements of the Instrument.

Pricing disclosure

- 4.2(1) If the offering price or the number of securities being distributed, or an estimate of the range of the offering price or the number of securities being distributed, has been publicly disclosed in a jurisdiction or a foreign jurisdiction as of the date of the preliminary long form prospectus, section 1.7 of Form 41-101F1 requires the issuer to disclose that information in the preliminary long form prospectus. For example, if an issuer has previously disclosed this information in a public filing or a press release, in a foreign jurisdiction, the information must also be disclosed in the preliminary long form prospectus. If the issuer discloses this information in the preliminary long form prospectus, we will not consider a difference between this information and the actual offering price or number of securities being distributed to be, in itself, a material adverse change for which the issuer must file an amended preliminary long form prospectus.

- (2) No disclosure is required under section 1.7 of Form 41-101F1 if the offering price or size of the offering has not been disclosed as of the date of the preliminary long form prospectus. However, given the materiality of pricing or offering size information, subsequent disclosure of this information on a selective basis could constitute conduct that is prejudicial to the public interest.

Principal purposes – generally

- 4.3(1) Subsection 6.3(1) of Form 41-101F1 requires disclosure of each of the principal purposes for which the issuer will use the net proceeds. If an issuer has negative cash flow from operating ~~cash flow~~ activities in its most recently completed financial year for which financial statements have been included in the long form prospectus, the issuer should prominently disclose that fact in the use of proceeds section of the long form prospectus. The issuer should also disclose whether, and if so, to what extent, the issuer will use the proceeds of the distribution to fund any anticipated negative cash flow from operating ~~cash flow~~ activities in future periods. An issuer should disclose negative cash flow from operating ~~cash flow~~ activities as a risk factor under subsection 21.1(1) of Form 41-101F1. For the purposes of this section, in determining cash flow from operating activities, the issuer must include dividends and borrowing costs.

- (2) For the purposes of the disclosure required under section 6.3 of Form 41-101F1, the phrase “for general corporate purposes” is not generally sufficient.

MD&A

Additional information for venture issuers without significant revenue

- 4.4(1) Section 8.6 of Form 41-101F1 requires certain venture issuers and IPO venture issuers to disclose a breakdown of material costs whether ~~capitalized, deferred or~~ expensed or recognized as assets. A component of cost is generally considered to be a material component if it exceeds the greater of

- (a) 20% of the total amount of the class, and
- (b) \$25,000.

Disclosure of outstanding security data

- (2) Section 8.4 of Form 41-101F1 requires disclosure of information relating to the outstanding securities of the issuer as of the latest practicable date. The “latest practicable date” should be as close as possible to the date of the long form prospectus. Disclosing the number of securities outstanding at the most recently completed financial period is generally not sufficient to meet this requirement.

Additional disclosure for issuers with significant equity investees

- (3) Section 8.8 of Form 41-101F1 requires issuers with significant equity investees to provide in their long form prospectuses summarized information about the equity investee. Generally, we will consider that an equity investee is significant if the equity investee would meet the thresholds for the significance tests in Item 35 of Form 41-101F1 using the financial statements of the equity investee and the issuer as at the issuer’s financial year-end.

Distribution of asset-backed securities

- 4.5 Section 10.3 of Form 41-101F1 specifies additional disclosure that applies to distributions of asset-backed securities. Disclosure for a special purpose issuer of asset-backed securities will generally explain

- the nature, performance and servicing of the underlying pool of financial assets,
- the structure of the securities and dedicated cash flows, and
- any third party or internal support arrangements established to protect holders of the asset-backed securities from losses associated with non-performance of the financial assets or disruptions in payment.

The nature and extent of required disclosure may vary depending on the type and attributes of the underlying pool and the contractual arrangements through which holders of the asset-backed securities take their interest in such assets.

An issuer of asset-backed securities should consider the following factors when preparing its long form prospectus:

- (a) The extent of disclosure respecting an issuer will depend on the extent of the issuer's on-going involvement in the conversion of the assets comprising the pool to cash and the distribution of cash to securityholders; this involvement may, in turn, vary dramatically depending on the type, quality and attributes of the assets comprising the pool and on the overall structure of the transaction.
- (b) Disclosure about the business and affairs of the issuer should relate to the financial assets underlying the asset-backed securities.
- (c) Disclosure about the originator or the seller of the underlying financial assets will often be relevant to investors in the asset-backed securities particularly where the originator or seller has an on-going involvement with the financial assets comprising the pool. For example, if asset-backed securities are serviced with the cash flows from a revolving pool of receivables, an evaluation of the nature and reliability of the future origination or the future sales of underlying assets by the seller to or through the issuer may be a critical aspect of an investor's investment decision.

To address this, the focus of disclosure respecting an originator or seller of the underlying financial assets should deal with whether there are current circumstances that indicate that the originator or seller will not generate adequate assets in the future to avoid an early liquidation of the pool and, correspondingly, an early payment of the asset-backed securities. Summary historical financial information respecting the originator or seller will ordinarily be adequate to satisfy the disclosure requirements applicable to the originator or seller in circumstances where the originator or seller has an ongoing relationship with the assets comprising the pool.

Subsection 10.3(10) of Form 41-101F1 requires issuers of asset-backed securities to describe any person or company who originated, sold or deposited a material portion of the financial assets comprising the pool, irrespective of whether the person or company has an on-going relationship with the assets comprising the pool. The securities regulatory authorities consider 33 $\frac{1}{3}$ % of the dollar value of the financial assets comprising the pool to be a material portion in this context.

Distribution of derivatives and underlying securities

- 4.6(1)** Section 10.4 of Form 41-101F1 specifies additional disclosure applicable to distributions of derivatives. This prescribed disclosure is formulated in general terms for issuers to customize appropriately in particular circumstances.
- (2)** If the securities being distributed are convertible into or exchangeable for other securities, or are a derivative of, or otherwise linked to, other securities, a description of the material attributes of the underlying securities will generally be necessary to meet the requirements of securities legislation that a long form prospectus contain full, true and plain disclosure of all material facts concerning the securities being distributed.

Restricted securities

- 4.7** Section 10.6 of Form 41-101F1 specifies additional disclosure for restricted securities, including a detailed description of any significant provisions under applicable corporate and securities law that do not apply to the holders of the restricted securities but do apply to the holders of another class of equity securities. An example of such provisions would be rights under takeover bids.

Credit supporter disclosure

- 4.8** A long form prospectus must include, under Item 33 of Form 41-101F1, disclosure about any credit supporters that have provided a guarantee or alternative credit support for all or substantially all of the payments to be made under the securities being distributed. Disclosure about a credit supporter may be required even if the credit supporter has not provided full and unconditional credit support.

