

Appendix D

The Proposed Policy

PART I: INTRODUCTION AND DEFINITIONS

1.1 Introduction and Purpose — This Companion Policy provides information about how the securities regulatory authorities interpret or apply National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards* (the Instrument). The Instrument is linked closely with the application of other national instruments, including National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102) and National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers* (NI 71-102). These and other national instruments also contain a number of references to International Financial Reporting Standards (IFRS) and the requirements in the Handbook of the Canadian Institute of Chartered Accountants (the Handbook). Full definitions of IFRS and the Handbook are provided in National Instrument 14-101 *Definitions*.

The Instrument does not apply to investment funds. National Instrument 81-106 *Investment Fund Continuous Disclosure* applies to investment funds.

1.2 Multijurisdictional Disclosure System — National Instrument 71-101 *The Multijurisdictional Disclosure System* (NI 71-101) permits certain U.S. incorporated issuers to satisfy Canadian disclosure filing obligations, including financial statements, by using disclosure documents prepared in accordance with U.S. federal securities laws. The Instrument does not replace or alter NI 71-101. There are instances in which NI 71-101 and the Instrument offer similar relief to a reporting issuer. There are other instances in which the relief differs. If both NI 71-101 and the Instrument are available to a reporting issuer, the issuer should consider both instruments. It may choose to rely on the less onerous instrument in a given situation.

1.3 Calculation of Voting Securities Owned by Residents of Canada — The definition of “foreign issuer” is based upon the definition of foreign private issuer in Rule 405 of the 1933 Act and Rule 3b-4 of the 1934 Act. For the purposes of the definition of “foreign issuer”, in determining the outstanding voting securities that are directly or indirectly owned by residents of Canada, an issuer should

(a) use reasonable efforts to identify securities held by a broker, dealer, bank, trust company or nominee or any of them for the accounts of customers resident in Canada,

(b) count securities beneficially owned by residents of Canada as reported on reports of beneficial ownership, including insider reports and early warning reports, and

(c) assume that a customer is a resident of the jurisdiction or foreign jurisdiction in

which the nominee has its principal place of business if, after reasonable inquiry, information regarding the jurisdiction or foreign jurisdiction of residence of the customer is unavailable.

This method of calculation differs from that of NI 71-101 which only requires a calculation based on the address of record. Some SEC foreign issuers may therefore qualify for exemptive relief under NI 71-101 but not under the Instrument.

1.4 Exemptions Evidenced by the Issuance of a Receipt — Section 5.2 of the Instrument states that an exemption from any of the requirements of the Instrument pertaining to financial statements or auditor's reports included in a prospectus may be evidenced by the issuance of a receipt for that prospectus. Issuers should not assume that the relief evidenced by the receipt will also apply to financial statements or auditors' reports filed in satisfaction of continuous disclosure obligations or included in any other filing.

1.5 Filed or Delivered — Financial statements that are filed in a jurisdiction will be made available for public inspection in that jurisdiction, subject to the provisions of securities legislation in the local jurisdiction regarding confidentiality of filed material. Material that is delivered to a regulator, but not filed, is not required under securities legislation to be made available for public inspection. However, the regulator may choose to make such material available for inspection by the public.

1.6 Other Legal Requirements — Issuers and auditors should refer to National Instrument 52-108 *Auditor Oversight* for requirements relating to auditor oversight by the Canadian Public Accountability Board. In addition, issuers and registrants are reminded that they and their auditors may be subject to requirements under the laws and professional standards of a jurisdiction that address matters similar to those addressed by the Instrument, and which may impose additional or more onerous requirements. For example, applicable corporate law may prescribe the accounting principles or auditing standards required for financial statements. Similarly, applicable federal, provincial or state law may impose licensing requirements on an auditor practising public accounting in certain jurisdictions.

PART 2: APPLICATION FOR ACCOUNTING PRINCIPLES

2.1 Application of Part 3 — Part 3 of the Instrument applies to periods relating to financial years beginning on or after January 1, 2011. Part 3 refers to Canadian GAAP applicable to publicly accountable enterprises, which is IFRS incorporated into the Handbook, contained in Part I of the Handbook.

2.2 Application of Part 4 — Part 4 of the Instrument applies to periods relating to financial years beginning before January 1, 2011. Part 4 refers to Canadian GAAP-Part IV of the Handbook applicable to public enterprises. Canadian GAAP-Part IV of the Handbook has differing requirements for public enterprises and non-publicly accountable enterprises. Part 4 of the Instrument generally requires issuers and registrants to use

Canadian GAAP applicable to public enterprises. The following are some of the significant differences in Canadian GAAP applicable to public enterprises compared to those applicable to non-publicly accountable enterprises:

- (a) financial statements for public enterprises cannot be prepared using the differential reporting options as set out in the Handbook;
- (b) transition provisions applicable to enterprises other than public enterprises are not available; and
- (c) financial statements must include any additional disclosure requirements applicable to public enterprises.

