

CSA Staff Notice 51-337
***Continuous Disclosure Review Program Activities for the fiscal
year ended March 31, 2012***

July 19, 2012

Purpose of this Notice

Reliable and accurate information by reporting issuers (issuers) is critical for investor confidence and to promote efficient capital markets. The CSA's continuous disclosure (CD) review program is designed to identify material disclosure deficiencies that affect the reliability and accuracy of an issuer's disclosure record, and has two fundamental objectives: education and compliance. The objectives of this notice are to:

- help issuers understand and comply with their obligations;
- summarize the results of the CD review program for the fiscal year ended March 31, 2012 (fiscal 2012); and
- provide examples of areas of common deficiencies.

To assist issuers in better understanding their continuous disclosure obligations, we have provided guidance and examples of common deficiencies in the following areas:

- Appendix A – Financial Statement Deficiencies
- Appendix B – Management's Discussion and Analysis (MD&A) Deficiencies
- Appendix C – Other Regulatory Deficiencies

For further details on the program, see [CSA Staff Notice 51-312 – \(Revised\) Harmonized Continuous Disclosure Review Program](#).

International Financial Reporting Standards

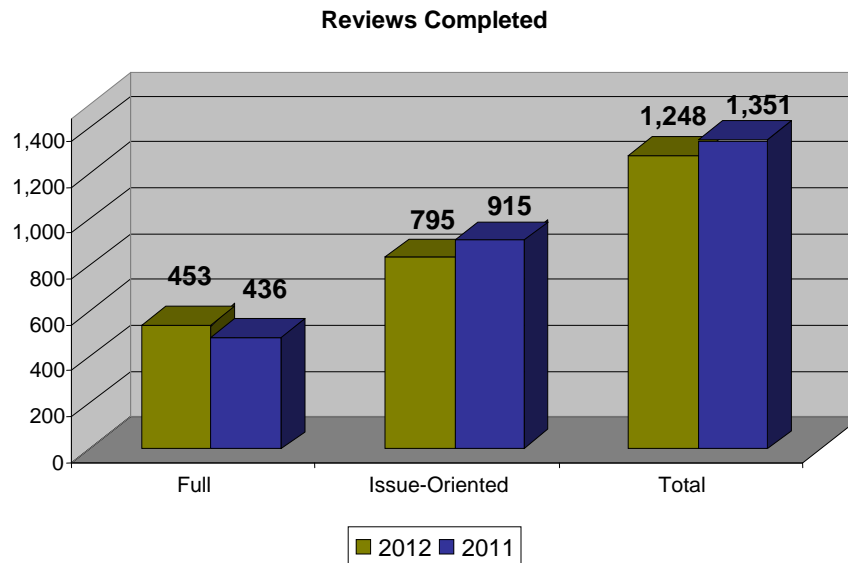
Most issuers are now required to prepare financial statements in accordance with International Financial Reporting Standards (IFRS) as issued by the International Accounting Standards Board (IASB) for fiscal years beginning on or after January 1, 2011.

Bulletins and IFRS-related content were provided on many jurisdictions' websites to assist issuers in their transition to IFRS. These jurisdictions updated this IFRS-related content during the year by proactively communicating with issuers and their advisors on IFRS-related securities law changes and transition issues.

In fiscal 2012, we conducted reviews that focused on issuers' first IFRS interim financial reports. The results of the IFRS transition reviews were generally positive. Compliance was better than expected based upon the results of earlier IFRS targeted reviews. Approximately 5% of issuers were required to refile financial statements due to basic transition issues.

Year in Review – fiscal 2012

There are approximately 4,200 issuers in Canada¹. We use a high level screening system that considers risk factors to select issuers for review and to determine the type of review to conduct (full or issue-oriented). We apply both qualitative and quantitative criteria in determining the level of review required. The criteria are updated as market conditions change. We focus on accounting and disclosure issues where either non-compliance is probable or a need for increased compliance is foreseen.



The above chart illustrates the composition of the type of reviews we conducted in fiscal 2012 compared to fiscal 2011. The number of full reviews conducted in fiscal 2012 increased by 4% from the previous year. The number of issue-oriented reviews decreased by 13%. The decrease in issue-oriented reviews is primarily the result of the fact that we concentrated our resources on IFRS by:

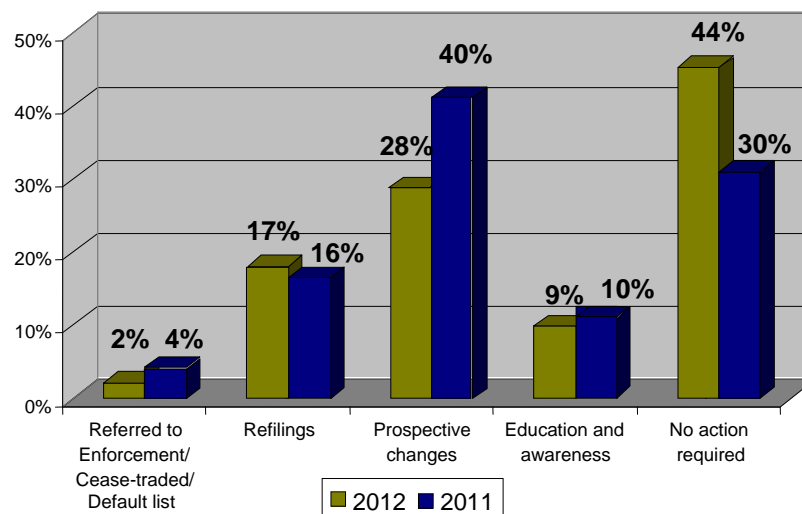
- conducting full reviews;
- focusing on IFRS issue-oriented reviews that were more complex and comprehensive than those done in fiscal 2011; and
- communicating more frequently with issuers to assist them in their IFRS transition.

