



VIA EMAIL

December 5, 2018

British Columbia Securities Commission
Alberta Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Financial and Consumer Services Commission (New Brunswick)
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island
Nova Scotia Securities Commission
Securities Commission of Newfoundland and Labrador
Registrar of Securities, Northwest Territories
Registrar of Securities, Yukon Territory
Superintendent of Securities, Nunavut

Attention:

The Secretary
Ontario Securities Commission
20 Queen Street West
19th Floor, Box 55
Toronto ON M5H 3S8
Fax: 416-593-2318
comment@osc.gov.on.ca

Me Anne-Marie Beaudoin
Corporate Secretary
Autorité des marchés financiers
800, rue du Square-Victoria, 22e étage
C.P. 246, tour de la Bourse
Montréal QC H4Z 1G3
Fax: 514-864-6381
consultation-en-cours@lautorite.qc.ca

**Re: Proposed National Instrument 52-112 *Non-GAAP and Other Financial Measures Disclosures*
Proposed Companion Policy 52-112 *Non-GAAP and Other Financial Measures Disclosures***

Dear Sirs/Mesdames,

The purpose of this letter is to provide comments on the proposed National Instrument and related Companion Policy 52-112 *Non-GAAP and Other Financial Measures Disclosures (together the "Proposed NI")*. We appreciate the opportunity offered by the Canadian Securities Administrators to share our perspective on this proposed regulation.

Intact Financial Corporation is a publicly traded company listed on the Toronto Stock Exchange and is the largest provider of property and casualty insurance in Canada, with a 17% market share and a market capitalization of approximately \$15 billion. The quality of our financial disclosure is fundamental to us, as evidenced by the financial reporting awards we have recently received, including an honourable mention in Financial Reporting from CPA Canada (2016), as well as an award for Best Financial Reporting from IR Magazine (2018).

Our experience has shown that often times non-GAAP financial measures respond better to investor needs than GAAP financial measures do. We believe that non-GAAP financial measures represent an important aspect of analysts' valuations. We are concerned that the Proposed NI will result in unnecessarily heavy disclosure that will dilute key messages and potentially confuse investors. In addition, in our view some elements of the Proposed NI are in contradiction with 'disclosure effectiveness' principles, which have been supported and promoted in recent years by Canadian and U.S. standard setters.

We understand the importance of complete and transparent disclosures given the challenge of comparability from one company to the other. However, the Proposed NI could discourage the use of non-GAAP financial measures given the wide scope of application (all public documents) and the level of disclosure required, especially when it comes to first-time disclosure in each document.

Our letter includes specific comments, including examples and opportunities, which in our view will help improve the Proposed NI into a more principle-based framework and align it with disclosure effectiveness principles.

Yours truly,



Frédéric Cotnoir
Senior Vice-President, Corporate and Legal
Services and Secretary
Intact Financial Corporation



Louis Marcotte, FCPA, FCA
Senior Vice-President and Chief Financial Officer
Intact Financial Corporation

OVERALL COMMENTS

1. Rule-based instrument

Related extract from Proposed NI

- *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.*

The Proposed NI is a rule-based instrument, very much aligned with the prescriptive SEC Regulation G. No concept of materiality has been applied.

Judgement is required when selecting, using and disclosing non-GAAP financial measures. As such, we believe that a principle-based instrument similar to the current Staff Notice 52-306 (Revised) - *Non-GAAP financial measures*, including best practices surrounding the selection, labelling, use and disclosure of non-GAAP financial measures and other performance measures, would be more appropriate in Canada.

2. Scope of the Proposed NI

Related extract from Proposed NI

- *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.*

We believe that the scope of the Proposed NI is overly broad and that it should only apply to the company's documents filed on SEDAR and other documents available on its website.

Subject	Questions/Clarifications
<p>Scope</p>	<ul style="list-style-type: none"> • Should the Proposed NI apply to all public documents (including those that are not required filings) or only those filed on SEDAR? • What do we mean by “that is intended to be, or reasonably likely to be, made available to the public”? <ul style="list-style-type: none"> ▪ Documents available on a company website (including those filed on SEDAR) that include a non-GAAP financial measure? ▪ Which other documents should be covered by the Proposed NI? • Clarification required (example): <ul style="list-style-type: none"> ▪ CEO of a company gives a presentation or conference to businesspeople and presents slides (financial highlights), which include non-GAAP financial measures. The document is not distributed. What are the company’s obligations? Do they change if the document is distributed to the group but not posted on the company’s website?