Exemptions for certain issues of guaranteed securities

- 4.9 Requiring disclosure about the issuer and any applicable credit supporters in a long form prospectus may result in unnecessary disclosure in some instances. Item 34 of Form 41-101F1 provides exemptions from the requirement to include both issuer and credit supporter disclosure where such disclosure is not necessary to ensure that the long form prospectus includes full, true and plain disclosure of all material facts concerning the securities to be distributed.

These exemptions are based on the principle that, in these instances, investors will generally require issuer disclosure or credit supporter disclosure to make an informed investment decision. These exemptions are not intended to be comprehensive and issuers may apply for exemptive relief from the requirement to provide both issuer and credit supporter disclosure, as appropriate.

Previously disclosed material forward-looking information

- 4.10 If an issuer, at the time it files a long form prospectus,
- (a) has previously disclosed to the public material forward-looking information for a period that is not yet complete, and
 - (b) is aware of events and circumstances that are reasonably likely to cause actual results to differ materially from the material forward-looking information,

the issuer should discuss those events and circumstances, and the expected differences from the material forward-looking information, in the long form prospectus.

PART 5: Content of Long Form Prospectus (Financial Statements)

Exemptions from financial disclosure requirements

- 5.1 Request for exemptions from financial disclosure should be made in accordance with Part 19 of the Instrument, which requires the issuer to make submissions in writing along with the reasons for the request. Written submissions should be filed at the time the preliminary long form prospectus is filed, and include any proposed alternative disclosure. If the application involves a novel and substantive issue or raises a novel public policy concern, issuers should use the pre-filing procedures under NP 11-202. Issuers that are not filing their prospectuses under NP 11-202 should also follow the principles outlined and procedures set out in NP 11-202.

Presentation of Financial Results

- 5.1.1 Canadian GAAP provides an issuer two alternatives in presenting its income: (a) in one single statement of comprehensive income, or (b) in a statement of comprehensive income with a separate income statement. If an issuer presents its income using the second alternative, both statements must be filed to satisfy the requirements of this Instrument. (See subsections 32.2(1.1) and 32.3(3) of Form 41-101F1).

General financial statement requirements

- 5.2 If an issuer has filed annual [financial statements](#) or [an interim financial statements report](#) for periods that are more recent than those that the issuer must otherwise include in a long form prospectus before it files the prospectus, sections 32.6 and 35.8 of Form 41-101F1 require the issuer to include those financial statements in the long form prospectus. Issuers should update the disclosure in the prospectus accordingly in order to satisfy the requirement that the long form prospectus contain full, true and plain disclosure of all material facts relating to the securities being distributed. However, if historical financial information derived from more recent annual [financial statements](#) or [an interim financial statements report](#) is released to the public by the issuer before the financial statements are filed, the prospectus should include the information included in the news release or public communication. There is no specific requirement in the Instrument to otherwise update the prospectus, or pro forma financial statements to reflect the more recent information.

We think the directors of an issuer should endeavor to consider and approve financial statements in a timely manner and should not delay the approval and filing of the [financial](#) statements for the purpose of avoiding their inclusion in a long form prospectus. Once the directors have approved an issuer's financial statements, the issuer should file them as soon as possible.

Interpretation of issuer – primary business

- 5.3(1)** An issuer is required to provide historical financial statements under Item 32 of Form 41-101F1 for a business or related businesses that a reasonable investor would regard as the primary business of the issuer. Examples of when a reasonable investor would regard the primary business of the issuer to be the acquired business or related businesses are when the acquisition(s) was
- (a) a reverse takeover,
 - (b) a qualifying transaction for a Capital Pool Company, or
 - (c) an acquisition that is a significant acquisition at over the 100% level under subsection 35.1(4) of Form 41-101F1.

The issuer should consider the facts of each situation to determine whether a reasonable investor would regard the primary business of the issuer to be the acquired business or related businesses.

- (2)** The periods for which the issuer must provide financial statements under Item 32 of Form 41-101F1 for an acquired business or businesses that are regarded as the primary business of the issuer should be determined in reference to sections 32.2 and 32.3 of Form 41-101F1, and with the same exceptions, where applicable, set out in paragraphs 32.4(a) through (e) of Form 41-101F1. For example, for an issuer that is a reporting issuer in at least one jurisdiction immediately before filing a long form prospectus, the reference to three years in subparagraph 32.2(6)(a) of Form 41-101F1 should be read as two years under paragraphs 32.4(a), (b), (d) and (e) of Form 41-101F1.

Interpretation of issuer – predecessor entity

- 5.4(1)** An issuer is required to provide historical financial statements under Item 32 of the Form 41-101F1 for any predecessor entity. This includes financial statements of acquired businesses that are unrelated and not otherwise individually significant, but together form the basis of the business of the issuer. In these circumstances, the issuer should consider including pro forma financial statements in the prospectus giving effect to the recently completed or proposed acquisition of a predecessor entity.
- (2)** If an issuer determines the financial statements of certain acquired businesses referred to in subsection (1) are not relevant, the issuer should utilize the pre-filing procedures in NP 11-202 to determine whether it would require an exemption from the requirement to include these financial statements.

Sufficiency of financial history included in a long form prospectus

- 5.5(1)** Item 32 of Form 41-101F1 prescribes the issuer financial statements that must be included in a long form prospectus. We recognize that an issuer, at the time of filing a long form prospectus, may have been in existence for less than one year. We expect that in many situations the limited historical financial statement information that is available for such an issuer may be adequately supplemented by other relevant information disclosed in the long form prospectus. However, if the issuer cannot provide financial statements for a period of at least 12 months and the long form prospectus does not otherwise contain information concerning the business conducted or to be conducted by the issuer that is sufficient to enable an investor to make an informed investment decision, a securities regulatory authority or regulator may consider this a key factor when deciding whether it should refuse to issue a receipt for the long form prospectus.
- (2)** A reference to a prospectus includes a preliminary prospectus. Consequently, the time references in sections 32.2, 32.3, 35.5 and 35.6 of Form 41-101F1 should be considered as at the date of the preliminary long form prospectus and again at the date of the final long form prospectus for both the issuer and any business acquired or to be acquired. Depending on the period of time between the dates of the preliminary and final long form prospectuses, an issuer may have to include more recent financial statements.
- (3)** [An issuer is subject to certain additional disclosure requirements when it discloses an interim financial report for a period arising in the year of adopting IFRS, as set out in subparagraph 32.3\(2\)\(e\) and subsection 32.3\(4\) of Form 41-101F1. These requirements only apply to interim financial reports relating to periods in the year of adopting IFRS and therefore do not apply if the prospectus includes annual financial statements prepared in accordance with IFRS.](#)

An issuer is required to provide an opening IFRS statement of financial position at the date of transition to IFRS. An issuer with, for example, a year-end of December 31, 2010 that files a prospectus for which it must include its first interim financial report in the year of adopting IFRS for the period ended March 31, 2011, must generally provide an opening IFRS statement of financial position at January 1, 2010.

