

## **Annex A**

### **Proposed National Instrument 52-112 *Non-GAAP and Other Financial Measures Disclosure***

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**Proposed National Instrument 52-112**  
***Non-GAAP and Other Financial Measures Disclosure***

**PART 1**  
**DEFINITIONS AND APPLICATION**

**Definitions**

**1.** In this Instrument

“capital management measure” means a financial measure that is disclosed in the notes to the financial statements to enable users of financial statements to evaluate the issuer’s objectives, policies and processes for managing capital;

“financial outlook” has the meaning ascribed to it in National Instrument 51-102 *Continuous Disclosure Obligations*;

“FOFI” has the meaning ascribed to it in National Instrument 51-102 *Continuous Disclosure Obligations*;

“non-GAAP financial measure” means

- (a) a financial measure of financial performance, financial position or cash flow that is not disclosed or presented in the financial statements and that is not a disaggregation, calculated in accordance with the accounting policies used to prepare the financial statements, of a line item presented in the primary financial statements, or
- (b) a financial outlook for which no equivalent financial measure is presented in the primary financial statements;

“primary financial statements” means

- (a) the statement of financial position,
- (b) the statement of profit or loss and other comprehensive income,
- (c) the statement of changes in equity, and
- (d) the statement of cash flows;

“segment measure” means a financial measure of segment profit or loss, revenue, expenses, assets, or liabilities that is disclosed in the notes to the financial statements;

“supplementary financial measure” means a financial measure that is not disclosed or presented in the financial statements and that

- (a) is a disaggregation, calculated in accordance with the accounting policies used to prepare the financial statements, of a line item presented in the primary financial statements, and
- (b) is, or is intended to be, disclosed on a periodic basis to present an aspect of financial performance, financial position or cash flow.

## **Application**

- 2. (1) This Instrument applies to an issuer, other than an SEC foreign issuer as defined in National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers*.
- (2) This Instrument applies to any non-GAAP financial measure, segment measure, capital management measure or supplementary financial measure that an issuer discloses in a document and that is intended to be, or reasonably likely to be, made available to the public in the local jurisdiction, whether or not filed under securities legislation, unless the issuer discloses a specific financial measure in accordance with a requirement of securities legislation or the laws of a jurisdiction of Canada.
- (3) This Instrument does not apply to a specified document, a supporting document or a material contract filed by the issuer.
- (4) For the purposes of subsection (3), “specified document” means a document referred to in any of paragraphs 12.1(1)(a) to (e) of National Instrument 51-102 *Continuous Disclosure Obligations*.
- (5) For the purposes of subsection (3), “supporting document” means a document referred to in any of clauses 2.3(1)(a)(iv)(A) to (C) of National Instrument 81-101 *Mutual Fund Prospectus Disclosure*.
- (6) For the purposes of subsection (3), “material contract” has the meaning ascribed to it in National Instrument 51-102 *Continuous Disclosure Obligations*, for an issuer other than an investment fund, and National Instrument 81-106 *Investment Fund Continuous Disclosure*, for an investment fund.

**PART 2**  
**DISCLOSURE REQUIREMENTS**

**Non-GAAP financial measures**

3. An issuer must not disclose a non-GAAP financial measure in a document unless all of the following apply:
- (a) the non-GAAP financial measure is labelled appropriately given its composition and in a way that distinguishes it from totals, subtotals and line items presented in the primary financial statements;
  - (b) subject to subsection 4(1), the non-GAAP financial measure is presented with no more prominence in the document than the most directly comparable financial measure presented in the primary financial statements;
  - (c) the document presents the same non-GAAP financial measure for the comparative period; and
  - (d) the first time the non-GAAP financial measure appears in the document, the document
    - (i) subject to subsection 4(2), identifies the non-GAAP financial measure as such,
    - (ii) states that the non-GAAP financial measure does not have a standardized meaning under the financial reporting framework used to prepare the financial statements and may not be comparable to similar financial measures presented by other issuers,
    - (iii) explains how the non-GAAP financial measure provides useful information to a reasonable person and explains the additional purposes, if any, for which management uses the non-GAAP financial measure,
    - (iv) subject to subsection 4(3) and section 5, provides a quantitative reconciliation, to the most directly comparable financial measure presented in the primary financial statements, which reconciliation
      - (A) is disaggregated in such a way that it provides a reasonable person an understanding of the reconciling items,
      - (B) does not describe a reconciling item as non-recurring, infrequent or unusual when a similar loss or gain is reasonably

likely to occur within the next two years or has occurred during the prior two years, and

(C) is explained in such a way that it provides a reasonable person an understanding of each reconciling item, and

(v) explains the reason for a change, if any, in the label, composition or calculation of the non-GAAP financial measure.

