NOTICE AND REQUEST FOR COMMENT

Draft *Regulation 41-101 respecting General Prospectus Requirements* and Policy Statement to *Regulation 41-101 respecting General Prospectus Requirements*

Draft Regulation to amend National Instrument 14-101, *Definitions*

Draft Regulation to amend *Regulation 44-101 respecting Short Form Prospectus Distributions* and Amendments to Policy Statement to *Regulation 44-101 respecting Short Form Prospectus Distributions*

Draft Regulation to amend *Regulation 44-102 respecting Shelf Distributions* and Amendments to Policy statement to *Regulation 44-102 respecting Shelf Distributions*

Draft Regulation to amend *Regulation 44-103 respecting Post-Receipt Pricing* and Amendments to Policy Statement to *Regulation 44-103 respecting Post-Receipt Pricing*

Draft Regulation to amend *Regulation 45-101 respecting Rights Offerings*

Draft Regulation to amend *Regulation 51-102 respecting Continuous Disclosure Obligations* and Amendments to Policy Statement to *Regulation 51-102 respec*ting *Continuous Disclosure Obligations*

Draft Regulation to amend *Regulation 81-101 respecting Mutual Fund Prospectus Disclosure* and Amendments to Policy Statement to *Regulation 81-101 respecting Mutual Fund Prospectus Disclosure*

Draft Regulation to amend *Regulation 81-102 Mutual Funds*

Draft Regulation to amend *Regulation 81-104 respecting Commodity Pool*s and Amendments to Policy Statement to *Regulation 81-104 respecting Commodity Pools*

Draft Regulation to Repeal *Regulation Q-28 Respecting General Prospectus Requirements*

Draft Regulation to Repeal *Regulation No. 14 respecting Acceptability of Currencies in Material Filed with Securities Regulatory Authorities*

Draft Regulation to Repeal National Policy No. 21 *National Advertising – Warnings*

and

Draft Amendments to *Notice 43-201 relating to the Mutual Reliance Review System for Prospectuses*

December 21, 2006

We, the Canadian Securities Administrators (CSA) are publishing for a 90-day comment period the following draft regulatory texts:

- *Regulation 41-101 respecting General Prospectus Requirements* (Draft Regulation 41-101);

- Form 41-101F1, *Information Required in a Prospectus* of *Regulation 41-101* (Draft Form 1);

- Form 41-101F2, *Information Required in an Investment Fund Prospectus* of *Regulation 41-101* (Draft Form 2);

- Policy Statement to *Regulation 41-101* (Draft Policy Statement);

(collectively, Draft Regulation).

We are also publishing for a 90-day comment period, draft amendments to the following:
National Instrument 14-101, *Definitions* (NI 14-101);

- *Regulation 44-101 respecting Short Form Prospectus Distributions* (Regulation 44-101) including Form 44-101F1, *Short Form Prospectus* of Regulation 44-101 (Form 44-101F1);

- *Regulation 44-102 respecting Shelf Distributions* (Regulation 44-102);

- *Regulation 44-103 respecting Post-Receipt Pricing* (Regulation 44-103);

- *Regulation 45-101 respecting Rights Offerings* including Form 45-101F, *Information Required in a Rights Offering Circular* (Form 45-101F);

- *Regulation 51-102 respecting Continuous Disclosure Obligations* (Regulation 51-102);

- Form 51-102F2, *Annual Information Form* of Regulation 51-102 (Form 51-102F2);

- *Regulation 81-101 respecting Mutual Fund Prospectus Disclosure* (Regulation 81-101) including Form 81-101F1, *Contents of a Simplified prospectus* (Form 81-101F1) and Form 81-101F2, *Contents of Annual Information Form* (Form 81-101F2);

- *Regulation 81-102 Mutual Funds* (French version only: terminological changes to harmonize with other regulatory texts)

- *Regulation 81-104 respecting Commodity Pools* (Regulation 81-104);

(collectively, Regulation Consequential Amendments).

We are also publishing for a 90-day comment period, amendments to the following:

- Policy Statement to *Regulation 44-101 respecting Short Form Prospectus Distributions* (Policy Statement 44-101);

- Policy Statement to *Regulation 44-102 respecting Shelf Distributions* (Policy Statement 44-102);

- Policy Statement to *Regulation 44-103 respecting Post-Receipt Pricing* (Policy Statement 44-103);

- Policy Statement to *Regulation 51-102 respecting Continuous Disclosure Obligations* (Policy Statement 51-102);

- Policy Statement to *Regulation 81-101 respecting Mutual Fund Prospectus Disclosure* (Policy Statement 81-101);

- Policy Statement to *Regulation 81-102 Mutual Funds* (French version only)

- Policy Statement to *Regulation 81-104 respecting Commodity Pools* (Policy Statement 81-104);

- *Notice 43-201 relating to the Mutual Reliance Review System for Prospectuses* (Notice 43-201);

(collectively, Policy Consequential Amendments, and with the Regulation Consequential Amendments, Consequential Amendments). Other than in Ontario, we expect to separately publish for a 90-day comment period, draft amendments to *Regulation 11-101 respecting Principal Regulator System*.

We are also proposing to repeal, upon the coming into force of the Draft Regulation, the following regulatory texts:

- *Regulation No. 14 respecting Acceptability of Currencies in Material Filed with Securities Regulatory Authorities* because parts of it are now redundant as a result of the coming into force of *Regulation 52-107 respecting Acceptable Accounting Principles, Auditing Standards and Reporting Currency* (Regulation 52-107) and the remaining parts of it will be redundant upon the coming into force of the requirements in General Instruction (10) and section 1.5 of Draft Form 1;

- National Policy No. 21 *National Advertising – Warnings* because it will be redundant upon the adoption of the guidance in Part 6 of the Draft Policy Statement.

We are also proposing to withdraw the following notices upon the coming into force of the Draft Regulation:

- CSA Staff Notice 42-303 *Prospectus Requirements* because it will no longer be relevant upon the coming into force of the Draft Regulation;

- CSA Staff Notice 44-301 *Frequently Asked Questions Regarding the New Prospectus Regulations* because Part A of it will no longer be relevant upon the coming into force of the Draft Regulation and we intend to update and replace Parts B and C of it before the Draft Regulation comes into force;

- Canadian Securities Administrators' Notice 3 *Pre-Marketing Activities in the Context of Bought Deals* because it will be redundant upon the adoption of the guidance in Part 6 of the Draft Policy Statement.

Background

In Ontario, Ontario Securities Commission Regulation 41-501 *General Prospectus Requirements* (OSC Rule 41-501) came into force in December 2000. In Quebec, Regulation Q-28 *Respecting General Prospectus Requirements* (Q-28) came into force in December 2000 and is substantially the same as OSC Regulation 41-501 (OSC Rule 41-501 and Q-28 are collectively referred to as Regulation 41-501). OSC Rule 41-501 has been adopted as the long form prospectus regulation by all other jurisdictions in Canada. Some other jurisdictions, however, have kept local regulations, including forms, relating to long form prospectuses so that issuers would have the option of complying with the local requirements.

Since December 2000, a number of regulations prescribing continuous disclosure requirements for all issuers have been adopted, including Regulation 51-102 and *Regulation 81-106 respecting Investment*

Fund Continuous Disclosure (Regulation 81-106). These regulations collectively set out a comprehensive and national continuous disclosure regime.

A national short form prospectus regime was adopted at the same time as Regulation 41-501. The short form prospectus requirements were streamlined and harmonized with the continuous disclosure regime when amended and restated Regulation 44-101 came into force in December 2005.

The Draft Regulation and the Consequential Amendments are another step towards harmonizing the prospectus and continuous disclosure requirements across Canada.

The text of the Draft Regulation is being published concurrently with this Notice and can be obtained on websites of CSA members, including the following:

www.bcsc.bc.ca
www.albertasecurities.com
www.sfsc.gov.sk.ca
www.msc.gov.mb.ca
www.osc.gov.on.ca
www.lautorite.qc.ca
www.gov.ns.ca/nssc/
www.nbsc-cvmnb.ca

- We are publishing
- Draft Regulation 41-101;
- Draft Form 1;
- Draft Form 2;
- the Draft Policy Statement;
- amendment regulations for
    - NI 14-101;
    - Regulation 44-101;
    - Form 44-101F1;
    - Regulation 44-102;
    - Regulation 44-103;
    - Form 45-101F;
    - Regulation 51-102;
    - Form 51-102F2;
    - Regulation 81-101, including Form 81-101F1 and Form 81-101F2;
    - Regulation 81-102;

  - Regulation 81-104;
- amendments for
  - Policy Statement 44-102;
  - Policy Statement 44-103;
  - Policy Statement 51-102;
  - Policy Statement 81-101;
  - Policy Statement 81-102;
  - Policy Statement 81-104;
  - Notice 43-201;
- black-lined version of Policy Statement 44-101.