Outcomes for fiscal 2012

Given our high level screening system that considers risk factors for the selection of issuers, we select issuers with higher risk of non-compliance. In fiscal 2012, 56% of our review outcomes required issuers to take action to improve disclosure, compared to 70% in fiscal 2011.

¹ Excluding investment funds and issuers that have been cease-traded.

Review Outcomes 2012



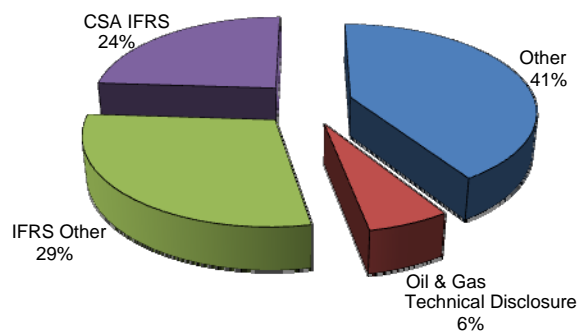
The increase of outcomes in the no action required category is mainly due to the increase in the number of issue-oriented reviews conducted that did not result in a letter being sent to the issuer. These issue-oriented reviews were completed to gather information on the IFRS transition, to identify industry trends and to identify differences between pre-changeover Canadian Generally Accepted Accounting Principles (GAAP) and IFRS that resulted in adjustments to reported results and disclosures.

We classified the outcomes of the full and issue-oriented reviews in the five categories described in Appendix D. More than one category of outcome could have been generated by a CD review. For example, an issuer could be required to refile certain documents as well as make certain changes on a prospective basis.

Issue-oriented reviews

An issue-oriented review is an in-depth review focusing on a specific accounting, legal or regulatory issue that we believe warrants regulatory scrutiny.

Issue-Oriented Reviews 2012



The "Other" category includes reviews of:

- Auditor Review of Interim Reports;
- Complaints;
- Environmental disclosure;
- Press releases;
- Executive compensation;
- Audit Committee;
- Certification;
- MD&A; and
- Cash Flow.

In fiscal 2012, 64% of the reviews (as compared to 68% of the reviews in fiscal 2011) were issue-oriented reviews. The following issue-oriented reviews were completed by one or more of the jurisdictions:

CSA IFRS Issue-oriented Review

The CSA conducted a CSA IFRS issue-oriented review. We reviewed the financial statements of selected issuers in addition to their MD&A. We examined these reports to determine whether the issuers provided information to enable readers to analyze and understand how the transition to IFRS affected the issuers' financial position, financial performance and cash flow.

We reviewed 164 issuers and noted that compliance was generally positive.

- 72% of reviews required no action.
- When we noted deficiencies, we sent comment letters asking issuers for clarification.
- The most common MD&A deficiency was issuers not clearly labelling and identifying the accounting principles used when they presented a mix of financial information in accordance with pre-changeover Canadian GAAP and IFRS. We reminded issuers of this requirement and asked them to comply in future MD&A.
- We found that issuers commonly did not include a statement of changes in equity for the comparative interim periods as required by subsection 4.3 (2) (b) of National Instrument 51-102, *Continuous Disclosure Obligations*.

IFRS Other Issue-oriented Reviews

a. Education IFRS Transition

In early fiscal 2012, we continued conducting education reviews to assess the level of readiness of issuers to file their first IFRS interim financial report. We reviewed the IFRS transition disclosure provided by issuers in their third interim and/or last annual MD&A before their first IFRS filings. Only a few issuers needed to be followed up with due to their risk of not being ready to file their first IFRS interim financial report on time.

b. IFRS Transition Disclosure

In addition to the CSA IFRS issue-oriented reviews performed, certain jurisdictions carried out further reviews of disclosure provided by issuers in their first IFRS interim financial report, including both the financial statements and the MD&A. The objective of the review was to gather insights on the extent and nature of the disclosures provided by issuers. Information was tracked to provide insight on industry trends, differences between pre-changeover Canadian GAAP and IFRS that resulted in adjustments to reported results, and disclosures. No letters were sent to issuers as a result of this review.

c. Decommissioning Provision

Staff conducted a review of issuers engaged in oil and gas activities to assess appropriate compliance with recognition, measurement and disclosure rules for decommissioning provisions under IAS 37, *Provisions, contingent liabilities and contingent assets* (IAS 37). Based on differences between pre-changeover GAAP and IAS 37, we expected to see IFRS transition adjustments in most cases. While a few issuers failed to appropriately recognize a provision, most complied with the recognition and measurement rules. We did note some general disclosure deficiencies in the following areas:

- inappropriate disclosure of material estimates and assumptions (e.g. discount rate, expected timing of outflows);

- over 50% of issuers reviewed did not disclose the requirement to re-measure the provision at each reporting period in order to reflect rates in effect at the time; and
- over 50% of issuers reviewed provided no disclosure of the discount rates applied on transition to IFRS or in the comparative quarter.