An issuer must also include various reconciliations required by IFRS 1 to explain how the transition from previous GAAP to IFRS has affected its reported financial position, financial performance and cash flows. In the first interim period IFRS 1 requires certain additional reconciliations which relate to annual periods and the date of transition to IFRS. Where an issuer that was not a reporting issuer in at least one jurisdiction immediately before filing the prospectus includes an interim financial report in respect of the second or third interim period in the year of adopting IFRS, subsection 32.3(4) of Form 41-101F1 requires these additional reconciliations to be included in the prospectus. Alternatively, pursuant to subsection 32.3(4) of Form 41-101F1, the issuer may include the first interim financial report in the year of adopting IFRS as this report includes the required reconciliations.

These additional reconciliations may be summarized as follows:

- reconciliations of the issuer's equity presented in accordance with previous GAAP to its equity in accordance with IFRS for the date of transition to IFRS (January 1, 2010 in the above-noted example);
- reconciliations of the issuer's equity presented in accordance with previous GAAP to its equity in accordance with IFRS for the end of the latest period presented in the entity's most recent annual financial statements in accordance with previous GAAP (December 31, 2010 in the above-noted example); and
- a reconciliation of the issuer's total comprehensive income (or total profit or loss) presented in accordance with previous GAAP to its total comprehensive income in accordance with IFRS for the most recent annual period presented in the prospectus in accordance with previous GAAP (year-ended December 31, 2010 in the above-noted example).

The reconciliations summarized above must give sufficient detail to enable investors to understand the material adjustments to the statement of financial position, statement of comprehensive income and statement of cash flows. If the issuer becomes aware of errors made under previous GAAP, the reconciliations summarized above must distinguish the correction of those errors from changes in accounting policies.

Applications for exemption from requirement to include financial statements of the issuer

- 5.6(1)** We believe investors should receive in a long form prospectus for an IPO no less than three years of audited historical financial statements and that relief from the financial statements requirements should be granted only in unusual circumstances and generally not related solely to the cost or the time involved in preparing and auditing the financial statements.
- (2)** In view of our reluctance to grant exemptions from the requirement to include audited historical financial statements, issuers seeking relief should consult with staff on a pre-filing basis.
- (3)** Considerations relevant to granting an exemption from the requirement to include financial statements, generally for the years immediately preceding the issuer's most recently completed financial year, may include the following:

The issuer's historical accounting records have been destroyed and cannot be reconstructed.

- (a) In this case, as a condition of granting the exemption, the issuer may be requested by a securities regulatory authority or regulator to
- (i) represent in writing to the securities regulatory authority or regulator, no later than the time the preliminary long form prospectus is filed, that the issuer made every reasonable effort to obtain copies of, or reconstruct, the historical accounting records necessary to prepare and audit the financial statements, but such efforts were unsuccessful, and

- (ii) disclose in the long form prospectus the fact that the historical accounting records have been destroyed and cannot be reconstructed.

The issuer has emerged from bankruptcy and current management is denied access to the historical accounting records necessary to audit the financial statements.

- (b) In this case, as a condition of granting the exemption, the issuer may be requested by a securities regulatory authority or regulator to
 - (i) represent in writing to the securities regulatory authority or regulator, no later than the time the preliminary long form prospectus is filed, that the issuer has made every reasonable effort to obtain access to, or copies of, the historical accounting records necessary to audit the financial statements but that such efforts were unsuccessful, and
 - (ii) disclose in the long form prospectus the fact that the issuer has emerged from bankruptcy and current management is denied access to the historical accounting records.

The issuer has undergone a fundamental change in the nature of its business or operations affecting a majority of its operations and all, or substantially all, of the executive officers and directors of the company have changed.

- (c) The evolution of a business or progression along a development cycle will not be considered to be a fundamental change in an issuer's business or operations. Relief from the requirement to include financial statements of the issuer required by the Instrument for the year in which the change occurred, or for the most recently completed financial year if the change in operations occurred during the issuer's current financial year, generally will not be granted.
- (4) If, in unusual circumstances, relief from Part 4 of the Instrument is granted, additional financial information will likely be requested to allow a reader to gain a similar understanding of the entity's financial position and prospects as one would gain from the information required in Part 4 of the Instrument.

Examples of acceptable additional information include an audited interim financial ~~statements~~report, audited divisional statements of comprehensive income or cash flows, financial statements accompanied by an auditor's report containing a ~~reservation of~~modification to the opinion, or audited statements of net operating income.

Additional information

- 5.7 An issuer may find it necessary, in order to meet the requirement for full, true and plain disclosure contained in securities legislation, to include certain additional information in its long form prospectus, such as separate financial statements of a subsidiary of the issuer in a long form prospectus, even if the financial statements of the subsidiary are included in the consolidated financial statements of the issuer. For example, separate financial statements of a subsidiary may be necessary to help explain the risk profile and nature of the operations of the subsidiary.

Audit and review of financial statements included or incorporated by reference into a long form prospectus

- 5.8(1) Part 4 of the Instrument requires that all financial statements included in a long form prospectus be audited, except financial statements specifically exempted in the Instrument. This requirement extends to financial statements of subsidiaries and other entities even if the financial statements are not required to be included in the long form prospectus but have been included at the discretion of the issuer.
- (2) NI 52-107 requires that financial statements, other than acquisition statements, that are required to be audited by securities legislation, such as this Instrument, be accompanied by an auditor's report that does not contain a ~~reservation~~modified opinion if they were audited in accordance with Canadian GAAS, or contain an unqualified opinion if they were audited in accordance with U.S. PCAOB GAAS. This requirement applies to all financial statements included in the long form prospectus under Item 32 of Form 41-101F1, including financial statements from entities acquired or to be acquired that are the primary business or the predecessor of the issuer. For greater clarity, ~~subsection 6.2~~subsections 3.12(3) and 4.12(6) of NI 52-107 only applies apply to financial statements included in the long form prospectus pursuant to Item 35 of Form 41-101F1. Relief may be granted to non-reporting issuers in appropriate circumstances to permit the auditor's report on financial statements to contain a ~~reservation~~qualified opinion relating to

opening inventory if there is a subsequent audited period of at least six months on which the auditor's report contains no ~~reservation~~modified opinion and the business is not seasonal. Issuers requesting this relief should be aware that NI 51-102 requires an issuer's comparative financial statements be accompanied by an unqualified auditors' report.