Black-lined versions of Regulation 44-101 are available on the websites of certain CSA members.

Target implementation of the Draft Regulation and the Consequential Amendments is December 2007. Depending in part on the comments received, the Draft Regulation and the Consequential Amendments may be adopted in their entirety or in part.

Substance and purpose of the Draft Regulation and the Consequential Amendments

A. Generally

The purpose of the Draft Regulation is to create a comprehensive, seamless and transparent set of national prospectus requirements for all issuers including investment funds (investment funds should also refer to the supplemental discussion on investment fund issues below). The purpose of adopting the Consequential Amendments is to conform other related regulation and policies to the Draft Regulation.

The Draft Regulation is based on three general principles.

1. Harmonize and consolidate prospectus requirements across Canada

The Draft Regulation will harmonize across Canada and consolidate the general prospectus requirements among Canadian jurisdictions. It is primarily based on the requirements set out in Regulation 41-501.

Draft Regulation 41-101 assumes the coming into force of certain securities act amendments (Act Amendments) that have been proposed or adopted in all the jurisdictions under the CSA initiative to harmonize and streamline securities law in Canada. Other than in Ontario, the Act Amendments will result in certain of the prospectus-related provisions currently in the securities acts of each applicable jurisdiction being moved to Draft Regulation 41-101. In Ontario, these prospectus-related provisions will remain in the *Securities Act* (Ontario). As a result, a number of provisions of Draft Regulation 41-101 will not apply in Ontario and the similar requirements of the *Securities Act* (Ontario) will continue to apply. Please refer to Appendix L in Ontario for additional information.

We anticipate that the Act Amendments will come into force in all applicable jurisdictions before final implementation of the Draft Regulation. The list of draft or adopted Act Amendments in an applicable jurisdiction is set out in Appendix L to this Notice published in that particular jurisdiction or may be published separately in each jurisdiction.

We have also considered other general prospectus requirements or guidelines currently found in other existing local regulations, policies or notices. We have incorporated certain of these requirements into the Draft Regulation as appropriate.

2. Harmonize with other regulations

The Draft Regulation will substantially harmonize the general prospectus requirements with the continuous disclosure and short form prospectus regimes. For example, the significant acquisition requirements under Item 35 of Draft Form 1 have been harmonized with the business acquisition report requirements under Part 8 of Regulation 51-102.

Specifically, the Draft Regulation has been harmonized with the following regulations that have been adopted since Regulation 41-501 first became effective:

- *Regulation 51-101 respecting Standards of Disclosure for Oil and Gas Activities* (Regulation 51-101)
- Regulation 51-102;
- Regulation 52-107;
- *Regulation 52-110 respecting Audit Committees* (Regulation 52-110);
- *Regulation 58-101 respecting Disclosure of Corporate Governance Practices* (Regulation 58-101);
- Regulation 81-106 (together with Regulation 51-102, Regulation 52-107, Regulation 52-110, and Regulation 58-101, CD Regulations);
- Regulation 44-101.

As set out in the CSA Notice of Amendments to *Regulation 51-102 respecting Continuous Disclosure Obligations* dated **October 13, 2006,** Regulation 51-102, Regulation 52-107, and Regulation 44-101 are proposed to be amended. Subject to Ministerial approval in certain jurisdictions, we expect these draft amendments to be in force on **December 29, 2006**. For the purposes of harmonizing the Draft Regulation to these regulations, we assumed that these draft amendments will be in force. Also, the Consequential Amendments are being proposed on the assumption that these draft amendments will be in force.

We also note that the CSA Notice and Request for Comment in respect of the proposed rescission of National Policy Statement 48 *Future-Oriented Financial Information* and related consequential amendments was published on **December 1, 2006**. The Draft Regulation does not reflect the proposals described in that notice. If those proposals come into force, however, we propose to reflect them in the final Draft Regulation.

3. Reflect current policy

The Draft Regulation takes into consideration changes in the principles underlying the existing general prospectus requirements that we have identified as a result of regulatory reviews, applications for exemptive relief, or public comment and consultation. For example, we are proposing to codify certain

provisions in existing policies, including certain guidelines regarding certificates and undertakings in National Policy 41-201 *Income Trusts and Other Indirect Offerings*.

We are also proposing amendments to Regulation 44-102 with respect to the definition of "novel" as it pertains to "specified derivatives" (see discussion below). This may have implications for non-investment fund issuers. Specifically, the pre-clearance process for a new type of linked note offering that is novel to an issuer will apply if the underlying interest is substantially linked to the security of a single issuer that is not the issuer of the linked note. In these cases, the regulator will also consider qualification, liability, and disclosure issues during the pre-clearance process.

B. Investment fund issues

1. Harmonizing across Canada, consolidating, and updating the long form prospectus for investment funds

The Draft Regulation will also apply to exchange-traded investment funds, labour sponsored investment funds, commodity pools, scholarship plans and non-redeemable investment funds. The Draft Regulation will add a new prospectus form for these investment funds, which are currently subject to various different types of long form prospectus requirements. The Draft Regulation will consolidate the existing prospectus forms and tailor them to investment funds since the current long form is tailored to corporate issuers. While the form will be new for investment funds preparing a long form prospectus, the substance, for the most part, will not be new because we have created the form based upon the existing forms, industry practice and Form 81-101F1 *Contents of Simplified Prospectus* (Form 81-101F1) used by conventional mutual funds. Please note that the Draft Regulation will not apply to conventional mutual funds that are subject to Regulation 81-101.

2. Market timing response

Certain of the Consequential Amendments being proposed to the prospectus forms under Regulation 81-101 constitute the CSA's policy response to market timing activity that was the subject of the mutual fund trading practices probe which concluded in March of 2005. More specifically, enhanced disclosure of a mutual fund's practices regarding short-term trading has been added to Form 81-101F1 and Form 81-101F2 *Contents of Annual Information Form*. Details of these proposed prospectus amendments are discussed in Appendix A.

3. Amendments to Regulation 44-102 re: linked notes

We are also proposing certain amendments to Regulation 44-102 and Policy Statement 44-102. The focus of the amendments is on the definition of the term "novel" as it pertains to "specified derivatives".

We have become increasingly aware of the use of the shelf prospectus system for the distribution of investment products that are substantially similar to investment funds, but are not specifically subject to the investment funds regulatory regime. These products generally take the form of notes linked to certain underlying interests, including indices and notional reference portfolios. Given the retail focus of these linked notes, we believe the scope of specified derivatives that shelf eligible issuers must pre-clear in advance of distribution needs to be revisited. We expect that once the amendments are in place, an issuer will pre-clear the initial shelf prospectus supplement for each new type of linked note offering. As a result, except in the case of a specified derivative of an issuer where the underlying interest is a security of that issuer (i.e., "plain vanilla" options and warrants), an issuer will be required to pre-clear shelf prospectus supplements for products that are novel to that issuer, even if another issuer has already distributed a similar product. During the pre-clearance process, the regulator will focus on investment fund conflict of interest and disclosure concerns. Further details about the draft amendments are discussed in Appendix A of this Notice.

Summary of the Draft Regulation and the Consequential Amendments

We have summarized the significant provisions of the Draft Regulation and the Consequential Amendments in Appendix A. This is not a complete list of all of the provisions of the Draft Regulation and the Consequential Amendments.

Alternatives considered

The purpose of the Draft Regulation is to create a comprehensive, seamless and transparent set of national prospectus requirements based on the principles of harmonizing across Canada, consolidating, and updating the existing general prospectus requirements. The purpose of the Consequential Amendments is to conform other related regulations and policies to the Draft Regulation. An alternative to the Draft Regulation and the Consequential Amendments would be to leave the existing requirements and address any issues on a case by case basis. We believe that the *status quo* is not an acceptable alternative because the existing local prospectus requirements are fragmented.

Anticipated costs and benefits

The Draft Regulation and the Consequential Amendments will primarily affect issuers, including investment fund issuers, offering, and investors purchasing, securities under a long form prospectus. Other persons or companies with an interest in the general prospectus requirements, including persons or companies who are required to sign certificates, credit supporters, and auditors and other experts, may also be affected.

At present, all CSA jurisdictions have similar, but not identical, general prospectus requirements. Market participants that wish to effect a multi-jurisdictional prospectus distribution must consider the requirements in the various acts, regulations, regulations, and policies of each of the relevant jurisdictions. Harmonizing across Canada and consolidating the general prospectus requirements will reduce the transaction costs for issuers offering securities in multiple jurisdictions.