Oil and Gas Technical Disclosure Issue-oriented Review

Annually, staff conducts reviews on issuers engaged in oil and gas activities to assess compliance with requirements set out in National Instrument 51-101, *Standards of Disclosure for Oil and Gas Activities* (NI 51-101). Overall, we were satisfied with the results of our fiscal 2012 reviews. However, areas where we noted deficiencies and expect to see future improvements include:

- disclosure on significant factors and uncertainties as per sections 5.2 and 6.2.1 of Form 51-101F1, *Statement of Reserves Data and Other Oil and Gas Information*;
- use proper terminology set out in the Canadian Oil and Gas Evaluation Handbook (COGEH);
- include all required signatures on Form 51-101F3, *Report of Management and Directors on Oil and Gas Disclosure*, as instructed on subsection 2.1.3(e) of NI 51-101;
- consistently comply with section 5.9 of NI 51-101 and guidance in Revised CSA Staff Notice 51-327, *Guidance on Oil and Gas Disclosure*, concerning the disclosure of resources other than reserves;
- provide appropriate cautionary language concerning the 6:1 boe conversion ratio of natural gas to oil so as to clearly discern between the energy equivalency and the market price equivalency; and
- be consistent and accurate in the use of units of measurement and disclosure of reserves within and between disclosure documents.

Full Reviews

A full review is broad in scope and covers many types of disclosure. It covers the issuer's most recent annual financial statements and interim financial reports (pre-changeover Canadian GAAP) or at least the issuer's first IFRS interim financial reports (IFRS), MD&A, and other disclosure documents¹.

The following table provides a breakdown of these full reviews that have been conducted in fiscal 2012.

Type of review	Total 2012	Total 2011
Full – pre-changeover Canadian GAAP	120	436
Full – IFRS	333	-
Total Full	453	436

¹ Other disclosure documents are: technical disclosures, including technical reports for oil and gas, and mining issuers; annual information forms (AIF); annual reports; information circulars; press releases, material change reports and business acquisition reports (BARs); websites; certifications; and material contracts.

Common deficiencies identified

Our reviews focus on identifying material deficiencies and disclosure enhancements. To help issuers better understand their disclosure obligations, we have provided guidance and examples of common deficiencies:

Appendix A: Financial Statement Deficiencies

1. First-time adoption of International Financial Reporting Standards
 - a. Reconciliations
 - b. Explanations of material adjustments
 - c. Accounting policies
2. Classification of a liability as current
3. Business combinations
4. Flow-through shares

Appendix B: MD&A Deficiencies

1. Discussion of Operations
2. Liquidity
3. General Provisions

Appendix C: Other Regulatory Deficiencies

1. Standards of Disclosure for Mineral Projects
2. Statement of Executive Compensation
 - a. Summary compensation table
 - b. Compensation discussion and analysis
3. Disclosure of corporate governance practices

This is not an exhaustive list of deficiencies noted in our reviews, issuers should be reminded that their CD record must comply with all relevant securities legislation and lengthy disclosure does not necessarily equal full compliance. Examples do not include all requirements that could apply to a particular issuer's situation.

Areas of focus for fiscal year 2013

During fiscal 2013, our focus will be on the first annual IFRS report. We will continue to use a high level screening system that considers risk factors to determine the issuers we will select for review and the type of review required. Some of the topics that may receive greater attention by our CD program include:

- judgments and sources of estimation uncertainty disclosure;
- asset impairments; and
- business combinations.

Results by jurisdiction

The Alberta Securities Commission, the Ontario Securities Commission and the Autorité des marchés financiers publish reports summarizing the results of the CD review program in their jurisdictions. See the individual regulator's website for a copy of its report:

- www.albertasecurities.com
- www.osc.gov.on.ca
- www.lautorite.qc.ca

APPENDIX A

FINANCIAL STATEMENT DEFICIENCIES

We provided examples of deficient disclosure and presentation contrasted against more robust, entity-specific disclosure and presentation. The most notable financial statement deficiencies concerned requirements for first-time adoption of IFRS (IFRS 1, *First-time adoption of International Financial Reporting Standards* (IFRS 1)), presentation of financial statements (IAS 1, *Presentation of financial statements* (IAS 1)), business combinations (IFRS 3, *Business combinations* (IFRS 3)) and flow-through shares.