3. Equal or greater prominence of GAAP financial measures over Non-GAAP financial measures

Related extracts from Proposed NI

- *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*
 - *Determining whether a non-GAAP financial measure is presented with no more prominence is a matter of judgment, taking into account the overall disclosure and the facts and circumstances in which the disclosure is made.*
 - *We expect that presentation of a non-GAAP financial measure would not in any way confuse or obscure the presentation of financial measures presented in accordance with the financial reporting framework used in the preparation of the issuer's financial statements.*
 - ***The following are examples that we view as causing a non-GAAP financial measure to be more prominent than the most directly comparable measure presented or disclosed in the financial statements:***
 - *Omitting the most directly comparable measure from a press release headline or caption that includes a non-GAAP financial measure*
 - *Presenting a non-GAAP financial measure using a style of presentation (for example, bold or larger font) that emphasizes the non-GAAP financial measure over the most directly comparable measure*
 - *Describing a non-GAAP financial measure as, for example, "record performance" or "exceptional" without at least an equally prominent descriptive characterization of the most directly comparable measure;*
 - *Providing tabular or graphical disclosure of non-GAAP financial measures without presenting an equally prominent tabular or graphical disclosure of the most directly comparable measures or without including the most directly comparable measures in the same table or graph.*
 - *Providing a discussion and analysis of a non-GAAP financial measure in a more prominent location than a similar discussion and analysis of the most directly comparable measure. For greater certainty, we take the view that a location is not more prominent if it allows an investor who reads the document or other material containing the non-GAAP financial measure, to be able to view the discussion and analysis of both the non-GAAP financial measure and the most directly comparable measure contemporaneously. For example, within the previous, same or next page of the document*
-
- **We agree that the use of non-GAAP financial measures should not mislead the reader.**
 - **We also agree that determining whether a non-GAAP financial measure is presented with no more prominence is a matter of judgement.**
 - Investors often seek to understand the company **through the eyes of management**, which in many cases is by using non-GAAP financial measures. As such, discouraging the use of non-GAAP financial measures entirely should not be the objective of the Proposed NI. The regulation, in its proposed form, may create this unwanted result.
 - In most cases, duplication of financial measures (i.e. adding the GAAP measure alongside each non-GAAP measure) will **dilute key messages and could confuse readers**.
 - We noted that the equal or greater prominence principle is **very much aligned with the highly prescriptive SEC Regulation G**. We believe that equal or greater prominence criteria should take into account materiality. In situations where the conclusions drawn from the non-GAAP financial measure and the GAAP financial measure would be substantially the same, due to an immaterial difference between the two, this criteria would unnecessarily burden disclosure.

- We have looked at the disclosure of a number of relevant U.S. peers applying the principle of equal or greater prominence as prescribed by SEC Regulation G in their MD&A and earnings press release. We found their disclosure to be very heavy and the key messages unclear given the duplication of information in the headlines, tables and graphs.

The investment community’s perspective – a key consideration:

Analysts are looking for management’s insights into a company’s core performance, in terms of quality of earnings and performance over time. This is the **purpose of the MD&A**. The equal or greater prominence principle, as proposed and outlined (examples above) defeats that purpose.

When looking at **selected analyst reports following the earnings release of U.S. peers** (which are presumably in compliance with SEC Regulation G), we noted that non-GAAP financial measures represented an important aspect of their valuation and investment thesis - buy, hold or sell the stock.

In fact, of the sample selected, which included 7 analyst reports from 5 different investment firms, **all analysts used the non-GAAP financial measures as a critical aspect of their report:**

- Of the 7 reports selected, **all 7 analysts used non-GAAP financial measures** as the basis for their key messages, valuation and estimates.
- **Six of the seven reports** had operating/core EPS as the **very first** measure mentioned.
- Of the different financial measures mentioned in the key highlights of these reports (approximately 25 different measures), **more than 70% of them were non-GAAP financial measures.**
- Some of the analysts reported their **own measures**, based on the company’s reports. Discouraging non-GAAP financial measures entirely could further encourage the use of tailored measures, which could amplify comparability and consistency issues.

In our case, the introduction of non-GAAP financial measures is often in response to a need from the investment community and is with the intent to harmonize the measures used in analysts’ reports. In other words, we create these measures to respond to a need that is often not met by solely using GAAP measures, rather than to change the public’s perception of our results.