Financial statement disclosure for significant acquisitions

Applicable principles in NI 51-102

- 5.9(1)** Generally, it is intended that the disclosure requirements set out in Item 35 of Form 41-101F1 for significant acquisitions follow the requirements in Part 8 of NI 51-102. The guidance in Part 8 of the companion policy to NI 51-102 ("51-102CP") apply to any disclosure of a significant business acquisition in a long form prospectus required by Item 35 of Form 41-101F1, except
- (a) any headings in Part 8 of 51-102CP should be disregarded,
 - (b) subsections 8.1(1), 8.1(5), 8.7(8), and 8.10(2) of 51-102CP do not apply,
 - (c) other than in subsections 8.3(4) and 8.7(7) of 51-102CP, any references to a "reporting issuer" should be read as an "issuer",
 - (d) any references to the "Instrument" should be read as "NI 51-102",
 - (e) any references to a provision in NI 51-102 in 51-102CP should be read to include the following "as it applies to a long form prospectus pursuant to Item 35 of Form 41-101F1",
 - (f) any references to "business acquisition report" should be read as "long form prospectus",
 - (g) in subsection 8.1(2) of 51-102CP, the term "file a copy of the documents as its business acquisition report" should be read as "include that disclosure in its long form prospectus in lieu of the significant acquisition disclosure required under Item 35 of Form 41-101F1",
 - (h) in subsection 8.2(1) of 51-102CP,
 - (i) the term "The test" should be read as "For any completed acquisition, the test",
 - (ii) the sentence "For any proposed acquisition of a business or related businesses by an issuer that has progressed to a state where a reasonable person would believe that the likelihood of the issuer completing the acquisition is high, the test must be applied using the financial statements included in the long form prospectus." should be added after "the business.", and
 - (iii) the term "business acquisition ~~or~~ report will be required to be filed" should be read as "disclosure regarding the significant acquisition is required to be included in the issuer's long form prospectus",
 - (i) in subsection 8.3(1) of 51-102CP, the term "filing a business acquisition report" should be read as "the financial statements used for the optional tests",
 - (j) in section 8.5, and subsection 8.7(4), of 51-102CP, the term "filed" wherever it occurs, should be read as "included in the long form prospectus",
 - (k) in subsection 8.7(1) of 51-102CP, the term "as already filed" should be read as "included in the long form prospectus",
 - (l) in subsection 8.7(2) of 51-102CP, the term "filed under the Instrument" should be read as "included in the long form prospectus",
 - (m) in subsection 8.7(4) of 51-102CP, the term "presented" should be read as "for which financial statements are included in the prospectus",

- (n) in subsection 8.7(6) of 51-102CP, the term “for which financial statements are included in the long form prospectus” should be added after “financial year”,
- (o) in paragraph 8.8(a) of 51-102CP, the term “prior to the deadline for filing the business acquisition report” should be read as “using the pre-filing procedures referred to in section 5.1 of this Policy”,
- (p) in subsection 8.9(1) of 51-102CP, the term “before the filing deadline for the business acquisition report and before the closing date of the transaction, if applicable. Reporting issuers are reminded that many securities regulatory authorities and regulators do not have the power to grant retroactive relief” should be read as “using the pre-filing procedures referred to in section 5.1 of this Policy”, and
- (q) in subparagraphs 8.9(4)(a)(i) and 8.9(4)(b)(i) of 51-102CP, the term “no later than the time the business acquisition report is required to be filed” wherever it occurs should be read as “using the pre-filing procedures referred to in section 5.1 of this Policy”.
- (r) in subparagraph 8.10(1) of 51-102CP, the term “but must be reviewed” should be added after “may be unaudited”.

Completed significant acquisitions and the obligation to provide business acquisition report level disclosure for a non-reporting issuer

- (2) For an issuer that is not a reporting issuer in any jurisdiction immediately before filing the long form prospectus (a “non-reporting issuer”), the long form prospectus disclosure requirements for a significant acquisition are generally intended to mirror those for reporting issuers subject to Part 8 of NI 51-102. To determine whether an acquisition is significant, non-reporting issuers would first look to the guidance under section 8.3 of NI 51-102. The initial test for significance would be calculated based on the financial statements of the issuer and acquired business or related businesses for the most recently completed financial year of each that ended before the ~~date of acquisition~~ date.

To recognize the possible growth of a non-reporting issuer between the date of its most recently completed year end and the ~~date of the acquisition~~ date and the corresponding potential decline in significance of the acquisition to the issuer, issuers should refer to the guidance in paragraph 35.1(4)(b) of Form 41-101F1 to perform the optional test. The applicable time period for this optional test for the issuer is the most recently completed interim period or financial year for which financial statements of the issuer are included in the prospectus and for the acquired business or related businesses is the most recently completed interim period or financial year ended before the date of the long form prospectus

The significance thresholds for IPO venture issuers are identical to the significance thresholds for venture issuers.

The timing of the disclosure requirements set out in subsection 35.3(1) of Form 41-101F1 are based on the principles under section 8.2 of NI 51-102. For reporting issuers, subsection 8.2(2) of NI 51-102 sets out the timing of disclosures for significant acquisitions where the acquisition occurs within 45 days after the year end of the acquired business. However, for IPO venture issuers, paragraph 35.3(1)(d) imposes a disclosure requirement for all significant acquisitions completed more than 90 days before the date of the long form prospectus, where the acquisition occurs within 45 days after the year end of the acquired business. This differs from the business acquisition report filing deadline for venture issuers under paragraph 8.2(2)(b) of NI 51-102 where the business acquisition report deadline for any significant acquisition where the acquisition occurs within 45 days after the year end of the acquired business is within 120 days after the ~~date of the acquisition~~ date.

Probable acquisitions

- (3) ~~Our interpretation of~~ When interpreting the phrase “where a reasonable person would believe that the likelihood of the acquisition being completed is high” ~~is consistent with the concept of a likely contingency in CICA Handbook section 3290 “Contingencies”.~~ It ~~it~~ is our view that the following factors may be relevant in determining whether the likelihood of an acquisition being completed is high:

- (a) whether the acquisition has been publicly announced;
- (b) whether the acquisition is the subject of an executed agreement;

- (c) the nature of conditions to the completion of the acquisition including any material third party consents required.

The test of whether a proposed acquisition “has progressed to a state where a reasonable person would believe that the likelihood of the acquisition being completed is high” is an objective, rather than subjective, test in that the question turns on what a “reasonable person” would believe. It is not sufficient for an officer of an issuer to determine that he or she personally believes that the likelihood of the acquisition being completed is or is not high. The officer must form an opinion as to what a reasonable person would believe in the circumstances. In the event of a dispute, an objective test requires an adjudicator to decide whether a reasonable person would believe in the circumstances that the likelihood of an acquisition being completed was high. By contrast, if the disclosure requirement involved a subjective test, the adjudicator would assess an individual’s credibility and decide whether the personal opinion of the individual as to whether the likelihood of the acquisition being completed was high was an honestly held opinion. Formulating the disclosure requirement using an objective test rather than a subjective test strengthens the basis upon which the regulator may object to an issuer’s application of the test in particular circumstances.