1. First-time adoption of International Financial Reporting Standards

In the first annual report and each interim financial report in the period covered by its first financial statements prepared in accordance with IFRS, issuers are required to apply IFRS 1. In accordance with IFRS 1, issuers must provide reconciliations and explain the effect of identified differences or changes in accounting policies resulting from the transition from their pre-changeover GAAP to IFRS.

a. Reconciliations

Some issuers omitted to provide all required reconciliations.

b. Explanations of material adjustments

Many issuers did not provide explanations for all material adjustments (including cash flows), or did not sufficiently explain the nature of the adjustment.

c. Accounting policies

We noted that some issuers did not change all their accounting policies to comply with IFRS, or that no reconciling items were identified for changes in accounting policies. Issuers must present coherent and complete information in their financial statements.

We also noted that some issuers provided boilerplate and nonspecific accounting policy disclosure. Users are faced with new accounting standards and in certain cases there may be accounting policy choices. Issuers must ensure they provide clear and entity-specific accounting policy disclosure.

For information about the disclosure of accounting policies used in the interim and annual MD&As in the changeover year to IFRS, see [CSA Staff Notice 52-328 – Disclosures about Accounting Policies in the Year of Changeover to International Financial Reporting Standards \(IFRS\)](#).

2. Classification of a liability as current

Liability classification under IFRS differs from pre-changeover Canadian GAAP. In accordance with paragraph 69 of IAS 1, an issuer shall classify a liability as current only when it expects to settle the liability in its normal operating cycle; it holds the liability primarily for the purpose of trading; or the liability is due to be settled within twelve months after the reporting period or it does not have an unconditional right to defer settlement of the liability for at least twelve months after the reporting period. Some issuers were required to reclassify debt that was classified as non-current under pre-

changeover Canadian GAAP to current under IFRS. However, when a refinancing or rolling over of the obligation is not at the discretion of the issuer (for example, when there is no arrangement for refinancing at the reporting date), many issuers incorrectly classified the obligation as non-current.

Example of incorrect classification (Long-term debt classified as non-current instead of current)

Consolidated Statements of Financial Position filed on March 19, 2012

IFRS line items	December 31 2011	December 31 2010	January 1 2010
<u>Assets</u>	25,561	24,372	25,269
<u>Liabilities</u>			
Current liabilities:			
Trade and other payables	3,772	11,908	4,046
Current portion of long-term debt	1,515	838	1,390
	<u>5,287</u>	<u>12,746</u>	<u>5,436</u>
Long-term debt (note 10)	8,302	326	9,060
Shareholders' Equity	11,972	11,300	10,773
	<u>25,561</u>	<u>24,372</u>	<u>25,269</u>

Note 10:

As at December 31, 2011, the Company did not meet a financial ratio on the long-term debt. In February 2012, a waiver was obtained allowing the Company to not meet this financial ratio for more than twelve months. Therefore, no reclassification has been made.

Example of entity-specific classification

Consolidated Statements of Financial Position filed on March 19, 2012

IFRS line items	December 31 2011	December 31 2010	January 1 2010
<u>Assets</u>	25,561	24,372	25,269
<u>Liabilities</u>			
Current liabilities:			
Trade and other payables	3,772	11,908	4,046
Current portion of long-term debt	9,817	838	1,390
	<u>13,589</u>	<u>12,746</u>	<u>5,436</u>
Long-term debt (note 10)	-	326	9,060
Shareholders' Equity	11,972	11,300	10,773
	<u>25,561</u>	<u>24,372</u>	<u>25,269</u>

Note 10:

As at December 31, 2011, the Company did not meet a financial ratio on the long-term debt. In February 2012, a waiver was obtained allowing the Company to not meet this

financial ratio for more than twelve months. Thus, in accordance with IAS 1, the Company has reclassified an amount of \$8,302 of long-term debt to current liabilities as the waiver was not obtained before the reporting date.

3. Business combinations

The adoption of IFRS 3 introduced a number of changes in accounting for business combinations. This has impacted the amount of goodwill recognized, the results in the period that an acquisition occurs and subsequent periods. Also, there are significant disclosure requirements concerning business acquisitions in annual financial statements and interim financial reports. In particular, we noted that some issuers have omitted the following required information:

- the amounts of revenue and profit or loss of the acquiree since the acquisition date included in the consolidated statement of comprehensive income for the reporting period (paragraph B64 (q) (i));
- the revenue and profit or loss of the combined entity for the current reporting period as though the acquisition date for all business combinations that occurred during the year had been as of the beginning of the annual reporting period (paragraph B64 (q) (ii));
- for a business combination done after the end of the reporting period but before the financial statements are authorized for issue, the information required by paragraph B64 of IFRS 3 unless the initial accounting for the business combination is incomplete at the time the financial statements are authorized for issue (paragraph B66);
- the primary reasons for the business combination and a description of how the acquirer obtained control of the acquiree (paragraph B64 (d));
- a qualitative description of the factors that make up the goodwill recognized, such as expected synergies from combining operations of the acquiree and the acquirer, intangible assets that do not qualify for separate recognition or other factors (paragraph B64 (e));
- for each contingent liability recognized, the information required in paragraphs 85 and 86 of IAS 37 (paragraph B64 (j));
- in a bargain purchase, a description of the reasons why the transaction resulted in a gain (paragraph B64 (n) (ii)); and
- for acquired receivables, the gross contractual amounts receivable and the best estimate at the acquisition date of the contractual cash flows not expected to be collected.