The CD Regulations have generally harmonized across Canada the continuous disclosure regime. Harmonizing the Draft Regulation with the CD Regulations will reduce the transaction costs for reporting issuers offering securities and the continuous disclosure compliance costs for all issuers following a securities offering. For example, the significant acquisition requirements in the Draft Regulation have been harmonized with Part 8 of Regulation 51-102 [*Business Acquisition Report*], including taking into consideration the differences between the Regulation 51-102 requirements for venture and non-venture issuers. Currently, Regulation 41-501 has a different set of significant acquisition requirements than Regulation 51-102. Harmonizing the requirements will reduce transactions costs for issuers that are required to include significant acquisition disclosure from a previously filed business acquisition report in its long form prospectus. Harmonizing the requirements will also reduce continuous disclosure compliance costs for issuers that will be required to file a business acquisition report after the completion of a probable acquisition for which disclosure is required in its long form prospectus.

Harmonizing the requirements will reduce transaction costs by eliminating the need to consider two different sets of regulations.

Regulation 44-101 has generally harmonized across Canada the short form prospectus regime with the CD Regulations. Harmonizing the general prospectus requirements with Regulation 44-101 eliminates any unintended differences between two alternative offering regimes. This will help issuers focus on the substantive differences between the Draft Regulation and Regulation 44-101 and choose the appropriate regime for that issuer. For example, the plan of distribution and description of the securities being offered requirements under Draft Form 1 have been harmonized with the requirements in Form 44-101F1 *Short Form Prospectus* (Form 44-101F1).

We have also clarified regulatory requirements and obligations in the existing general prospectus requirements that we have identified as a result of regulatory reviews, applications for exemptive relief, or public comment and consultation. We believe these provisions will result in more efficient and effective regulation and provide direct benefits to investors. We do not believe that these provisions will impose significant costs on issuers.

For example, Part 5 of the Draft Regulation requires certificates from, other than in Ontario, a new class of person or company: substantial beneficiaries of the offering. We believe a person or company that controls the issuer or a significant business has the best information about the issuer or significant business. Such a person or company who also receives proceeds from the distribution should be liable for any misrepresentations in the prospectus about the issuer or a significant business.

We currently focus on whether such a person or company takes promoter liability or provides a contractual indemnity to the issuer in the event of a misrepresentation. We believe the new provisions are a better alternative to the existing practice resulting in more efficient and effective regulation for investors, issuers, and these persons or companies. Specifically, we believe these new provisions will create appropriate incentives for the person or company with the best information about the issuer or a significant business to ensure that the prospectus contains full, true and plain disclosure of all material facts relating to the securities being distributed. Better disclosure will directly benefit investors and prospective investors and, by raising confidence in our disclosure regime, indirectly benefit the capital markets as a whole.

Overall, we believe the net benefits of the Draft Regulation and the Consequential Amendments will outweigh the net costs. The simplification of the general prospectus requirements across the CSA and harmonization with the short form and continuous disclosure regimes will reduce administration, professional and regulatory costs, and reduce impediments for issuers accessing our capital markets. These benefits to issuers will not negatively impact investor protection and should outweigh any additional costs associated with the Draft Regulation and the Consequential Amendments.

Related amendments

We propose to amend elements of local securities legislation, in conjunction with the implementation of the Draft Regulation and the Consequential Amendments. The provincial and territorial securities regulatory authorities may publish these proposed local changes separately in their jurisdictions.

Unpublished materials

In proposing the Draft Regulation and the Consequential Amendments we have not relied on any significant unpublished study, report or other material.

Request for comments

We request your comments on the Draft Regulation and the Consequential Amendments. The comment period expires on **March 31, 2007**. In addition to any comments you wish to make, we invite comments on the following specific questions:

Certificate requirements

Except in Ontario, Draft Regulation 41-101 includes a new certificate requirement for “substantial beneficiaries of the offering”. We believe a person or company that controls the issuer or a significant business has the best information about the issuer or significant business. Do you agree? Such a person or company who also receives proceeds from the distribution should be liable for any misrepresentations in the prospectus about the issuer or a significant business. Are the definitions of substantial beneficiary of the offering and significant business broad enough to cover this class of persons and companies?

The definition of "significant business" in section 5.13 of Draft Regulation 41-101 is based on the significance tests for acquisitions. We consider that these tests provide a useful initial threshold in the determination of whether a prospectus certificate is necessary; however, we seek specific comment on whether these tests are the most appropriate measure of significance for the purposes of determining prospectus liability.

Control of a significant business and direct or indirect receipt of 20% of the proceeds of an offering are both required to bring a person or company within the definition of substantial beneficiary of the offering. Is this dual threshold too limited?

Is receipt of 20% of the proceeds of the offering the appropriate threshold for paragraph 5.13(2)(b) of Draft Regulation 41-101?

Material contracts

Should each type of contract listed in subsection 9.1(1) of Draft Regulation 41-101 be excluded from the exemption to file contracts entered into in the ordinary course of business? Are there other types of contracts not listed that should be excluded from the exemption to file contracts entered into in the ordinary course of business? If so, please identify the type of contract and explain why they should be excluded.

Is the list of provisions that are "necessary to understanding the contract" set out in subsection 9.1(2) of Draft Regulation 41-101 appropriate? If not, why not?

Personal information form and authorization

Subparagraph 9.2(b)(ii) of Draft Regulation 41-101 will require an issuer to deliver a completed personal information form and authorization for every individual described in this subparagraph with the first preliminary prospectus filed by the issuer after the Draft Regulation becomes effective. Please describe any significant practical difficulties an issuer may have in complying with this requirement.

Over-allocation

Section 11.3 of Draft Regulation 41-101 and the definitions of over-allocation position and over-allotment option restrict the exercise of an over-allotment option to the lesser of the underwriters' over-allocation position and 15% of the base offering. This section substantially codifies and harmonizes across Canada the existing guidance in paragraph 10 of Ontario Securities Commission Policy 5.1 *Prospectuses – General Guidelines*; however, the time for the determination of the over-allocation position has been moved to the closing of the offering from the close of trading on the second trading day next following the closing of the offering. We believe that this change is consistent with current industry practice. We seek comment on this change.

Distribution of securities under a prospectus to an underwriter

Section 11.3 of Draft Regulation 41-101 permits compensation options or warrants to be acquired by an underwriter under the prospectus where the securities underlying such compensation options or warrants are, in the aggregate, less than 5% of the number or principal amount of the securities distributed under the prospectus. Is 5% an appropriate limit?

Waiting period

Draft Regulation 41-101 does not impose a minimum 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 (though the MRRS review timelines will remain as they are set out in Notice 43-201). In Ontario, the *Securities Act* (Ontario) imposes a minimum waiting period of at least 10 days but the

proposed local implementing regulation (see Appendix L) will vary this minimum waiting period so that it may be less than 10 days. Is a minimum waiting period necessary to ensure investors receive a preliminary prospectus and have sufficient time to reflect on the disclosure in the preliminary prospectus before making an investment decision?

Amendments to a preliminary or final prospectus

Part 6 of Draft Regulation 41-101 requires the filing of an amendment to a preliminary prospectus upon the occurrence of a material adverse change. An amendment to a final prospectus must be filed upon the occurrence of a material change. This Part codifies the existing requirements under the securities legislation of most jurisdictions. The requirements in Québec differ. An amendment to a preliminary prospectus is triggered if a material change is likely to have an adverse influence on the value or the market price of the securities being distributed and the existing requirement to amend a final prospectus is triggered if a material change occurs in relation to the information presented in the prospectus. “Material change” is not defined in Québec.

While not specifically included as an alternative in the Draft Regulation, we are soliciting your comments on whether we should instead be requiring an amendment based on the continued accuracy of the information in the prospectus. What should be the appropriate triggers for an obligation to amend a preliminary prospectus or final prospectus? Should the obligation to amend a preliminary prospectus or prospectus be determined based on the continued accuracy of the disclosure in the prospectus, rather than changes in the business, operations or capital of the issuer?

Bona fide estimate of range of offering price or number of securities being distributed

We are proposing to require disclosure in the preliminary prospectus of a *bona fide* estimate of the range within which the offering price or the number of securities being distributed is expected to be set.

We are also considering adding a requirement to provide disclosure throughout a preliminary prospectus based on the mid-point of the disclosed offering price range or number of securities. This would require that the consolidated capitalization table, earnings coverage ratios and any *pro forma* financial information in the preliminary prospectus be calculated and disclosed using the mid-point of the offering range rather than being bulleted. Would such a requirement be appropriate?