We generally presume that the inclusion of financial statements or other information is required for all acquisitions that are, or would be, significant under Part 8 of NI 51-102. Reporting issuers can rebut this presumption if they can provide evidence that the financial statements or other information are not required for full, true and plain disclosure.

Satisfactory alternative financial statements or other information

- (4) Issuers must satisfy the disclosure requirements in section 35.5 or section 35.6 of Form 41-101F1 by including either:
 - (i) the financial statements or other information that would be required by Part 8 of NI 51-102; or
 - (ii) satisfactory alternative financial statements or other information.

Satisfactory alternative financial statements or other information may be provided to satisfy the requirements of subsection 35.5(3) or subsection 35.6(3) of Form 41-101F1 when the financial statements or other information that would be required by Part 8 of NI 51-102 relate to a financial year ended within 90 days before the date of the long form prospectus or an interim period ended within 60 days before the date of the long form prospectus for issuers that are venture issuers, and 45 days for issuers that are not venture issuers. In these circumstances, we believe that satisfactory alternative financial statements or other information would not have to include any financial statements or other information for the acquisition or probable acquisition related to:

- (a) a financial year ended within 90 days before the date of the long form prospectus; or
- (b) an interim period ended within 60 days before the date of the long form prospectus for issuers that are venture issuers, and 45 days for issuers that are not venture issuers.

An example of satisfactory alternative financial statements or other information that we will generally find acceptable would be:

- (c) comparative annual financial statements or other information for the acquisition or probable acquisition for at least the number of financial years as would be required under Part 8 of NI 51-102 that ended more than 90 days before the date of the long form prospectus, audited for the most recently completed financial period in accordance with section 4.2 of the Instrument, and reviewed for the comparative period in accordance with section 4.3 of the Instrument;
- (d) a comparative interim financial statements report or other information for the acquisition or probable acquisition for any interim period ended subsequent to the latest annual financial statements included in the long form prospectus and more than 60 days before the date of the long form prospectus for issuers that are venture issuers, and 45 days for issuers that are not venture issuers reviewed in accordance with section 4.3 of the Instrument; and
- (e) pro forma financial statements or other information required under Part 8 of NI 51-102.

If the issuer intends to include financial statements as set out in the example above as satisfactory alternative financial statements, we ask that this be highlighted in the cover letter to the long form prospectus. If the issuer does not intend to include financial statements or other information, or intends to file financial statements or other information that are different from those set out above, the issuer should use the pre-filing procedures in NP 11-202.

Acquired business has recently completed an acquisition

- (5) When an issuer acquires a business or related businesses that has itself recently acquired another business or related businesses (an "indirect acquisition"), the issuer should consider whether long form prospectus disclosure about the indirect acquisition, including historical financial statements, is necessary to satisfy the requirement that the long form prospectus contain full, true and plain disclosure of all material facts relating to the securities being distributed. In making this determination, the issuer should consider the following factors:
- if the indirect acquisition would meet any of the significance tests in section 35.1(4) of Form 41-101F1 when the issuer applies each of those tests to its proportionate interest in the indirect acquisition of the business;
 - if the amount of time between the separate acquisitions is such that the effect of the first acquisition is not adequately reflected in the results of the business or related businesses the issuer is acquiring.

Financial statements or other information

- (6) Paragraphs 35.5(2)(b) and 35.6(2)(b) discuss financial statements or other information for the acquired business or related businesses. This "other information" is intended to capture the financial information disclosures required under Part 8 of NI 51-102 other than financial statements. An example of "other information" would include the operating statements, property descriptions, production volumes and reserves disclosures described under section 8.10 of NI 51-102.

(7) Except in Ontario, section 3.11 of NI 52-107 permits acquisition statements included in a business acquisition report or prospectus to be prepared in accordance with Canadian GAAP applicable to private enterprises in certain circumstances. The ability to present acquisition statements using Canadian GAAP applicable to private enterprises would not extend to a situation where an entity acquired or to be acquired is considered the primary business or the predecessor of the issuer.

Pro forma financial statements for acquisitions of a predecessor entity, a business or businesses acquired by the issuer, or other entity

- 5.10 The financial statements for acquisitions of a predecessor entity, a business or businesses acquired by the issuer, or other entity must be filed under Item 32 of Form 41-101F1, if the entities or businesses satisfy the conditions of paragraph 32.1(a), (b), or (c) of Form 41-101F1. Despite this requirement, acquisitions of a predecessor entity, a business or businesses acquired by the issuer, or other entity may also be subject to the requirements in Item 35 of Form 41-101F1. For example, the long form prospectus should include pro forma financial statements and a description of the entities or businesses.

PART 6: Advertising or Marketing Activities in Connection with Prospectus Offerings

Scope

- 6.1(1) The discussion below is focused on the impact of the prospectus requirement on advertising or marketing activities in connection with a prospectus offering.
- (2) Issuers and market participants who engage in advertising or marketing activities must also consider the impact of the registration requirement in each jurisdiction where such advertising or marketing activities are undertaken. Unless an exemption to the registration requirement is available, such activities may be made only by a person or company who is registered in the appropriate category having regard to the securities that are the subject of the advertising or marketing activities.
- (3) Advertising or marketing activities are also subject to regulation under securities legislation and other rules, including those relating to disclosure, and insider trading and registration, which are not discussed below.

The prospectus requirement

- 6.2(1)** Securities legislation generally provides that no one may trade in a security where that trade would be a distribution unless the prospectus requirement has been satisfied, or an exemption is available.
- (2)** The analysis of whether any particular advertising or marketing activities is prohibited by virtue of the prospectus requirement turns largely on whether the activities constitute a trade and, if so, whether such a trade would constitute a distribution.
- (3)** In Québec, since securities legislation has been designed without the notion of a “trade”, the analysis is dependent solely on whether the advertising or marketing activities constitute a distribution.

Definition of “trade”

- (4)** Securities legislation (other than the securities legislation of Québec) defines a “trade” in a non-exhaustive manner to include, among other things
- any sale or disposition of a security for valuable consideration,
 - any receipt by a registrant of an order to buy or sell a security, and
 - any act, advertisement, solicitation, conduct or negotiation directly or indirectly in furtherance of any of the foregoing.
- (5)** Any advertising or marketing activities that can be reasonably regarded as intended to promote a distribution of securities would be “conduct directly or indirectly in furtherance” of the distribution of a security and, therefore, would fall within the definition of a trade.

Definition of distribution

- (6)** Even though advertising or marketing activities constitute a “trade” for the purposes of securities legislation (other than the securities legislation of Québec), they would be prohibited by virtue of the prospectus requirement only if they also constitute a distribution under securities legislation. Securities legislation (other than the securities legislation of Québec) defines a distribution to include a “trade” in, among other things, previously unissued securities and securities that form part of a control block.
- (7)** The definition of distribution under the securities legislation of Québec includes the endeavour to obtain or the obtaining of subscribers or purchasers of previously unissued securities.