If the investment community rely mainly on non-GAAP financial measures and focus less on GAAP financial measures, **why should GAAP financial measures have equal or greater prominence in documents which aim to serve the needs of these key stakeholders** (amongst others)? Our concern is that this could lead to confusion and dilution of key messages, as stated above.

Note that we do agree that **equal or greater prominence should be given to GAAP financial measures when it would be misleading not to do so**, as detailed on the next page.

A more principle-based standard, similar to the format of the current Staff Notice 52-306 (Revised) - Non-GAAP financial measures, would be more appropriate in allowing the MD&A to achieve its purpose. We strongly believe that this regulation in its proposed form is not viable and that it defeats the purpose of investor focus and disclosure effectiveness. Please see below for specific comments.

Subject	Questions/Clarifications
<p>No more prominence</p>	<ul style="list-style-type: none"> • Is equal or greater prominence really intended for all instances where we present a non-GAAP financial measure? We use many Non-GAAP financial measures that are well-defined and reconciled. Applying this principle (in all its forms) would essentially mean doubling our level of disclosure whenever a non-GAAP financial measure appears. GAAP financial measures are readily available should the user wish to consult them. • The proposed requirements would unnecessarily burden disclosure, especially in situations where the conclusions drawn from a non-GAAP financial measure and a GAAP financial measure would be substantially the same due to an immaterial difference between the two. • Proposed NI is very prescriptive, which is at odds with disclosure effectiveness trends and Canada's history of principle-based accounting standards. • Based on the above, we believe that the GAAP financial measure should have equal or greater prominence when it would be misleading not to do so.
<p>Qualification</p>	<ul style="list-style-type: none"> • It is unclear whether this statement is intended only for exceptional characterizations, or for all descriptive characterizations. <ul style="list-style-type: none"> ▪ E.g.: strong core EPS of \$1.50 and solid EPS of \$1.35....Is this the desired outcome of the Proposed NI? ▪ If the latter applies (all descriptive characterizations), we believe that the outcome would be to dilute key messages and would also defeat the purpose of the MD&A (investor focus).

4. First-time disclosure requirement, not in line with disclosure effectiveness principles

Related extracts from Proposed NI

- *The first time the non-GAAP financial measure appears in the document, the document*
 - *subject to subsection 4(2), identifies the non-GAAP financial measure as such,*
 - *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,*
 - *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,*
 - *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*
 - *is disaggregated in such a way that it provides a reasonable person an understanding of the reconciling items,*
 - *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*
 - *is explained in such a way that it provides a reasonable person an understanding of each reconciling item.*

- *The information required by paragraph 3(d) of the Instrument **should be presented in the same document** as the non-GAAP financial measure. To satisfy these requirements, an issuer may identify the non-GAAP financial measure as such when it first occurs in the document using a footnote that refers to a separate section **within the same document**. The requirements in subparagraphs 3(d)(ii), (iii), (iv) and (v) of the Instrument may then be presented in the separate section the footnote referred to.*
 - *There may be types of documents where it is not clear when the non-GAAP financial measure first occurs or appears, for example, websites and social media. In these instances, we consider that issuers meet the “first time” objective by, for example, clearly identifying the measure as being a non-GAAP financial measure and providing a link to the other required disclosure.*
 - *To prevent duplicate disclosure, an issuer may provide all the required disclosures for all non-GAAP financial measures in one section of the document, and cross-reference to that section each time a non-GAAP financial measure is presented in that same document.*
- We agree that a comprehensive non-GAAP financial measures section is important for users given that these measures do not have any standardized meaning prescribed by GAAP and are unlikely to be comparable to similar measures presented by other companies.
 - However, the Proposed NI **insists** on providing the first-time disclosure requirements (which are already burdensome in and of themselves) **in the same document** which we consider to be **excessive** and will result in unnecessary duplication of information.

We feel that the Proposed NI is inconsistent with disclosure effectiveness principles. We believe that cross-references to the MD&A (or any other document filed on SEDAR that contains the first-time disclosure requirement) should be permitted and encouraged. Please refer to the table below for specific comments.