2 years’ financial statement history

We are proposing to harmonize the requirements between the short form and long form prospectus systems for reporting issuers and therefore, propose that reporting issuers using the long form prospectus system be required to include only two years’ financial statement history in the prospectus as opposed to three years’ history on the basis that prior years’ history is readily available on SEDAR. Do you agree that reporting issuers using the long form system should only have to provide the same number of years financial history they would normally provide under the short form system?

Please provide your comments by **March 31, 2007** by addressing your submission to the securities regulatory authorities listed below:

British Columbia Securities Commission
Alberta Securities Commission
Saskatchewan Financial Services Commission
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Nova Scotia Securities Commission
New Brunswick Securities Commission

Deliver your comments **only** to the three addresses that follow. Your comments will be forwarded to the remaining CSA member jurisdictions.

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If you are not sending your comments by e-mail, please send a diskette containing your comments (in Microsoft Word format).

We cannot keep submissions confidential because securities legislation in certain provinces requires that a summary of the written comments received during the comment period be published.

Questions – Corporate Finance

Please refer your questions to any of:

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APPENDIX A

Summary of Significant Provisions in the Draft Rule

Provision	**Summary and Purpose**
	Draft Regulation 41-101
Part 2 [*Requirements for All Prospectus Distributions]*	Draft Regulation 41-101 generally applies to all types of prospectuses, other than a prospectus filed under Regulation 81-101. This includes prospectuses filed under the short form regime, though certain requirements in Draft Regulation 41-101 do not apply to these prospectuses. Prospectuses filed under the short form regime are also subject to the requirements in Regulation 44-101. Generally, an issuer filing a prospectus under the short form regime must refer to both Draft Regulation 41-101 and Regulation 44-101. An issuer filing a prospectus under the shelf or PREP regimes must also refer to any applicable requirements in Regulation 44-102 and Regulation 44-103. Draft Form 1 does not apply to short form prospectus distributions as the disclosure requirements for short form prospectuses will remain in Form 44-101F1. The Draft Rule also contains provisions specific to investment funds, including a separate form: Draft Form 2.
Part 4 [*Financial Statements and Related Documents in a Long Form Prospectus*]	This Part requires issuers to include in a long form prospectus the financial statements and related documents prescribed by Draft Form 1 and Draft Form 2. The financial statement and management's discussion and analysis requirements for short form prospectuses remain in the incorporation by reference requirements of Form 44-101F1 . This Part also prescribes the audit, review and approval requirements for financial statements included in a long form prospectus. These requirements have been harmonized with Regulation 51-102, Regulation 81-106 and Regulation 44-101.
Part 5 [*Certificates*]	Existing requirements to include certificates in a prospectus are set out in applicable securities legislation. The certificate requirements in this Part harmonize Draft Regulation 41-101 with the Act Amendments. The significant differences between the certificate requirements in this Part and the requirements under applicable securities legislation are as follows: Sections 5.5, 5.6, 5.7, and except in Ontario section 5.4, clarify who is required to sign a certificate on behalf of an entity. We have added this clarification because of the increasing number of issuers that are not organized in corporate form.

Provision	Summary and Purpose
	Except in Ontario, section 5.8 includes a requirement that the prospectus of an issuer involved in a probable reverse takeover must contain a certificate signed by each individual who is a director, chief executive officer or chief financial officer of the reverse takeover acquirer. Unlike the issuer certificate which may be signed by certain directors on behalf of the issuer's board of directors, each individual who is director, chief executive officer or chief financial officer must sign such a certificate. Except in Ontario, section 5.13 requires a certificate from a substantial beneficiary of the offering. We believe that a person or company that controls an entity has the best information about the entity. Such a person or company who also receives proceeds from the distribution, should be liable for any misrepresentations in the prospectus. Except in Ontario, section 5.14 requires a certificate from a selling security holder. A selling security holder is liable under provincial and territorial securities legislation, regardless of whether the selling security holder provides a certificate. The purpose of this requirement is to make this more transparent. Section 5.15 imposes a certificate requirement for entities in which the primary business of the issuer is being conducted and for which the issuer is required to, or has undertaken to, file separate financial statements. We have added this certificate requirement to ensure that the entity which is responsible for the issuer's financial disclosure is also responsible for its prospectus disclosure. Except in Ontario, subsection 5.11(4), subsection 5.13(6) and section 5.14 provides the regulator with the discretion to require a certificate from a control persons of promoters or former promoters, substantial beneficiaries of the offering or selling security holders. We have added these provisions to clarify that prospectus liability may not be avoided through the interposition of a holding entity. Except in Ontario, section 5.16 also includes a requirement that the regulator may require any person or company to provide a signed certificate in the form the regulator considers appropriate. Except in Ontario, this section harmonizes across Canada an existing requirement under Alberta securities legislation.
Part 6 [*Amendments*]	Existing requirements regulating the filing of an amendment to a prospectus are set out in applicable securities legislation. The amendment requirements in this Part harmonize Draft Regulation 41-101 with the Act Amendments. Certain provisions in this Part do not apply in Ontario. In Ontario, issuers must comply with the requirements in subsections 57(1) and (2) of the *Securities Act* (Ontario).
Part 8 [*Best Efforts Distributions*]	Subsection 8.1(1) harmonizes across Canada an existing regulation in Saskatchewan. This subsection also codifies an existing policy in Alberta. Subsections 8.1(2) and (3) harmonize across Canada and codify an existing policy in British Columbia.

Provision	Summary and Purpose
Part 9 [*Requirements for Filing a Prospectus*] (documents affecting the rights of security holders)	Subparagraph 9.2(a)(ii) requires issuers to file documents including constating documents, by-laws, and other contracts that can be regarded as materially affecting the rights of security holders with the preliminary prospectus, unless previously filed. It is harmonized with section 12.1 of Regulation 51-102.
Part 9 [*Requirements for Filing a Prospectus*] (material contracts)	The filing requirements in subsections 9.1(1) and (2) and subparagraph 9.2(a)(iii) in respect of material contracts are generally harmonized with section 12.2 of Regulation 51-102. On December 9, 2005, we published for comment draft amendments to Regulation 51-102. We specifically asked whether the information in Part 12 of Regulation 51-102 is useful to investors and whether the benefits to investors outweigh the costs to issuers of complying with that Part. On **October 13, 2006** we published a Notice of Amendments to Regulation 51-102, including a summary of comments with CSA responses, in which we said that we have decided to retain the requirement to file material contracts, other than contracts entered into in the ordinary course of business. We also said that, to address inconsistency in filings and confusion about what is in the ordinary course of business, we will develop further guidance for the policy statement in conjunction with a project to harmonize the long form prospectus requirements. We believe that the existing carve out in subsection 12.2(1) of Regulation 51-102 for contracts entered into in the ordinary course of business may inappropriately be interpreted as permitting non-filing of certain material contracts. To address this concern, subsection 9.1(1) describes certain contracts that cannot be considered contracts entered into in the ordinary course of business. This subsection requires issuers to file copies of the material contracts listed. We believe that this is consistent with the approach regarding the filing of these types of material contracts under U.S. securities law. We also believe that further guidance regarding self-redaction or omission, as permitted under subsection 12.2(2) of Regulation 51-102, is necessary. This provision has been misinterpreted to mean that substantially all of a contract may be redacted or omitted so long as the contract includes a boilerplate confidentiality provision. To provide clarification, clause 9.2(a)(iii)(B) states that a provision may not be redacted or omitted if it contains information that would be necessary to understanding the contract. Subsection 9.1(2) lists a number of provisions that are deemed to be “necessary to understanding the contract”. Finally, clause 9.2(a)(iii)(C) includes a requirement that the issuer must describe the provision redacted or omitted in the copy of the material contract that is filed.