Prospectus exemptions

- (8)** It has been suggested by some that advertising or marketing activities, even if clearly made in furtherance of a distribution, could be undertaken in certain circumstances on a prospectus exempt basis. Specifically, it has been suggested that if an exemption from the prospectus requirement is available in respect of a specific distribution (even though the securities will be distributed under a prospectus), advertising or marketing related to such distribution would be exempt from the prospectus requirement. This analysis is premised on an argument that the advertising or marketing activities constitute one distribution that is exempt from the prospectus requirement while the actual sale of the security to the purchaser constitutes a second discrete distribution effected pursuant to the prospectus.
- (9)** We are of the view that this analysis is contrary to securities legislation. In these circumstances, the distribution in respect of which the advertising or marketing activities are undertaken is the distribution pursuant to the anticipated prospectus. Advertising or marketing must be viewed in the context of the prospectus offering and as an activity in furtherance of that distribution. If it were otherwise, the overriding concerns implicit and explicit in securities legislation regarding equal access to information, conditioning of the market, tipping and insider trading, and the provisions of the legislation designed to ensure such access to information and curb such abuses, could be easily circumvented.
- (10)** We recognize that an issuer and a dealer may have a demonstrable *bona fide* intention to effect an exempt distribution and this distribution may be abandoned in favour of a prospectus offering. In these very limited circumstances, there may be two separate distributions. From the time when it is reasonable for a dealer to

expect that a *bona fide* exempt distribution will be abandoned in favour of a prospectus offering, the general rules relating to advertising or marketing activities that constitute an act in furtherance of a distribution will apply.

Advertising or marketing activities

6.3(1) The prospectus requirement applies to any act, advertisement, solicitation, conduct or negotiation directly or indirectly in furtherance of a distribution unless a prospectus exemption is available. Accordingly, advertising or marketing activities intended to promote the distribution of securities, in any form, would be prohibited by virtue of the prospectus requirement. Advertising or marketing activities subject to the prospectus requirement may be oral, written or electronic and include the following:

- television or radio advertisements or commentaries;
- published materials;
- correspondence;
- records;
- videotapes or other similar material;
- market letters;
- research reports;
- circulars;
- promotional seminar text;
- telemarketing scripts;
- reprints or excerpts of any other sales literature.

(2) Advertising or marketing activities that are not in furtherance of a distribution of securities would not generally fall within the definition of a distribution and, therefore, would not be prohibited by virtue of the prospectus requirement. The following activities would not generally be subject to the prospectus requirement:

- advertising and publicity campaigns that are aimed at either selling products or services of the issuer or raising public awareness of the issuer;
- communication of factual information concerning the business of the issuer that is released in a manner, timing and form that is consistent with the regular past communications practices of the issuer if that communication does not refer to or suggest the distribution of securities;
- the release or filing of information that is required to be released or filed pursuant to securities legislation.

(3) Any activities that form part of a plan or series of activities undertaken in anticipation or in furtherance of a distribution would usually trigger the prospectus requirement, even if they would be permissible if viewed in isolation. Similarly, we may still consider advertising or marketing activities that do not indicate that a distribution of securities is contemplated to be in furtherance of a distribution by virtue of their timing and content. In particular, where a private placement or other exempt distribution occurs prior to or contemporaneously with a prospectus offering, we may consider activities undertaken in connection with the exempt distribution as being in furtherance of the prospectus offering.

Pre-marketing and solicitation of expressions of interest in the context of a bought deal

- 6.4(1) In general, any advertising or marketing activities undertaken in connection with a prospectus prior to the issuance of a receipt for the preliminary prospectus are prohibited under securities legislation by virtue of the prospectus requirement.
- (2) In the context of a bought deal, a limited exception to the prospectus requirement has been provided in Part 7 of NI 44-101. The exception is limited to communications by a dealer, directly or through any of its directors, officers, employees or agents, with any person or company (other than another dealer) for the purpose of obtaining from that person or company information as to the interest that it, or any person or company that it represents, may have in purchasing securities of the type that are proposed to be distributed, prior to a preliminary prospectus relating to those securities being filed with the relevant securities regulatory authorities.
- (3) The conditions set out in Part 7 of NI 44-101, including the entering into of an enforceable agreement between the issuer and an underwriter or underwriters who have agreed to purchase the securities and the issuance and filing of a press release announcing the agreement, must be satisfied prior to any solicitation of expressions of interest.
- (4) A distribution of securities commences at the time when
- a dealer has had discussions with an issuer or a selling securityholder, or with another dealer that has had discussions with an issuer or a selling securityholder about the distribution, and
 - those distribution discussions are of sufficient specificity that it is reasonable to expect that the dealer (alone or together with other dealers) will propose to the issuer or the selling securityholder an underwriting of the securities.
- (5) We understand that many dealers communicate on a regular basis with clients and prospective clients concerning their interest in purchasing various securities of various issuers. We will not generally consider such ordinary course communications as being made in furtherance of a distribution. However, from the commencement of a distribution, communications by the dealer, with a person or company designed to have the effect of determining the interest that it, or any person or company that it represents, may have in purchasing securities of the type that are the subject of distribution discussions, that are undertaken by any director, officer, employee or agent of the dealer
- (a) who participated in or had actual knowledge of the distribution discussions, or
- (b) whose communications were directed, suggested or induced by a person referred to in (a), or another person acting directly or indirectly at or upon the direction, suggestion or inducement of a person referred to in (a),
- are considered to be in furtherance of the distribution and contrary to securities legislation.
- (6) From the commencement of the distribution no communications, market making, or other principal trading activities in securities of the type that are the subject of distribution discussions may be undertaken by a person referred to in paragraph 5(a), above, or at or upon the direction, suggestion or inducement of a person or persons referred to in paragraph 5(a) or (b) above until the earliest of
- the issuance of a receipt for a preliminary prospectus in respect of the distribution,
 - the time at which a press release that announces the entering into of an enforceable agreement in respect of a bought deal is issued and filed in accordance with Part 7 of NI 44-101, and
 - the time at which the dealer determines not to pursue the distribution.
- (7) We note that the Investment ~~Dealers Association~~Industry Regulatory Organization of Canada has adopted ~~IDA by-law~~IROC Rule 29.13 which is consistent with the above discussion relating to pre-marketing of bought deals of equity securities. However, the principles articulated above apply to all offerings, whether of debt or equity securities, or a combination.