#### **Non-GAAP financial measures that are ratios**

**4.** (1) Paragraph 3(b) does not apply if

- (a) the non-GAAP financial measure is a ratio, and
- (b) the ratio is presented with no more prominence in the document than similar financial measures presented in the primary financial statements.

(2) Subparagraph 3(d)(i) does not apply if

- (a) the non-GAAP financial measure is a ratio for which all financial components are disclosed or presented in the financial statements, or
- (b) the non-GAAP financial measure is a ratio for which all financial components are disaggregations, calculated in accordance with the accounting policies used to prepare the financial statements, of line items presented in the primary financial statements.

(3) Subparagraph 3(d)(iv) does not apply if

- (a) the non-GAAP financial measure is a ratio, and
- (b) the first time the ratio appears in the document, the document describes how the ratio is calculated and
  - (i) identifies each non-GAAP financial measure used to calculate the ratio and complies with section 3 for each non-GAAP financial measure identified, or
  - (ii) provides a quantitative reconciliation to the ratio as calculated using the most directly comparable financial measures presented in the primary financial statements.

## **Non-GAAP financial measures that are financial outlooks**

**5.** (1) For the purposes of subparagraph 3(d)(iv), “primary financial statements” must be read as “FOFI” if

- (a) the non-GAAP financial measure is a financial outlook, and
- (b) FOFI has been disclosed together with the financial outlook in the document.

(2) Subparagraph 3(d)(iv) does not apply if

- (a) the non-GAAP financial measure is a financial outlook,
- (b) FOFI has not been disclosed with the financial outlook in the document, and
- (c) the first time the financial outlook appears in the document, the document
  - (i) presents the equivalent historical non-GAAP financial measure, and
  - (ii) describes
    - (A) each of the material differences between the financial outlook and the most directly comparable financial outlook for which an equivalent historical financial measure is presented in the primary financial statements, or
    - (B) each of the significant components of the financial outlook used in its calculation.

## **Segment measures**

**6.** If an issuer discloses in a document other than the financial statements a total of segment measures that is not a total, subtotal or line item presented in the primary financial statements, the document must,

- (a) the first time the total of segment measures appears in the document, provide a quantitative reconciliation of the total of segment measures to the most directly comparable financial measure presented in the primary financial statements,

- (b) present the total of segment measures with no more prominence than the most directly comparable financial measure referred to in paragraph (a), and
- (c) include the presentation of the total of segment measures for the comparative period, if the total of segment measures has been previously disclosed.

### **Capital management measures**

- 7.**
- (1)** This section applies to a capital management measure that
    - (a) is disclosed in a document other than the financial statements, and
    - (b) is not
      - (i) a total, subtotal or line item presented in the primary financial statements, or
      - (ii) a disaggregation, calculated in accordance with the accounting policies used to prepare the financial statements, of a line item presented in the primary financial statements.
  - (2)** If an issuer discloses a capital management measure described in subsection (1) in a document, the document must
    - (a) present the capital management measure with no more prominence than
      - (i) the most directly comparable financial measure presented in the primary financial statements, or
      - (ii) similar financial measures presented in the primary financial statements, if the capital management measure is a ratio,
    - (b) the first time the capital management measure appears in the document,
      - (i) describe how the capital management measure is calculated,
      - (ii) state that the accounting policies used to prepare the financial statements do not specify how the capital management measure is calculated,
      - (iii) explain how the capital management measure provides useful information to a reasonable person and explains the additional

purposes, if any, for which management uses the capital management measure, and

(iv) provide, except where the capital management measure is a ratio, a quantitative reconciliation of the capital management measure to the most directly comparable financial measure presented in the primary financial statements, and

(c) include the presentation of the capital management measure for the comparative period, if the capital management measure has been previously disclosed.

### **Supplementary financial measures**

8. If an issuer discloses a supplementary financial measure in a document, the document must,
- (a) the first time the supplementary financial measure appears in the document,
    - (i) describe how the supplementary financial measure is calculated, and
    - (ii) explain the reason for a change, if any, in the label, composition or calculation of the supplementary financial measure if it has been previously disclosed, and
  - (b) include the presentation of the supplementary financial measure for the comparative period, if the supplementary financial measure has been previously disclosed.

## **PART 3 EXEMPTION**

### **Exemption**

9. (1) The regulator or the securities regulatory authority may grant an exemption from this Instrument, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.
- (2) Despite subsection (1), in Ontario, only the regulator may grant such an exemption.



(3) Except in Alberta and Ontario, an exemption referred to in subsection (1) is granted under the statute referred to in Appendix B of National Instrument 14-101 *Definitions*, opposite the name of the local jurisdiction.

**PART 4**  
**EFFECTIVE DATE**

**Effective date**

**10.** This Instrument comes into force on •, 201•.