Provision	**Summary and Purpose**
	We are proposing consequential amendments to Regulation 51-102 that mirror these provisions. We also note that a requirement to file material contracts with the regulator means the document will be available to the public via SEDAR. Accordingly, we have not included a requirement that material contracts be made available for inspection.
Part 9 [*Requirements for Filing a Prospectus*] (personal information form)	Subparagraph 9.2(b)(ii) requires issuers to deliver a copy of a completed Personal Information Form, which includes an authorization to the indirect collection, use and disclosure of personal information. It harmonizes across Canada existing requirements under British Columbia and Québec securities legislation. An issuer will be required to deliver a completed personal information form and authorization for every individual described in this subparagraph with the first preliminary prospectus filed by the issuer after the Draft Rule becomes effective (except in Ontario for certain individuals). For a subsequent prospectus, the issuer must only deliver a completed personal information form and authorization if it has not previously delivered an authorization and personal information form for that individual within three years before the date of the preliminary prospectus. An issuer may deliver a Personal Information Form in the form set out in Appendix A of Draft Regulation 41-101 or in the form of a personal information form delivered to the Toronto Stock Exchange or the TSX Venture Exchange, if it was delivered to the applicable exchange and the information has not changed. If an Exchange Form is provided, the individual must still prepare and sign the statutory declaration. We believe that the form in Schedule 1 of Appendix A is substantially similar to an Exchange Form.
Part 9 [*Requirements for Filing a Prospectus*] (undertaking in respect of credit supporter disclosure)	Subparagraph 9.3(a)(x) requires the issuer to file an undertaking to file the periodic and timely disclosure of a credit supporter. Unlike the similar requirement in subparagraph 4.2(b)(ii) of Regulation 44-101, the undertaking is not limited to credit supporters for which disclosure is required to be included in the prospectus. We intend this difference to clarify that an undertaking is required even if the credit supporter is exempt from the requirement to include credit supporter disclosure under an exemption in item 34.3 or 34.4 of Form 41-101F1. We are proposing further guidance in section 3.8 of the Draft Policy Statement. We are proposing consequential amendments to Regulation 44-101.
Part 9 [*Requirements for Filing a Prospectus*] (undertaking in respect of continuous disclosure)	Subparagraph 9.3(a)(xi) requires issuers to file an undertaking, in a form acceptable to the regulator, to provide to its security holders separate financial statements for an operating entity that investors need to make an informed decision about investing in the issuer's securities, subject to certain conditions. It codifies the guidance set out in section 3.1 of National Policy 41-201 *Income Trusts and Other Indirect Offerings*.

Provision	Summary and Purpose
Part 9 [*Requirements for Filing a Prospectus*] (undertaking to file documents and material contracts)	Subparagraph 9.3(a)(xii) requires issuers to file an undertaking to file promptly, and in any event within 7 days after the completion of the distribution, any document affecting the rights of security holders and any material contract required to be filed under subparagraph 9.3(a)(ii) or (iii) that has not been executed or become effective before filing a final long form prospectus. This subparagraph codifies existing practice.
Part 9 [*Requirements for Filing a Prospectus*] (undertaking in respect of restricted securities)	Subparagraph 9.3(a)(xiii) requires issuers to file an undertaking to give notice to holders of non-voting securities of a meeting of security holders if a notice of such meeting is given to its registered holders of voting securities. It harmonizes across Canada an existing requirement under Québec securities legislation.
Part 11 [*Over-allocation and Underwriters*] (over-allocation)	Subsection 11.2 requires that any securities that form part of the underwriters over-allocation position must be distributed under the prospectus. The intent of this provision is to clarify that all purchasers in the distribution receive the benefit of prospectus rights, regardless of whether the underwriters over-sell the offering to facilitate market stabilization following closing. The underwriters may be granted an over-allotment option for the purpose of covering the over-allocation position. An over-allotment option must be exercisable for the lesser of the over-allocation position determined as at the closing of the distribution and 15% of the base offering. The option must also expire within 60 days of closing. This section substantially codifies and harmonizes across Canada the existing guidance in paragraph 10 of Ontario Securities Commission Policy 5.1 *Prospectuses – General Guidelines*; however, the time for the determination of the over-allocation position has been moved to the closing of the offering from the close of trading on the second trading day next following the closing of the offering.
Part 11 [*Over-allocation and Underwriters*] (underwriters)	Section 11.3 prohibits the distribution of securities under a prospectus to a person acting as an underwriter for a distribution of securities under the prospectus, other than: (i) over-allotment options, or the securities issuable or transferable on the exercise of over-allotment options; and (ii) certain compensation securities. The purpose of this section is to protect against the practice of so-called ‘back-

Provision	Summary and Purpose
	door underwriting', which refers to a circumstance where a person or company purchases securities under a prospectus, with a view to reselling the securities in the course of or incidental to the prospectus distribution, and improperly fails to furnish the subsequent purchaser in their resale with a copy of the prospectus in accordance with the prospectus requirement (and, in some cases, may also not comply with the underwriter registration requirement). With respect to over-allotment options and the securities issuable or transferable on the exercise of such an option, we are not concerned about a potential for back-door underwriting because the aggregate number of securities that are the subject of the over-allotment options must be less than the underwriters' over-allocation position and the purchasers of the securities that result in the underwriters having an over-allocation position are required to receive a prospectus under section 11.2 of the Regulation. With respect to certain compensation securities, we understand that there is an existing market practice for dealers to be compensated, for acting as an underwriter in respect of a prospectus distribution, in part, through the issue or transfer of securities, including options. Where the amount of compensation securities satisfies the 5% limitations set out in paragraph 11.3(b), we believe that any risk that such securities are being acquired by the dealer with a view to resale in the course of or incidental to the prospectus distribution is reduced.
Part 12 [*Restricted Securities*]	This Part harmonizes across Canada Ontario Securities Commission Rule 56-501 *Restricted Shares* and Regulation Q-17 *Restricted Shares* in Québec (collectively, Restricted Share Rules)
Part 13 [*Advertising and Marketing in Connection with Prospectus Offerings*]	The legend requirements in sections 13.1 and 13.2 harmonize across Canada existing requirements in Saskatchewan and Québec. The requirements in these sections are also consistent with existing policies and administrative practices in a number of other jurisdictions. With respect to section 13.3, the current policies are tailored to corporate issuers and we have received a number of complaints regarding advertising during the waiting period because the policies are not clear for investment funds. Therefore to clarify the rules, we included this provision.
Part 14 [*Custodianship of Portfolio Assets of an Investment Fund*]	With respect to the custodian requirement, we included the provisions of *Regulation 81-102 respecting Mutual Funds* in Draft Regulation 41-101 This requirement will put all investment funds on the same footing.

Provision	Summary and Purpose
Part 15 [*Documents Incorporated by Reference by Investment Funds*]	With respect to the incorporation by reference of financial statements in the prospectus for investment funds in continuous distribution, we copied the requirements from Regulation 81-101 in Regulation 41-101. This would apply to labour sponsored investment funds, commodity pools and certain exchange-traded funds. The reasoning behind this is that these funds are technically mutual funds, however, Regulation 81-101 excludes them from using the simplified prospectus. Therefore, to level the playing field, we added this provision.
Part 16 [*Distribution of Preliminary Prospectus and Distribution List*]	Existing requirements regarding the distribution of preliminary prospectuses and maintenance of distribution lists are set out in applicable securities legislation. The requirements in this Part harmonize Draft Regulation 41-101 with the Act Amendments. No change from the existing requirements is intended. This Part does not apply in Ontario. In Ontario, issuers must comply with the requirements in sections 66 and 67 of the *Securities Act* (Ontario).
Part 17 [*Lapse Date*]	Existing requirements regulating the refiling of prospectuses are set out in applicable securities legislation. The requirements in this Part harmonize Draft Regulation 41-101 with the Act Amendments. No change from the existing requirements is intended. Certain provisions in this Part do not apply in Ontario. In Ontario, issuers must comply with the requirements in section 62 of the *Securities Act* (Ontario).
Notable exclusions	Draft Regulation 41-101 does not include the following requirements: **Significant dispositions**: We do not propose to include requirements in respect of significant dispositions because we believe there are sufficient disclosure requirements stipulated by GAAP relating to dispositions. **GAAP, GAAS, Auditor's Reports and Other Financial Statement Matters**: We do not propose including requirements regarding GAAP, GAAS and other financial statement matters because these requirements are now in Regulation 52-107. **Audit Committee Review of Financial Statements Included in Prospectus**: We do not propose including an audit committee review requirement because a similar requirement exists under MI 52-110. **Multiple Individually Insignificant and Unrelated Acquisitions**: We do not propose including requirements regarding multiple individually insignificant and unrelated acquisitions (that are not predecessor entities) because there are no comparable requirements in Regulation 51-102. **Auditor Comfort Letters:** We do not propose including a requirement to file an auditor's comfort letter regarding unaudited financial statements with a final long form prospectus. CICA Handbook Section 7110 - *Auditor Involvement with Offering Documents of Public and Private Entities* sets out the auditor's professional responsibilities when the auditor is involved with a prospectus or

Provision	Summary and Purpose
	other securities offering document and requires that the auditor perform various procedures prior to consenting to the use of its report or opinion, including reviewing unaudited financial statements included in the document. **Definitions of Convertible and Non-convertible:** We do not propose defining “convertible” and “non-convertible” in Draft Regulation 41-101, and those terms will have their plain meaning. We note that these terms are defined in Regulation 44-101. We do not believe that those definitions are appropriate because the conversion right is tied solely to equity securities of an issuer. We do not believe that a security that is convertible into a non-equity security of the issuer should be a non-convertible security for the purposes of either the Draft Rule or Regulation 44-101. Our draft consequential amendments to Regulation 44-101 will delete those definitions.