2.3 IFRS in English and French — The Handbook provides IFRS in English and French. Both versions have equal status and effect under Canadian GAAP. Issuers, auditors, and other market participants may use either version to comply with the requirements in the Instrument.

2.4 Reference to accounting principles — Section 3.2 of the Instrument requires certain financial statements to be prepared in accordance with Canadian GAAP applicable to publicly accountable enterprises. Section 3.2 also requires annual financial statements to include an explicit and unreserved statement of compliance with IFRS and an interim financial report to disclose compliance with International Accounting Standard 34 *Interim Financial Reporting*. These provisions distinguish between the basis of preparation and disclosure requirements.

There are two options for referring to accounting principles in the applicable financial statements and, in the case of annual financial statements, accompanying auditor's reports referred to in section 3.3 of the Instrument:

- (a) refer only to IFRS in the notes to the financial statements and in the auditor's report, or
- (b) refer to both IFRS and Canadian GAAP in the notes to the financial statements and in the auditor's report.

2.5 IFRS as adopted by the IASB — The definition of IFRS in National Instrument 14-101 *Definitions* refers to standards and interpretations adopted by the International Accounting Standards Board. The definition does not extend to national accounting standards that are modified or adapted from IFRS, sometimes referred to as a "jurisdictional" version of IFRS.

2.6 Presentation and functional currencies — If issuers comply with requirements contained in IFRS in IAS 1 *Presentation of Financial Statements* and IAS 21 *The Effects of Changes in Foreign Exchange Rates* relating to the disclosure of presentation currency and functional currency, then they will comply with section 3.5 of the Instrument.

2.7 Registrants' financial statements and interim financial information — Subsection 3.2(3) and section 3.15 of the Instrument require financial statements and interim

financial information delivered by a registrant to account for investments in subsidiaries, jointly controlled entities and associates as specified for separate financial statements in IFRS.

Section 3.2(4) of the Instrument allows a registrant to file financial statements and interim financial information for periods relating to a financial year beginning in 2011 that exclude comparative information for the preceding year or interim period. For a registrant that adopts IFRS in 2011, this provision allows a registrant to have a transition date as at the beginning of its financial year beginning in 2011 rather than as at the beginning of the preceding year.

2.8 Use of different accounting principles — Subsection 3.2(5) of the Instrument requires financial statements to be prepared in accordance with the same accounting principles for all periods presented in the financial statements. Subsection 3.2(6) of the Instrument provides an exemption to permit financial information for a particular financial year beginning before January 1, 2011 to be prepared using accounting principles permitted in Part 4 of the Instrument, which is Canadian GAAP – Part IV, if two conditions are met. First, the financial information must be for the earliest of three financial years presented in financial statements. Second, financial information previously prepared for the particular year did not comply with IFRS. The exemption in subsection 3.2(6) allows an issuer to include financial statements in a prospectus which contain financial information for the most recently completed year and the preceding year that comply with IFRS, and financial information for the earliest of the three years prepared using Canadian GAAP-Part IV.

The requirements in subsections 3.2(5) and 3.11(3) for use of the same accounting principles apply to all periods presented in one set of financial statements. These subsections do not require all financial statements included in a document to be prepared using the same accounting principles if more than one set of financial statements are included in the document. Therefore, an issuer may file a prospectus or business acquisition report that includes financial statements for an interim period beginning on or after January 1, 2011 that comply with IFRS, and also include in the prospectus or business acquisition report separately presented financial statements for financial years beginning before January 1, 2011 prepared using Canadian GAAP-Part IV.

In circumstances described in this section, issuers should clearly identify the applicable accounting principles in order to avoid any confusion.

2.9 Acceptable Accounting Principles — Readers are likely to assume that financial information disclosed in a news release is prepared on a basis consistent with the accounting principles used to prepare the issuer's financial statements. To avoid misleading readers, an issuer should alert readers if financial information in a news release is prepared using accounting principles that differ from those used to prepare an issuer's financial statements or includes non-GAAP financial measures discussed in CSA Staff Notice 52-306 *Non-GAAP Financial Measures*.