Furthermore, we have noted that some issuers have not disclosed the required information separately for each significant business combination or did not aggregate the required information for individually immaterial business combinations that are material collectively.

Example of deficient disclosure

On February 28, 2011, the Company acquired ABC Ltd. for an amount of \$1.6 million which was funded from cash generated from the Company's operations. The acquisition has been accounted for using the purchase method with operating results included in the Company's earnings from the date of acquisition. The purchase price allocation is as follows:

Accounts receivable	578
Inventories	483
Prepaid expenses	27
Property, plant and equipment	620
Goodwill	250
<u>Accounts payable and accrued liabilities</u>	<u>(328)</u>
Net assets acquired	1,630
Consideration	
Cash	1,239
Contingent consideration and distributions	500
<u>Balance of sale receivable</u>	<u>(109)</u>
	1,630

Example of entity-specific disclosure

On February 28, 2011, the Company acquired 100% of the shares and voting interests in ABC Ltd., a leading manufacturer and erector of structural steel products operating across Canada, for an amount of \$1.6 million using cash generated from the Company's operations. The acquisition costs related to this transaction amounted to \$152,070 and have been accounted as such in the consolidated statement of earnings in 2011 under "General and Administrative expenses". The acquisition has been accounted for using the acquisition method with operating results included in the Company's earnings from the date of acquisition. The purchase price allocation is as follows:

<u>At fair value</u>	(in 000's)
Accounts receivable	578
Inventories	483
Prepaid expenses	27
Property, plant and equipment	620
Goodwill	250
<u>Accounts payable and accrued liabilities</u>	<u>(328)</u>
Net assets acquired	1,630
Consideration	
Cash	1,239
Contingent consideration	500
<u>Balance of sale receivable</u>	<u>(109)</u>
	1,630

The acquisition of ABC Ltd. is consistent with the Company's acquisition strategy of identifying strategic opportunities within its existing core business segment and acquiring well-established companies with complementary strengths to achieve meaningful synergies. The synergies are expected to consist primarily of cost savings relating to raw materials and reduction of overhead expenses, and represent the goodwill. Goodwill from this business combination is not expected to be deductible for tax purposes.

Since the acquisition, the acquired company has contributed a total of \$200,341 to the Company's sales of goods and \$3,546 to earnings. Management estimates that, if the acquisition had occurred on January 1, 2011, additional sales of goods would have been \$40,743 and additional operating earnings would have been \$785 from January 1, 2011 to February 28, 2011.

The gross contractual amount of accounts receivable amounts to \$600,058. At the acquisition date, the best estimate of contractual cash flows that is not expected to be recovered is \$22,111. An initial amount of \$50,000 was withheld as a provision for adjustments, of which \$25,000 was paid on September 1, 2011 and \$25,000 on February 2, 2012.

At the acquisition date, the amount recognized as contingent consideration represents the fair value which was the discounted maximum amount indicated in the purchase agreement based on ABC's financial projections (see note 4 for disclosure on business acquisition significant estimates and the range of estimated amounts).

4. Flow-through shares

IFRS do not specifically address the accounting for flow-through shares or the related tax consequences arising from such transactions. Pre-changeover Canadian GAAP, however, addressed the accounting for flow-through shares in Section 3465, *Income taxes* and EIC-146, *Flow-through shares*, that cannot anymore be used. We have noted that many issuers have not identified any IFRS transition impact in their reconciliations from pre-changeover Canadian GAAP to IFRS. We expected that issuers would have made some changes in their flow-through shares accounting policy.

Example of deficient disclosure

Flow-through shares:

Proceeds received upon the issue of common shares that transfer the exploratory expense deductions to investors are credited to the share capital and the related exploration costs are charged to deferred exploration costs. The estimated tax benefits transferred to shareholders are recorded as a future income tax liability at the time of filing of the renunciation documents with the tax authorities with a corresponding reduction in share capital.

Example of entity-specific disclosure

Flow-through shares¹:

Issuance of flow-through shares represents in substance an issue of common shares and the sale of right to tax deductions to the investors when the flow-through shares are issued. The sale of the right to tax deductions is deferred and presented as other liabilities in the statement of financial position. The proceeds received from flow-through placements are allocated between share capital and any warrants issued and liability using the residual method which means that the shares are valued at the fair value of existing shares at the time of issuance and the residual proceeds are allocated between warrants and other liability. The liability component recorded initially on the issuance of shares is reversed on renunciation of the right to the tax deductions to the investors and when admissible expenses are incurred and recognized in profit or loss as a reduction of deferred income tax expense and a deferred tax liability is recognized for the taxable temporary difference that arises from the difference between the carrying amount of admissible expenditures capitalized as an asset and its tax basis.

¹ The entity-specific disclosure for flow-through shares is not the only allowable treatment.