Provision	Summary and Purpose
	Draft Form 1
General	We have made extensive use of cross-referencing to comparable disclosure requirements in Regulation 51-102. This will help ensure the general prospectus and continuous disclosure requirements continue to be harmonized. We have also identified a number of necessary changes to the continuous disclosure requirements to ensure harmonization. We are proposing to make these changes as consequential amendments as discussed in this Notice.
Item 1 [*Cover Page Disclosure*] (non-fixed price distributions)	Paragraph 1.6(h) requires disclosure of a *bona fide* estimate of the range in which the offering price or the number of securities being distributed is expected to be set. We believe investors value this information. We understand that information regarding the pricing range is generally disclosed in green sheets and is required to be disclosed under U.S. securities law. As discussed in section 4.3 of the Draft Policy Statement, we believe that a difference between this *bona fide* estimate and the actual offering price or number of securities being distributed is not generally a material adverse change for which an amended preliminary long form prospectus must be filed.
Item 1 [*Cover Page Disclosure*] and **Item 20** [*Plan of Distribution*] (IPO venture issuer)	If an issuer has complied with the requirements of the Draft Rule as an IPO venture issuer, subsection 1.9(4) and item 20.11 generally requires prospectus disclosure that the issuer is not and does not intend to be a non-venture issuer.
Item 1 [*Cover Page Disclosure*], **Item 3** [*Summary of Prospectus*], and **Item 10** [*Description of the Securities Distributed*] (restricted securities)	Subsections 1.13(1) and 10.6(1), and paragraph 3.1(1)(f) require disclosure regarding any restricted securities being distributed. These subsections and this paragraph codifies and harmonizes across Canada the prospectus disclosure requirements in the Restricted Share Rules. We are proposing consequential amendments to add these disclosure requirements to Form 44-101F1.

Provision	**Summary and Purpose**
Item 3 [*Summary of Prospectus*] (financial information)	Subsection 3.1(2) requires disclosure of the source of any financial information included in the summary section of a prospectus under Draft Form 1, and whether such information has been audited. This subsection codifies existing practice.
Item 5 [*Describe the Business*]	Items 5.4 and 5.5 are harmonized with the disclosure requirements in items 5.4 and 5.5 of Form 51-102F2 *Annual Information Form* (Form 51-102F2).
Item 6 [*Use of Proceeds*]	Item 6.6 requires disclosure of any insider, associate or affiliate of the issuer who will receive more than 10% of the net proceeds of the distribution. This information will help investors identify whether an insider, associate or affiliate will benefit from the distribution. Disclosure of the fact that a person or company with information about the issuer stands to benefit from the distribution, will help investors make informed investment decisions. This item is related to our proposal to require certificates from substantial beneficiaries of the offering.
Item 8 [*Management's Discussion and Analysis*]	This item sets out the management's discussion and analysis disclosure required to be included in a long form prospectus. The supplemental disclosure required is based on section 5.3 of Regulation 51-102. Item 8.7 requires additional disclosure for certain issuer's with negative operating cash flow. We have also added additional disclosure requirements regarding outstanding share data in item 8.4. We are proposing these new requirements to address disclosure deficiencies frequently noted in our reviews of long form prospectuses.
Item 9 [*Earnings Coverage Ratios*]	This item is harmonized with the disclosure requirements in item 6.1 of Form 44-101F1.
Item 10 [*Description of the Securities Distributed*]	Other than the requirements regarding restricted securities described above, this item is harmonized with the disclosure requirements in item 7 of Form 44-101F1.
Item 14 [*Escrowed Securities and Securities Subject to Contractual Restriction on Transfer*]	This item includes language to clarify that, in addition to disclosure regarding securities subject to regulatory escrow requirements, disclosure regarding securities subject to contract restriction on transfer is required. We are proposing a consequential amendment to add this requirement to Form 51-102F2.

Provision	**Summary and Purpose**
Item 16 [*Directors and Executive Officers*]	Other than the requirements regarding junior issuers, this item is harmonized with disclosure requirements in item 10 of Form 51-102F2.
Item 17 [*Executive Compensation*]	This item is harmonized with the disclosure requirements in Form 51-102F6 *Statement of Executive Compensation*.
Item 18 [*Indebtedness of Directors and Executive Officers*]	This item is harmonized with the disclosure requirements in item 10 of Form 51-102F5 *Information Circular*.
Item 19 [*Audit Committees and Corporate Governance*]	Item 19.1 is harmonized with the disclosure requirements in Form 52-110F1 *Audit Committee Information Required in an AIF* and Form 52-110F2 *Disclosure by Venture Issuers*, except that subsection 19.1(3) sets out specific requirements for certain British Columbia issuers. Item 19.2 is harmonized with the disclosure requirements in Form 58-101F1 *Corporate Governance Disclosure* and 58-101F2 *Corporate Governance Disclosure (Venture Issuers)*. Sections 4.9 and 4.10 of the Draft Policy Statement provide further guidance with respect to compliance with the requirements in these sections.
Item 20 [*Plan of Distribution*]	Item 20.4 conforms to the substantive requirements in Part 8 of Draft Regulation 41-101 regulating best efforts distributions. As discussed above, those substantive requirements harmonize across Canada and codify existing policies regarding best efforts distributions.
Item 21 [*Risk Factors*]	Other than the instruction, this item is harmonized with the disclosure requirements in item 5.2 of Form 51-102F2 and item 17.1 of Form 44-101F1. The instruction clarifies that issuers are required to disclose risks in the order of seriousness from most serious to the least serious.
Item 22 [*Promoters and Substantial Beneficiaries of the Offering*]	A person or company that controls an entity has the best information about the entity. If such a person also receives proceeds from the distribution, we believe a prospectus should include disclosure about that person or company comparable to the disclosure that would be required in respect of a promoter.
Item 24 [*Interests of Management and Others in Material Transactions*]	Item 24.1 is harmonized with the disclosure requirements in item 13.1 of Form 51-102F2.

Provision	Summary and Purpose
Item 31 [*List of Exemptions from the Regulation*]	This item is harmonized with the disclosure requirement in item 19 of Form 44-101F1.
Item 32 [*Financial Statement Disclosure for Issuers*]	The financial statement requirements have been changed or modified based on three principles: Existing reporting issuers should not be subject to a higher level of financial disclosure in a prospectus than they are subject to under Regulation 51-102. Therefore, we only require the financial statements that are otherwise required to be filed under Regulation 51-102 to be included in the prospectus. Existing reporting issuers should not be subject to different disclosure requirements between a long form prospectus and a short form prospectus. As a result, reporting issuers are only required to include 2 years of financial statements in a long-form prospectus, the same as a short-form prospectus. Issuers that are not reporting issuers immediately before filing a prospectus should generally not be required to provide financial disclosure in a prospectus that would not be required under the CD Rules. To establish a reporting history, however, certain historical financial statements that would not otherwise be required under the CD Rules are required. As such, non-reporting issuers will continue to be required to include 3 years of financial statements in a prospectus. To ensure this history is the most current as at the date of the prospectus, non-reporting issuers, including IPO venture issuers will be required to include annual financial statements for years ended more than 90 days before the date of the prospectus. The time period for inclusion of interim financial statements has been shortened from an interim period ended more than 60 days before the date of the prospectus to 45 days. In addition, in order to establish this history, we will require all issuers to include up to 3 years of financial statements of any acquisitions within 3 years of the date of the prospectus that are significant to the issuer at over 100% level under any of the significance tests.
Item 34 [*Exemptions for Certain Issues of Guaranteed Securities*]	This Item is generally harmonized with the exemptions in Item 13 of Form 44-101F1, except for the following differences. We are proposing consequential amendments to harmonize Item 13 of Form 44-101F1 with this Item. We are also proposing consequential amendments to harmonize section 13.4 of Regulation 51-102 with this Item. **Consolidating summary financial information**: Paragraph 34.3(1)(f) requires the inclusion of consolidating summary financial information in contrast with paragraph 13.2(f) of Form 44-101F1, which permits a statement that the financial results of the issuer and all subsidiary credit supporters are included in the consolidated financial results of the parent credit supporter in lieu. We believe that consolidating summary financial information disclosure in respect of any subsidiary credit supporters required under column (C) is necessary for investors to distinguish those assets on which they have a direct