Advertising or marketing activities during the waiting period

- 6.5(1)** Securities legislation provides an exception to the prospectus requirement for limited advertising or marketing activities during the waiting period between the issuance of the receipt for the preliminary prospectus and the receipt for the final prospectus. Despite the prospectus requirement, it is permissible during the waiting period to
- (a) distribute notices, circulars, advertisements, letters or other communications that
 - “identify” the securities proposed to be issued,
 - state the price of such securities, if then determined, and
 - state the name and address of a person or company from whom purchases of securities may be made,provided that any such notice, circular, advertisement, letter or other communication states the name and address of a person or company from whom a preliminary prospectus may be obtained,
 - (b) distribute the preliminary prospectus, and
 - (c) solicit expressions of interest from a prospective purchaser, if prior to such solicitation or forthwith after the prospective purchaser indicates an interest in purchasing the securities, a copy of the preliminary prospectus is forwarded to the prospective purchaser.
- (2)** The use of any other marketing information or materials during the waiting period would result in the violation of the prospectus requirement.
- (3)** The “identification” of the security does not permit an issuer or dealer to include a summary of the commercial features of the issue. These details are set out in the preliminary prospectus which is intended as the main disclosure vehicle pending the issuance of the final receipt. The purpose of the permitted advertising or marketing activities during the waiting period is essentially to alert the public to the availability of the preliminary prospectus.
- (4)** For the purpose of identifying a security, the advertising or marketing material may only
- indicate whether a security represents debt or a share in a company or an interest in a non-corporate entity (e.g. a unit of undivided ownership in a film property) or a partnership interest,
 - name the issuer if the issuer is a reporting issuer, or name and describe briefly the business of the issuer if the issuer is not already a reporting issuer (the description of the business should be cast in general terms and should not attempt to summarize the proposed use of proceeds),
 - indicate, without giving details, whether the security qualifies the holder for special tax treatment, and
 - indicate how many securities will be made available.

Green sheets

- 6.6(1)** Some dealers prepare summaries of the principal terms of an offering, sometimes referred to as green sheets. Typically green sheets include information beyond the limited information for which an exemption to the prospectus requirement is available during the waiting period. If so, we would consider the distribution of a green sheet to a potential investor to contravene the prospectus requirement.
- (2)** Including material information in a green sheet or other marketing communication that is not contained in the preliminary prospectus could indicate a failure to provide in the preliminary prospectus full, true and plain disclosure of all material facts relating to the securities offered by the prospectus and result in the prospectus certificate constituting a misrepresentation.
- (3)** We may request copies of green sheets and other advertising or marketing materials as part of our prospectus review procedures. Any discrepancies between the content of a green sheet and the preliminary prospectus could result in the delay or refusal of a receipt for a final prospectus and, in appropriate circumstances, could result in enforcement action.

Advertising or marketing activities following the issuance of a receipt for a final prospectus

- 6.7** Advertising or marketing activities that are not prohibited by the prospectus requirement during the waiting period may also be undertaken on the same basis after a receipt has been issued for the final prospectus relating to the distribution. In addition, the prospectus and any document filed with or referred to in the prospectus may be distributed.

Sanctions and enforcement

- 6.8** Any contravention of the prospectus requirement through the advertising or marketing activities is a serious matter that could result in a cease trade order in respect of the preliminary prospectus to which such advertising or marketing activities relate. In addition, a receipt for a final prospectus relating to any such offering may be refused. In appropriate circumstances, enforcement proceedings may be initiated.

Media reports and coverage

- 6.9(1)** We recognize that an issuer does not have control over media coverage; however, an issuer should take appropriate precautions to ensure that media coverage which can reasonably be considered to be in furtherance of a distribution of securities does not occur after a decision has been made to file a preliminary prospectus or during the waiting period.
- (2)** We may investigate the circumstances surrounding media coverage of an issuer which appears immediately prior to or during the waiting period and which can reasonably be considered as being in furtherance of a distribution of securities. Action will be taken in appropriate circumstances.

Disclosure practices

- 6.10** At a minimum, participants in all prospectus distributions should consider the following practices to avoid contravening securities legislation:
- Directors or officers of an issuer should not give interviews to the media immediately prior to or during the waiting period. Directors and officers should normally limit themselves to responding to unsolicited inquiries of a factual nature made by shareholders, securities analysts, financial analysts, the media and others who have a legitimate interest in such information.
 - No director or officer of an issuer should make any statement during the period of distribution of securities (which includes the period from the commencement of the distribution as described in subsection 6.4(4) until the closing of the distribution) which constitutes a forecast, projection or prediction with respect to future financial performance, unless that statement relates to and is consistent with a forecast contained in the prospectus.
 - Underwriters and legal counsel have the responsibility of ensuring that the issuer and all directors and officers of the issuer who may come in contact with the media are fully aware of the restrictions applicable during the period of distribution of securities. It is not sufficient to make those restrictions known only to the officers comprising the working group.
 - Issuers, dealers and other market participants should develop, implement, maintain and enforce procedures to ensure that advertising or marketing activities that are contrary to securities legislation are not undertaken whether intentionally or through inadvertence.

Misleading or untrue statements

- 6.11** In addition to the prohibitions on advertising or marketing activities that result from the prospectus requirement, securities legislation in certain jurisdictions prohibits any person or company from making any misleading or untrue statements that would reasonably be expected to have a significant effect on the market value of securities. Therefore, in addition to ensuring that advertising or marketing activities are carried out in compliance with the prospectus requirement, issuers, dealers and their advisors must ensure that any statements made in the course of advertising or marketing activities are not untrue or misleading and otherwise comply with securities legislation.