APPENDIX B

MD&A DEFICIENCIES

The quality of MD&A disclosure continues to be an area where we see deficiencies. MD&A is a narrative explanation through the eyes of management of how the issuer performed during the period covered by the financial statements, and what the issuer's financial condition and future prospects are. We often find boilerplate disclosure that does not change from period to period. Issuers frequently replicate disclosure from the financial statements without any analysis. Entity-specific disclosure provides investors with information that complements the financial statements so they are able to assess the current financial condition of the issuer and its future prospects. Under the requirements, the MD&A should:

- help current and prospective investors understand what the financial statements show and do not show;
- discuss important trends and risks that have affected the financial statements, and trends and risks that are reasonably likely to affect them in the future; and
- provide information about the quality, and potential variability, of the issuer's earnings and cash flow, to assist investors in determining whether past performance is indicative of future performance.

There are three important areas where we continue to see boilerplate disclosure in the MD&A: discussion of operations, liquidity, and general provisions. For each, we have provided examples of deficient disclosure contrasted against more robust entity-specific disclosure.

1. Discussion of Operations

Issuers are required to analyze their operations during the most recently completed financial year, including a comparison against the previously completed financial year. The analysis should discuss and quantify all material variances. Common deficiencies include: discussion of immaterial information without inclusion of information that may be material to investors; and insufficient analysis of why changes have occurred. Issuers are reminded that the MD&A should contain a balanced discussion of their operations. Issuers should quantify how volume and price changes affected revenue, and discuss why changes occurred. If other elements affected revenue, such as the introduction of a new product or new competitors, the MD&A should also address these factors. Issuers should not limit the operational analysis to revenue; if issuers experienced a change in their gross profit percentage, the MD&A should discuss the factors behind the change.

Example of Deficient Disclosure

Revenue increased from \$900,000 to \$1,080,000, a 20% increase. Gross profit increased from \$400,000 to \$408,000, a 2% increase.

Example of entity-specific disclosure

Revenue increased from \$900,000 to \$1,080,000, a 20% increase. Gross profit increased from \$400,000 to \$408,000, a 2% increase. Three factors caused revenue to increase by \$180,000:

- increased sales volume of Product X-\$60,000;
- decreased unit price of Product X-(\$30,000); and
- the introduction of a new product during the fourth quarter, Product Y-\$150,000.

In late 2011, we anticipated new competition entering our market, so we discounted our remaining Product X units to encourage their sale and to allow us to focus on its replacement, Product Y. Discounts on Product X caused the reduced gross profit percentage. We expect to continue discounting Product X in the first quarter, but expect our gross profit to improve as Product Y replaces Product X.

2. Liquidity

The MD&A should identify and discuss any known or expected fluctuations and trends in an issuer's liquidity, taking into account demands, commitments, events or uncertainties. Where applicable, the discussion should also include disclosure of any defaults or risk of defaults on debt covenants and how the issuer intends to cure the default or otherwise address the risk as set out in the example below. The disclosure relating to expected liquidity fluctuations is required for all issuers, but it is especially important when issuers have negative cash flows from operations, a negative working capital position or have breached or expect to breach their debt covenants.

Example of deficient disclosure

As at year-end, the Company had cash of \$100,000 and accounts receivable of \$50,000. Current assets amounted to \$150,000 with current liabilities of \$400,000 resulting in a working capital deficit of \$250,000. The Company believes that it has sufficient capital on hand to satisfy working capital requirements for the next 12 months.

Example of entity-specific disclosure

As of year-end, the Company's debt to equity ratio was in breach of a covenant in its loan agreement. Subsequent to year-end, the Company:

- renegotiated the covenants in the loan agreement to cure the default; and
- borrowed an additional \$300,000 to meet current and future working capital requirements.

New terms under the loan agreement restrict repayment of existing debt payable to related parties. We estimate that the Company will need \$500,000 over the next two years to complete its exploration project. In the short-term, the Company will rely on advances from shareholders and the exercise of options and share purchase warrants to fund exploration costs.

3. General Provisions

Issuers must endeavour to improve MD&A disclosure. In particular, many issuers operating in a specialized industry or high-tech sector do not sufficiently describe their operations, thereby restricting the usefulness of their MD&As. We would like to remind issuers of the requirements under Part 1(a) of Form 51-102F1, *Management's Discussion & Analysis*.

Example of deficient disclosure

Strategy

The Corporation (ABC) expects to generate revenue from its product candidates in the form of royalties. ABC sold its interest in its joint venture to its partner, XYZ Inc. (XYZ) on June 30, 2011. Following this transaction, ABC manages its relationship with its two major partners to maximize value from the products that will generate royalties on a going-forward basis. The main assets of ABC are the patent portfolio licensed to NMO Inc. and the royalty agreement with XYZ.

Example of entity-specific disclosure

Strategy

We have implemented a business strategy with intent to reacquire growth in revenue and improve our operations. We continue to invest in order to transform from a print directory business to a digital media and marketing solutions company.

Our strategy remains to leverage our multiplatform media and marketing solutions, to enhance services to our advertisers, build traffic to our network of properties and improve user experience. Our goal is to serve the advertising needs of small and medium enterprises across Canada, by providing the right services and tools to manage and grow their businesses.