Provision	Summary and Purpose
	claim and those assets through which they will only have a claim through a guarantee. The issuer may combine the disclosure in columns (B) or (D), as applicable, with another column as permitted under subsection 34.3(2). Please also refer to paragraph 13.3(g) of the draft consequential amendments to Form 44-101F1. **Control of subsidiary credit supporters and credit supporters**: Paragraph 34.3(1)(e) requires that the parent credit supporter controls each subsidiary credit supporter in contrast with the condition in 13.2(e) of Form 44-101F1, which requires each subsidiary credit supporter to be a direct or indirect wholly owned subsidiary of the parent credit supporter. Paragraph 34.4(d) requires the issuer to control each credit supporter in contrast with the condition in 13.3(d) of Form 44-101F1, which requires each credit supporter be a direct or indirect wholly owned subsidiary of the issuer. These conditions codify exemptive relief that has been granted on a case-by-case basis. Please also refer to paragraphs 13.3(f) and 13.4(d) of the draft consequential amendments to Form 44-101F1. **Short form qualification**: The exemptions in sections 34.2 and 34.3 do not include the condition that the credit supporter satisfy the qualification criteria in section 2.4 of Regulation 44-101 in contrast with the conditions in paragraphs 13.1(b) and 13.2(b) of Form 44-101F1. These conditions ensure that the disclosure in a short form prospectus reflect the disclosure of either an issuer or a credit supporter that is qualified to file a short form prospectus. **Wholly-owned subsidiaries**: Paragraphs 34.2(c) and 34.3(1)(d) require that the parent credit supporter be the beneficial owner of all the issued and outstanding voting securities of the issuer in contrast with the conditions in 13.1(d) and 13.2(e) of Form 44-101F1, which require the issuer be a direct or indirect wholly owned subsidiary of the parent credit supporter. The language in the conditions in paragraphs 34.2(c) and 34.3(1)(d) are harmonized with the continuous disclosure exemption in section 13.4 of Regulation 51-102. Please also refer to paragraphs 13.2(d) and 13.3(e) of the draft consequential amendments to Form 44-101F1. **Convertible debt securities or convertible preferred shares**: Paragraphs 34.2(b) permit the securities being distributed to be convertible into non-convertible securities of the parent credit supporter. Similarly, paragraph 34.4(c) permits the securities being distributed to be convertible into non-convertible securities of the issuer. We believe that the exemptions in Item 34 should still apply in these cases because full, true and plain disclosure in the prospectus regarding the parent entity should be sufficient to support an informed investment decision regarding the underlying securities. Please also refer to paragraphs 13.2(c), 13.3d), and 13.4(c) of the draft consequential amendments to Form 44-101F1. **Drafting changes**: We are also proposing a number of drafting changes from the exemptions in Item 13 of Form 44-101F1. No substantive change is intended.

Provision	Summary and Purpose
Item 35 [*Significant Acquisitions*]	As a result of harmonizing with the requirements under Regulation 51-102, we have made some changes to the significant acquisition requirements in Item 35. We have simplified the significance tests by adopting the tests from Regulation 51-102. As a result, there will only be one set of significance tests. Consistent with Regulation 51-102, venture issuers, including IPO issuers that intend to be venture issuers post-IPO, will have a higher significance threshold for disclosure than non-venture issuers. The disclosure requirements have also been modified to harmonize with those from Regulation 51-102. Instead of a requirement that results in the variation of the number of years of financial statements disclosure based on the level of significance, a standard 2 years of financial statements is required for any acquisitions considered to be significant. Lastly, instead of requiring all historical financial statements of a significant acquisition included in a prospectus to be audited, we will only require the most recent year financial statements to be audited, consistent with the business acquisition report requirements in Regulation 51-102. The prior year, as well as the most recent interim period will only require review level of assurance. The significant acquisition disclosure requirements in this Item are based on the following principles: 1. Issuers that filed a business acquisition report (BAR) under Regulation 51-102 should not be required to include in a prospectus more disclosure in respect of a significant acquisition than was included in the BAR. 2. Issuers that did not file a BAR in respect of a significant acquisition because they were not a reporting issuer on the date of the acquisition should be required to include in a prospectus the disclosure that would have been required to be included in a BAR as if they were required to file a BAR. 3. For recently completed acquisitions or probable acquisitions, issuers should be required to include in a prospectus the disclosure that would be required to be included in a BAR if one were required to be filed on the date of the prospectus.

Provision	**Summary and Purpose**
	Draft Form 2
General Instructions	Instruction (11) provides that the items must be presented in the order specified in the form. While this is a new requirement, it is consistent with Form 81-101F1 *Contents of Simplified Prospectus* used for mutual funds and it makes it easier for advisers, investors, issuers and regulators to compare investment funds.
Item 1 [*Cover Page Disclosure*]	Part of item 1.3 is new and provides that the type of fund must be stated on the cover page, i.e. labour sponsored investment fund, commodity pool, non-redeemable investment fund, etc. This helps advisors and investors identify the type of fund immediately.
Item 4 [*Overview of the Investment*]	Item 4.1 is new and requires the investment fund to state whether it would be considered a mutual fund for securities legislation purposes. This helps advisers, investors and regulators to readily determine whether the investment fund would be subject to certain restrictions under securities legislation as a result of being a mutual fund.
Item 16 [*Independent Review Committee*]	This is new and requires disclosure of a description of the independent review committee of the investment fund required under *Regulation 81-107 respecting Independent Review Committee for Investment Funds*.
Item 39 [*Exemptions and Approvals*]	This is new and requires disclosure of all exemptions from or approvals under securities legislation obtained by the investment fund or the manager of the investment fund. This is helpful to advisers, investors and regulators to readily determine what provisions of securities legislation the investment fund may be exempted from.
Item 40 [*Documents Incorporated by Reference*]	This is new and provides that investment funds in continuous distribution may incorporate certain types of documents by reference into the prospectus. This puts all mutual funds on the same footing and emulates the provisions in Regulation 81-101.

Provision	Summary and Purpose
	Draft Policy Statement
General	The Draft Policy Statement primarily provides information relating to the interpretation of Draft Regulation 41-101, Draft Form 1, and Draft Form 2 by securities regulatory authorities, and their application. It is based on existing guidance in the companion policy to Rule 41-501, the policy statement to Regulation 44-101, and the policy statement to Regulation 51-102, and reflects the significant provisions of the Draft Rule as described in this Appendix. The Draft Policy Statement also consolidates guidance that currently exists in other national and local policies and notices.

Provision	**Summary and Purpose**
	Draft Consequential Amendments to Regulation 44-101
Part 1 [*Definitions and Interpretations*]	Many of the definitions in Regulation 44-101 are defined in draft Regulation 41-101. Definitions used in draft Regulation 41-101 will apply to the same terms used in Regulation 44 -101.
Part 4 [*Filing Requirements for a Short Form Prospectus*]	Filing requirements for a short form prospectus now mirror the filing requirements in Part 9 of Regulation 41-101. In particular the following requirements have been added or amended: requirements for filing documents affecting the rights of security holders, material contracts and undertakings to file this material, undertakings for credit supporter disclosure undertakings to provide notice to non-voting security holdersof a meeting of security holders, requirements to deliver personal information forms and an authorization to collect, use and disclose personal information requirement to deliver a copy of a communication in writing from the exchange stating that an application for listing has been made and accepted if the issuer has made an application to list the securities being distributed on the exchange, The requirements for consents are governed by Part 10 draft Regulation 41-101.
Part 5 [*Amendments to a Short Form Prospectus*]	This Part is repealed. The requirements for amendments to short form prospectuses are governed by Part 6 of draft Regulation 41- 101.
Part 6 [*Non-fixed Price Offerings and Reduction of Offering Price under Short Form Prospectus*]	This Part is repealed. The requirements for non-fixed price offerings are governed by Part 7 of draft Regulation 41-101.

Provision	Summary and Purpose
Part 7 [*Solicitations of Expressions of Interest*]	A new section 7.2 has been added for over-allotments options to clarify that the prospectus requirement does not apply to solicitations of expressions of interest before the filing of a preliminary short form prospectus for securities to be issued pursuant to an over-allotment option that are qualified for distribution under a short form prospectus.
Appendices B [*Authorization of Indirect Collection, Use and Disclosure of Personal Information*]**, C** [*Issuer Form of Submission to Jurisdiction and Appointment of Agent for Service of Process*]**,** and **D** [*Non-Issuer Form of Submission to Jurisdiction and Appointment of Agent for Service of Process*]	These appendices are now in draft Regulation 41-101.