2.10 Acquisition statements prepared using Canadian GAAP applicable to private enterprises —Except in Ontario, paragraph 3.11(1)(f) of the Instrument permits acquisition statements to be prepared using Canadian GAAP applicable to private enterprises, as contained in Part II of the Handbook, if certain conditions are met.

One of these conditions is that financial statements for the business were not previously prepared in accordance with any of the accounting principles specified in paragraphs 3.11(1)(a) through (e). Paragraph 3.11(1)(a) refers to Canadian GAAP applicable to publicly accountable enterprises, which is IFRS incorporated into the Handbook contained in Part I of the Handbook. Financial statements for a business may have previously been prepared using Canadian GAAP - Part IV, as defined in section 4.1 of the Instrument.

If acquisition statements are prepared using Canadian GAAP applicable to private enterprises, the reconciliation requirement in subsection 3.11(6) does not apply.

However, section 3.14 requires *pro forma* financial statements to be prepared using accounting principles that are consistent with the issuer's GAAP. Companion Policy 51-102CP provides further guidance on preparation of *pro forma* financial statements in this circumstance.

2.11 Acquisition statements for a business division — Subparagraph 3.12(2)(f)(i) of the Instrument refers to financial statements for a business division. For the purposes of that subparagraph, the financial statements for a business division include “divisional” or “carve-out” financial statements, which are discussed in section 8.6 of Companion Policy 51-102CP.

PART 3: APPLICATION FOR AUDITING STANDARDS

3.1 Auditor's Expertise — The securities legislation in most jurisdictions prohibits a regulator or securities regulatory authority from issuing a receipt for a prospectus if it appears to the regulator or securities regulatory authority that a person or company who has prepared any part of the prospectus or is named as having prepared or certified a report used in connection with a prospectus is not acceptable.

3.2 Canadian Auditors for Canadian GAAP and GAAS Financial Statements — A Canadian auditor is a person or company that is authorized to sign an auditor's report by the laws, and that meets the professional standards, of a jurisdiction of Canada. We would normally expect issuers and registrants incorporated or organized under the laws of Canada or a jurisdiction of Canada, and any other issuer or registrant that is not a foreign issuer nor a foreign registrant, to engage a Canadian auditor to audit the issuer's or registrant's financial statements if those statements are prepared in accordance with Canadian GAAP applicable to publicly accountable enterprises and will be audited in accordance with Canadian GAAS unless a valid business reason exists to use a non-Canadian auditor. A valid business reason would include a situation where the principal operations of the company and the essential books and records required for the audit are

located outside of Canada.

Non-Canadian auditors auditing financial statements in accordance with Canadian GAAS and which comply with IFRS are expected to consult or involve an auditor familiar with Canadian GAAS and IFRS.

3.3 Auditor Oversight — In addition to the requirement in section 3.4 of the Instrument, National Instrument 52-108 *Auditor Oversight* also contains certain requirements related to auditors and auditor reports.

3.4 Form of auditor's report — The Instrument specifies acceptable auditing standards for financial statements, financial information, and operating statements. Subsection 3.3(1) and paragraph 3.12(2)(f) of the Instrument prescribe requirements for auditor's reports in the form specified by Canadian GAAS in accordance with a fair presentation framework. Canadian Audit Standard (CAS) 700 *Forming an Opinion and Reporting on Financial Statements* applies to audit reports required by subsection 3.3(1) to accompany financial statements. CAS 800 *Special considerations - Audits of financial statements prepared in accordance with special purpose framework* applies to audit reports required to accompany financial statements of registrants. CAS 805 *Special considerations – audits of single financial statements and specific elements, accounts or items of a financial statement* applies to audit reports required to accompany acquisition statements that are operating statements for an oil and gas property or acquisition statements for a business division. CAS 700 *Forming an Opinion and Reporting on Financial Statements* also applies to audit reports required to accompany other acquisition statements.

3.5 Modification of opinion — Part 5 of the Instrument permits the regulator or securities regulatory authority to grant exemptive relief from the Instrument, including the requirement that an auditor's report not contain a modification of opinion or other similar communication that would constitute a modification of opinion under Canadian GAAS. A modification of opinion includes a qualification of opinion, an adverse opinion, and a disclaimer of opinion. However, staff will generally recommend that relief not be granted if the modification of opinion or other similar communication is:

- (a) due to a departure from accounting principles permitted by the Instrument, or
- (b) due to a limitation in the scope of the auditor's examination that
 - (i) results in the auditor being unable to form an opinion on the financial statements as a whole,
 - (ii) is imposed or could reasonably be eliminated by management, or
 - (iii) could reasonably be expected to be recurring.