We are focusing on key areas, such as:

- Improving our operations with increased focus on sales effectiveness, product fulfillment, billing and customer support;
- Provisioning of new services for our customers with the objective of offering an overall better customer experience and return on investment by driving more quality leads through calls, clicks, forms and emails;
- Improving our value proposition for the consumer by enhancing our content on our online and mobile properties;
- Creating partnerships in traffic and distribution to augment leads to our advertisers; and
- Branding and promotion to raise awareness on our product portfolio and accelerate our brand transformation.

We achieve profitability by maximizing our operating efficiency and constantly reviewing all of our operations with a view to ensuring we maintain a competitive cost structure. Improving our cost structure remains a key priority and will continue to be achieved through:

- Business process redesign;
- Cost containment initiatives; and
- Investment in technology to better support our operations and our transformation.

Our key priorities for 2012 are to:

- Execute our sales approach;
- Deliver superior customer value; and
- Lead our industry transformation.

APPENDIX C: OTHER REGULATORY DEFICIENCIES

CSA Staff assess issuer compliance with requirements of our securities laws. Our objective is to promote clear and informative disclosure that will allow investors to make informed investment decisions. We have identified the following areas where we continue to see lack of compliance: mineral projects, executive compensation and governance practices.

1. Standards of Disclosure for Mineral Projects

National Instrument 43-101, *Standards of Disclosure for Mineral Projects* (NI 43-101), sets out the requirements when a mining company discloses scientific or technical information on mineral projects. Under these requirements, the disclosure must be based on information prepared by a qualified person. Deficiencies identified include:

- incomplete or inadequate disclosure of preliminary economic assessments, mineral resources and mineral reserves;
- non-compliant certificates and consents of qualified persons for technical reports;
- incomplete or inadequate disclosure of historical estimates and exploration targets; and
- name of the qualified person omitted in documents containing scientific and technical information.

We remind issuers that the amendments to NI 43-101 came in force on June 30, 2011.

2. Statement of Executive Compensation

All direct and indirect compensation provided to certain executive officers and directors for, or in connection with, services they have provided to the issuer or subsidiary of the issuer must be disclosed. The objective of this requirement is to provide insight into executive compensation as a key aspect of the overall stewardship and governance of issuers and to help investors understand how decisions about executive compensation are made. Many issuers continue to provide insufficient disclosure related to the summary compensation table, as well as in their compensation discussion and analysis.

a. Summary compensation table

Section 3.1 of Form 51-102F6, *Statement of executive compensation* (Form 51-102F6), requires issuers to provide a summary compensation table (SCT). We noted that some issuers did not disclose in the SCT the grant date fair value of share-based awards and option-based awards. We remind issuers that the grant date fair value of these types of awards must be reported in the SCT in the year of grant irrespective of whether part or the entire award relates to multiple financial years or payout is subject to performance goals and similar conditions. We also remind issuers that they must disclose key assumptions and estimates used to calculate the fair value of the grant.

Example of deficient application

In 2011, a company grants restricted share units (RSUs) to a named executive officer (NEO). Under the terms of the award, the NEO will be entitled to a payout of 1,000 RSUs in each of 2011, 2012, and 2013 if certain performance goals, including vesting, are satisfied in those years. The performance goals, including vesting, in respect of the 2011 part of the award have been satisfied and the company reports the grant date fair

value of that part of the award in the 2011 SCT but decides to defer reporting the part of the award related to 2012 and 2013.

What should have been done

The company should have reported the grant date fair value of the entire award, including the parts related to 2012 and 2013, in the 2011 SCT. The grant date fair value methodology used should have taken into account the fact that the NEO will not receive those RSUs unless the performance goals, including vesting, for 2012 and 2013 are satisfied.

b. Compensation discussion and analysis

Section 2.1 of Form 51-102F6 requires issuers to describe and explain all significant elements of compensation awarded to, earned by, paid to, or payable to NEOs. The compensation discussion and analysis must include the following:

- (a) the objectives of any compensation program or strategy;
- (b) what the compensation program is designed to reward;
- (c) each element of compensation;
- (d) why the company chooses to pay each element;
- (e) how the company determines the amount (and, where applicable, the formula) for each element; and
- (f) how each element of compensation and the company's decisions about that element fit into the company's overall compensation objectives and affect decisions about other elements.

A number of issuers did not provide the required disclosure. Many issuers provided an analysis expressed in boilerplate language; others did not fully and accurately explain significant elements of compensation awarded to NEOs.

Example of deficient disclosure

The objective of the Corporation's compensation is to: (i) compensate management in a manner that encourages and rewards a high level of performance with a view to increasing long-term shareholder value; (ii) align management's interests with the long term interests of shareholders; and (iii) provide a compensation package that is commensurate with other junior companies in order to enable the Corporation to attract and retain talent.

Example of entity-specific disclosure

The Compensation Discussion and Analysis section explains the pay program for the financial year ended December 31, 2011 for our NEOs, which include our President and Chief Executive Officer, Executive Vice President and Chief Financial Officer, and our three other most highly compensated executive officers as follows: [list of names].