Provision	Summary and Purpose
	Draft Consequential Amendments to Form 44-101F1
General	All the provisions in Form 44-101F1 apply only to short form prospectuses. None of the provisions in Draft Form 1 apply to short form prospectuses.
Item 1 [*Cover Page Disclosure*]	Item 1.7.1 is added to require disclosure of a *bona fide* estimate of the range in which the offering price or the number of securities being distributed is expected to be set if the offer price has not been set as of the date of the preliminary prospectus. This conforms to a new requirement set in Draft Form 1. Item 1.12 requires disclosure about any restricted securities being distributed. This conforms to the disclosure requirement in Draft Form 1.
Item 7A **[***Prior Sales*]	Item 7A.1 is added to ensure that the issuer discloses prior sales of its securities within the past 12 months. Item 7A.2 was added to ensure the prospectus contains trading price and volume information up to the date of the prospectus. These changes were made to conform to Draft Form 1. The AIF only discloses prior sales for unlisted securities whereas the prior sales disclosure in the prospectus needs to be offering specific. Trading price and volume information in the AIF is only current to the issuer's most recently completed year-end. The prospectus disclosures will update the information to the date of the prospectus.
Item 10 [*Significant Acquisitions*]	10.1 and 10.2 - moves the reverse takeover disclosure requirements to a new section and conforms the disclosure to the Draft Form 1 approach. See also the changes set out in 10A.
Item 10A [*Reverse Takeover and Probable Reverse Takeover*]	The reverse takeover disclosure conforms to the provisions in Draft Form 1. Draft Form 1 clarifies our position that the reverse takeover acquirer is considered to be the issuer for accounting purposes, and specifies the required disclosure in the form for completed or probable reverse takeover transactions. Under Rule 41-501, a general statement of principles was set out in the Rule for the treatment of reverse takeover transactions but the Form did not contain any detailed disclosure requirements.
Item 11 [*Documents Incorporated by Reference*]	Documents that are required to be incorporated by reference now includes the disclosure required under the Forms to Regulation 51-101 filed by an SEC issuer unless the issuer is exempted from that rule or its AIF is in the form of Form 51-102F2.

Provision	Summary and Purpose
Item 13 [*Exemptions for Certain Issues of Guaranteed Securities*]	The exemptions for certain issues of guaranteed securities have been amended to harmonize with the exemptions in Regulation 41-101 and Regulation 51-102.
Item 16 [*Promoters*]	Current disclosure required about promoters of an issuer is extended to substantial beneficiaries of the offering.
Item 21 [*Certificates*]	Certificate provisions will be governed by Draft Regulation 41-101. The prescribed wording for issuer certificates and underwriter certificates for a prospectus filed under Regulation 44-101 has been retained.

Provision	**Summary and Purpose**
	Draft Consequential Amendments to Regulation 44-102
Part 1 [*Definitions and Interpretation*] (definition of "novel")	The CSA has noticed an increase in the use of the shelf prospectus system for the distribution of specified derivatives. In particular, an increase in the issuance of financial products where the payout is linked to an underlying interest that is not related to the operations or securities of the issuer. This includes notes linked to indices or notional reference portfolios. Although many of these products are similar to investment funds, they are not specifically subject to the investment funds regulatory regime. In addition, under the shelf prospectus system, the substantive details of such offerings are not typically available in the base shelf prospectus which is subject to regulatory review in advance of distribution. This results in the substantive details set out in a shelf prospectus supplement which, unless viewed by the issuer as a "novel" derivative, is generally filed after the distribution has taken place and can therefore only be reviewed on a post-filing basis. Since these linked note products are targeted at the retail market, this raises possible investor protection concerns that the CSA is proposing to address by broadening the pre-clearance requirement for issuers and selling securities holders that is set out in Regulation 44-102. One of the CSA's goals is to ensure adequate prospectus disclosure (either in the base shelf prospectus or the shelf prospectus supplement) of the material attributes of, and the risks associated with, linked note products. Because of the similarities between linked notes and investment fund products, the CSA is also interested in having an opportunity, prior to distribution, to determine whether certain elements of the investment funds regulatory regime should apply to such offerings. The draft amendments broaden the scope of specified derivatives which issuers and selling security holders are required to pre-clear. This has been done by amending the definition of the term "novel" to capture each type of an issuer's linked note products. We consider the current definition of the term, as it pertains to specified derivatives, as too narrow since it only captures derivatives having characteristics not previously described in a prospectus in Canada. The proposed change to the definition of the term "novel" will capture specified derivatives of an issuer for which the underlying interests are not a security of that issuer. The fact that another issuer may have distributed a similar product will no longer preclude the issuer or selling security holder from having to pre-clear the shelf prospectus supplement. Additional linked note products that are not materially different from those that have already been pre-cleared by the issuer will not be caught. In addition, "plain vanilla" warrants will not be caught since the amended definition of novel carves out specified derivatives where the underlying interest consists of the issuer's own securities.

Provision	Summary and Purpose
Part 4 [*Distributions of Novel Derivatives or Asset-backed Securities Under Shelf*]	To address market concerns regarding the ability of issuers to take advantage of perceived market opportunities, the CSA is also proposing to significantly reduce the time period that regulators have to provide comments from 21 days to 10 working days. This shorter timeframe is consistent with the review period outlined in subsection 5.3(2) of NP 43-201 in respect of complex offerings distributed under the short-from prospectus.
Appendices A [*Method 1 for Shelf Prospectus Certificates*] and **B** [*Method 2 for Shelf Prospectus Certificates*]	Certificate provisions will be governed by Draft Regulation 41-101. The prescribed wording for issuer certificates and underwriter certificates for a prospectus filed under Regulation 44-102 has been retained.

Provision	Summary and Purpose
	Draft Consequential Amendments to Regulation 44-103
Parts 3 [*Base PREP Prospectuses*] and **4** [*Supplemented PREP Prospectuses*]	Certificate provisions will be governed by Draft Regulation 41-101. The prescribed wording for issuer certificates and underwriter certificates for a prospectus filed under Regulation 44-103 has been retained.

Provision	**Summary and Purpose**
	Draft Consequential Amendments to Regulation 51-102
Part 12 [*Filing of Certain Documents*]	We are proposing consequential amendments to the requirements in this Part to harmonize with certain requirements in Part 9 of Draft Regulation 41-101.
Part 13 [*Exemptions*]	We are proposing consequential amendments to the requirements in this Part to harmonize with certain requirements in Item 34 of Draft Form 1.

Provision	Summary and Purpose
	Draft Consequential Amendments to Regulation 81-101
Subsections 2.2(4) [*Amendment to a preliminary simplified prospectus*] and **2.2(5)** [*Amendment to a simplified prospectus*]	Existing requirements regulating the filing of an amendment to a prospectus are set out in applicable securities legislation. The amendment requirements in this Part have been included in the draft consequential amendments to harmonize with the Act Amendments.
Section 2.5 [*Lapse Date*]	Existing requirements regulating the refiling of prospectuses are set out in applicable securities legislation. The requirements in this Part have been included in these consequential amendments to harmonize with the Act Amendments. No change from the existing requirements is intended.
Section 2.6 [*Audit of financial statements*]	All financial statements, except interim financial statements, included in or incorporated by reference into the prospectus must be audited in accordance with Part 2 of *Regulation 81-106 respecting Investment Fund Continuous Disclosure* (Regulation 81-106). This harmonizes the prospectus requirements with the continuous disclosure requirements.
Section 2.7 [*Review of unaudited financial statements*]	Any unaudited financial statements included in or incorporated by reference into the prospectus must be reviewed in accordance with the relevant standards set out in the Handbook. This harmonizes the prospectus requirements with the continuous disclosure requirements.
Section 2.8 [*Approval of financial statements and related documents*]	All financial statements, included in or incorporated by reference into the prospectus, must be approved in accordance with Part 2 of Regulation 81-106. This harmonizes the prospectus requirements with the continuous disclosure requirements.
Section 2.9 [*Consents of experts*]	Consents of experts must be filed with the prospectus.

Provision	Summary and Purpose
Section 6.8 [*Certificates of corporate mutual funds*]	This designates who should sign a certificate for a corporate mutual fund. This is consistent with existing securities legislation.

Provision	Summary and Purpose
	Draft Consequential Amendments to Form 81-101F1
Item 6(5) of Part A [*Purchases, Switches and Redemptions*]	This item is new and requires disclosure of the restrictions that may be imposed by the mutual fund to deter short-term trades, including the circumstances, if any, under which such restrictions may not apply or may otherwise be waived.
Item 8 of Part A [*Fees and Expenses*]	This item is amended by the addition of a line item in the Fees and Expenses Table that requires disclosure of the amount of any applicable short-term trading fee.

Provision	**Summary and Purpose**
	Draft Consequential Amendments to Form 81-101F2
Subsections 12(9) and 12(10) [*Fund Governance*]	These subsections are new and require a description of a mutual fund's policies and procedures relating to the monitoring, detection and deterrence of short term trades of mutual fund securities by investors. They further require disclosure of any arrangements with any person or company to permit short-term trades in securities of the mutual fund.