PART 7: TRANSITION

Transition – Application of Amendments

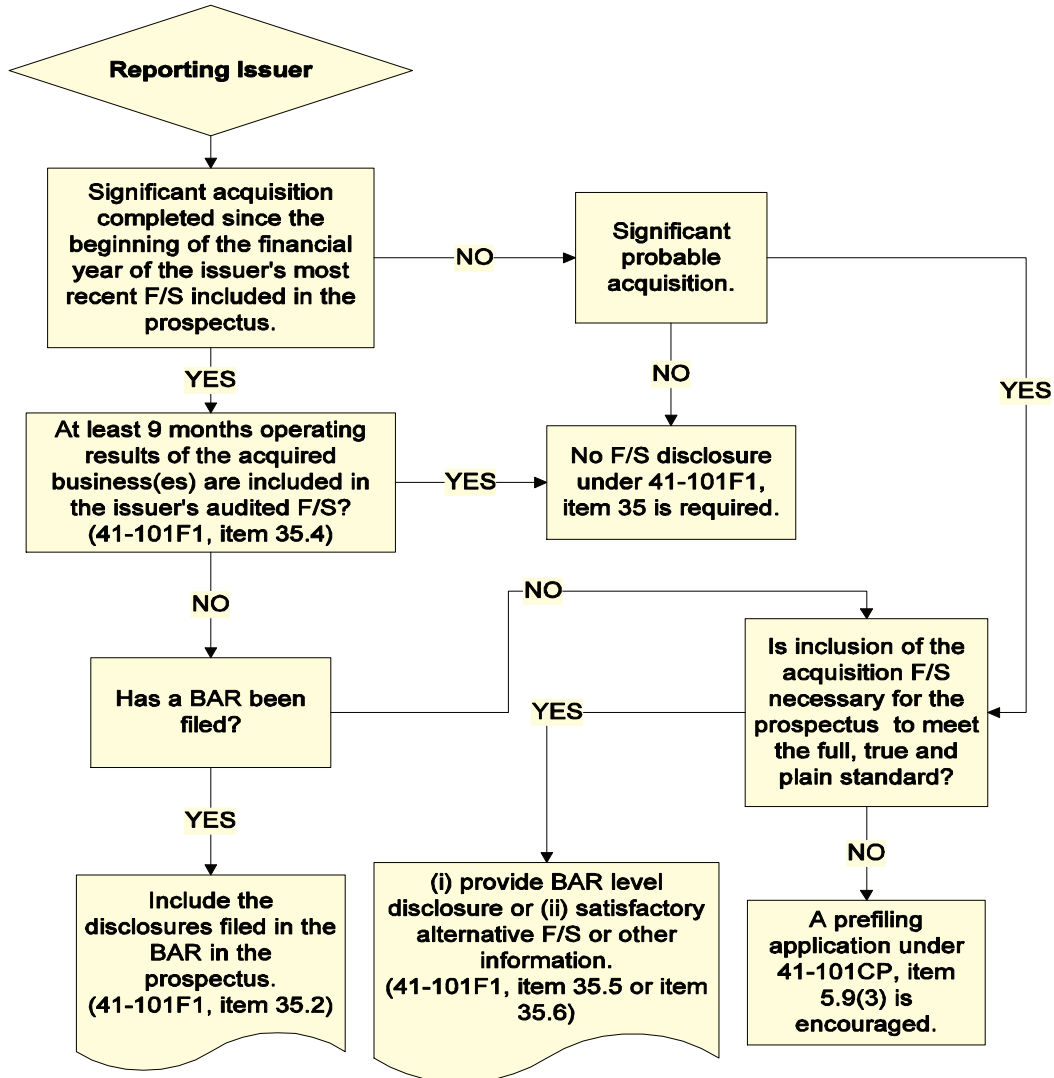
7.1 The amendments to this Policy which came into effect on January 1, 2011 only apply to a preliminary prospectus, an amendment to a preliminary prospectus, a final prospectus or an amendment to a final prospectus of an issuer which includes financial statements of the issuer in respect of periods relating to financial years beginning on or after January 1, 2011.

Appendix A

Financial Statement Disclosure Requirements for Significant Acquisitions

Chart 1 – Reporting Issuer

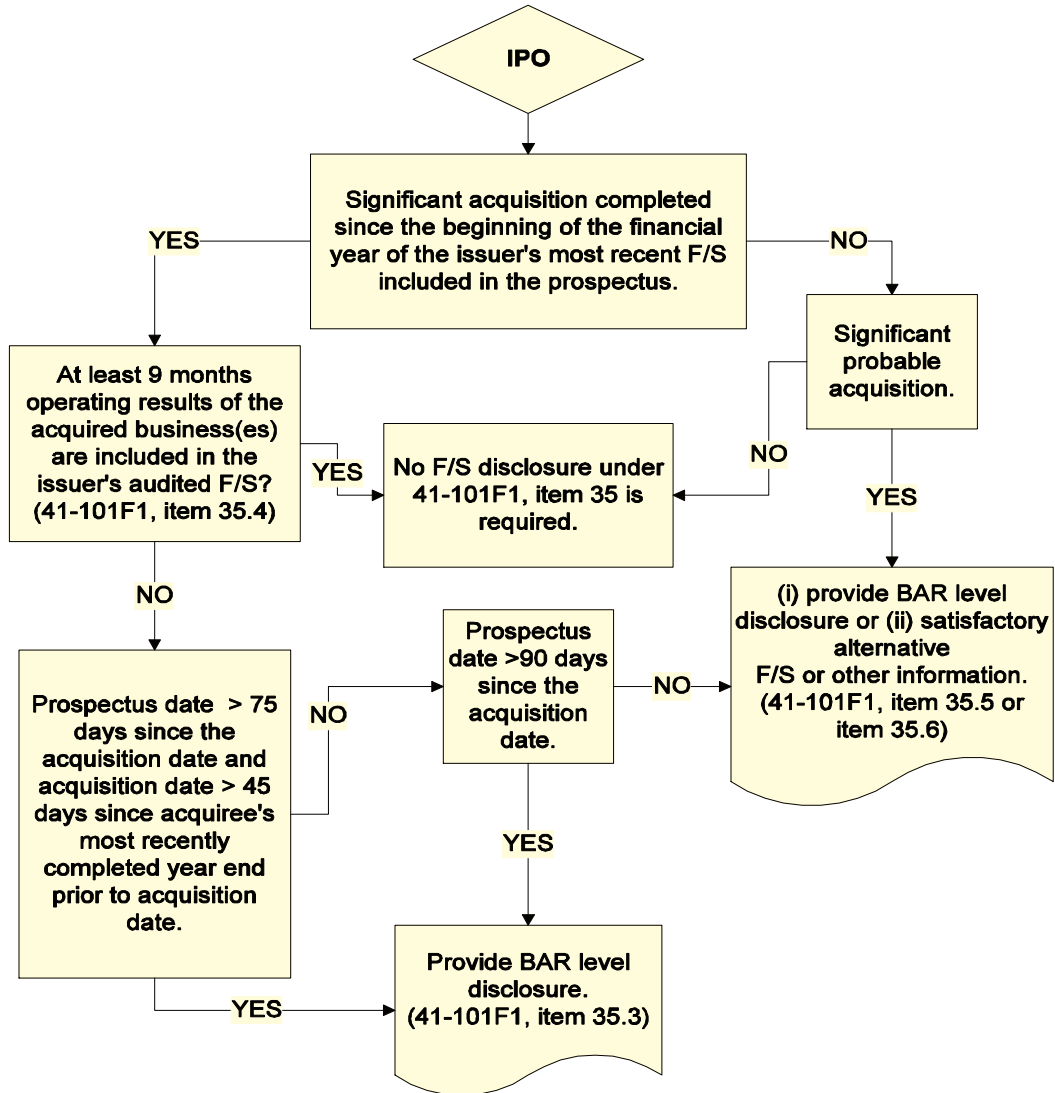
Financial Statement Disclosure Requirements for Significant Acquisitions.



Note: These decision charts provide general guidance and should be read in conjunction with Form 41-101F1.

Chart 2 – Non-Reporting Issuer

Financial Statement Disclosure Requirements for Significant Acquisitions.



Note: These decision charts provide general guidance and should be read in conjunction with Form 41-101F1.