Executive Compensation Philosophy and Policy

Executive compensation at XYZ Inc. (XYZ) is aligned in several ways with our strategic business plan. Our key long-term objective is to motivate executives to achieve targets that are aligned with the Corporation's strategic goals and that are expected to enhance shareholder value over the long term. Our shorter-term corporate goals, business unit objectives, and individual contributions to business success are reflected in the annual

incentive plan. A significant portion of the executive pay program consists of “at-risk” pay meaning that compensation is dependent on achieving corporate, business unit and individual performance objectives both in the short and long term.

XYZ’s executive pay program is also designed to attract and retain experienced executives who have the skills required to help the Corporation achieve its strategic and organizational goals. XYZ is committed to providing compensation plans that are consistent with best practices in corporate governance.

The Corporation’s executive compensation policy is to provide total compensation that is generally competitive with the median of its peer group, taking into consideration additional Corporation-specific issues such as the achievement of financial and operational objectives, and the specific roles and responsibilities of different executive positions. Total compensation plans are structured to provide compensation that is above market median when results exceed the Corporation’s business objectives and below market median when results are below target.

Executive Compensation Components

The following describes the different compensation components, which together provide compensation packages that meet the objectives of XYZ’s compensation philosophy.

Base Salary: Market-competitive fixed rate of pay to attract and retain executives with experience and skills required to achieve strategic and organizational goals.

Annual Incentive Plan (AIP): Annual cash bonus with target awards established for each NEO as a percentage of base salary to motivate executives to drive superior short-term performance through Corporation, business unit and individual objectives.

Long-term Incentive Plan (LTIP): Option grant levels are based on individual performance and options are time-vested rateably over 4 years with a 10-year term to promote retention and encourage executives to pursue opportunities that will increase shareholder value over the long term.

To achieve the objectives described above, each element of pay is targeted at the market median with adjustments based on meeting specific performance goals as follows:

- Base salary is adjusted above and below the median to reflect specific circumstances such as experience, individual performance and changes in responsibility;
- AIP payouts may exceed market median target levels when results exceed objectives and may be below median levels (down to zero) when results are below targets; and
- LTIP grants of stock options can be adjusted from 0% to 200% of target levels based on each individual’s performance and contribution to the Corporation’s overall results.

The Corporation has chosen to reward achievement of overall Corporation performance goals defined as earnings before income taxes and non-controlling interest (adjusted EBT). The Corporation believes that adjusted EBT is the most appropriate indicator of the operational and financial performance of the business. For 2011, there was no payout in respect of the corporate objective of the AIP and LTIP, as the minimum performance threshold of \$3.5 M in respect of adjusted EBT was not achieved.

For more information and guidance about the compensation discussion and analysis, see [CSA Staff Notice 51-331 – Report on Staff’s Review of Executive Compensation Disclosure](#). Although, we remind issuers that new amendments to Form 51-102F6 came in force on October 31, 2011.

3. Disclosure of corporate governance practices

Issuers must adequately disclose their corporate governance practices. For example, Item 6 of Form 58-101F1, *Corporate Governance Disclosure*, and Item 5 of Form 58-101F2, *Corporate Governance Disclosure (Venture Issuers)*, require issuers to describe the process by which the board identifies new candidates for board nomination. Disclosure by issuers reviewed was often deficient.

Some issuers simply indicated that the nominating committee or another board committee was responsible for identifying candidates. Others merely stated that the nominee committee was responsible for recommending candidates for board nomination. This type of disclosure is insufficient, as it does not explain the process for identifying new board nominees.

Example of deficient disclosure

Members of the Human Resources, Corporate Governance and Nomination Committee, the Board and management are responsible to determine the nomination of new candidates for Board nomination.

The following example illustrates full disclosure of the board nominee selection process.

Example of entity-specific disclosure

The board of directors has conferred on the Corporate Governance Committee responsibility for identifying new candidates for director positions and for proposing these candidates to the board of directors. The process by which the Corporate Governance Committee identifies new candidates for director positions begins with the approval by the board of a statement of competencies and experience sought with respect to each new candidate. The board of directors or management may propose candidates to the committee. On occasion, the services of a recruitment adviser may be used. Potential candidates are interviewed by the chairman of the board of directors and the lead director as well as by the other members of the board, as necessary. An invitation to join the board is made only where board consensus regarding the proposed candidate is obtained.

APPENDIX D: CATEGORIES OF OUTCOMES

Enforcement referral/ Default list/ Cease trade order

If the issuer has critical CD deficiencies, we may add the issuer to our default lists, issue a cease trade order and/or refer the issuer to Enforcement.

Refiling

The issuer must amend and refile certain CD documents.

Prospective Changes

The issuer is informed that certain changes or enhancements are required in its next filing as a result of deficiencies identified.

Education and Awareness

The issuer receives a proactive letter alerting it to certain disclosure enhancements that should be considered in its next filing.

No action required

The issuer does not need to make any changes or additional filings.

FOR MORE INFORMATION

Contact any of the following:

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