Subject	Questions/Clarifications
<p>First-time disclosure requirement (identification)</p>	<ul style="list-style-type: none"> • The comments below refer to the first-time disclosure requirement (identification of a non-GAAP financial measure). • In theory, we agree that the first time a non-GAAP financial measure is used it should explicitly be identified as such. • Practical issue: <ul style="list-style-type: none"> ▪ It is reasonable to assume that the average reader skips to selected sections and does not read the document in a sequential order, and as such could miss the first-time disclosure requirement. ▪ As a result, we believe that the strict application of the first-time disclosure requirement may not result in the intended application to caution the reader that this is a non-GAAP financial measure. ▪ In our opinion, the most efficient way to achieve this objective would be to list all non-GAAP financial measures at the beginning of the document (Section: Non-GAAP financial measures where we caution the reader) and refer to the detailed section containing definitions, usefulness and reconciliations for more information. • Practical issue: <ul style="list-style-type: none"> ▪ The strict application of the first-time disclosure requirement will result in multiple footnotes throughout the document.

	<ul style="list-style-type: none"> ▪ We believe that the company should use its judgement in applying the first-time disclosure requirement (identification) – in places of prominence (ex: table of financial highlights), regardless of the page number on which the non-GAAP financial measure first appears (ex: highlight bullets).
<p>First-time disclosure requirement (definitions, usefulness and reconciliations)</p>	<ul style="list-style-type: none"> • The comments below refer to the first-time disclosure requirement, including definitions, usefulness and reconciliations of non-GAAP financial measures to the corresponding GAAP financial measures (referred to as Appendix). • Is this requirement intended for all financial reports issued publicly that contain non-GAAP financial measures? Applying this principle would mean adding an Appendix (5-6 pages) to each document that contains a non-GAAP measure, which is inconsistent with disclosure effectiveness principles. <ul style="list-style-type: none"> ▪ Based on our understanding, a company’s one-page Quick facts tear sheet containing at least one non-GAAP financial measure would need to be accompanied by the Appendix on non-GAAP financial measures. Currently, our Quick facts refer to the MD&A for definitions and reconciliations of non-GAAP financial measures. We believe that a cross reference is adequate, and we do not understand why the first-time disclosure requirement (Appendix) must appear in each document. • As a result, we believe the following to be an acceptable alternative that is in line with disclosure effectiveness principles. <ul style="list-style-type: none"> ▪ Appendix included in one document filed on SEDAR (ideally the MD&A, which complements the financial statements and already includes the non-GAAP financial measures information) or in a separate document (Appendix: Non-GAAP financial measures) filed on SEDAR. Any document under the scope of the Proposed NI that contains non-GAAP financial measures would include a cross-reference to the SEDAR document that contains the required disclosure to avoid repetition and duplication. • Ideally, this Appendix should also be made available on the company website for easy access.

5. Overall clarity of the Proposed NI

We find that the Proposed NI could use more ‘plain language’. The current structure (sentences and cross-references) can make the instrument difficult to read and unclear in certain areas. *Refer to Question 3 for more details.*

Specific comments to improve overall clarity

- **Simplify the wording** and use plain English:
 - Short and affirmative sentences are easier to understand.
 - Examples of recommended/ prohibited disclosures.
 - Summary of requirements presented in tabular format (Annex C is a good example).
- **Reduce the number of cross-references** where possible.
- **Webinars and interpretation guidance** should be considered.

RESPONSE TO SPECIFIC QUESTIONS

1. Question: Does the proposed definition of a non-GAAP financial measure capture (or fail to capture) specific financial measures that should (or should not) be captured?

We **do not believe** that the proposed disclosure should apply to:

- a disaggregation of a non-GAAP financial measure, which currently seems to fall under the scope of this Proposed NI (*refer to Response 3a hereafter*); and
- capital measures presented in the notes to the financial statements, or in accordance with the specifications of another regulator (*refer to Response 3d hereafter*).

2. Question: Are there any specific disclosures not considered in the proposed Instrument that would significantly improve the overall quality of disclosure and be of benefit to investors?

To significantly improve the overall quality of disclosure for investors, we believe that we should apply **materiality and judgement** to the level of disclosure provided to investors. **Disclosure effectiveness principles** should also guide how to best disclose the information.

Please also refer to the Section Overall comments.

3. Question: Is specific content in the Proposed Companion policy unclear or inconsistent with the Proposed Instrument?

Yes; please refer to our comments hereafter.

a. Disaggregation of a non-GAAP financial measure

Related extracts from Proposed NI

“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.*

Specific comments

- Based on the definition of non-GAAP financial measure contained in the Proposed NI it is unclear if a disaggregation of a non-GAAP financial measure also meets the definition of a non-GAAP financial measure and thus must comply with all the requirements.
- It is our opinion that a disaggregation of a non-GAAP financial measure should not be subject to the disclosure requirements included in the Proposed NI as it would be unnecessarily burdensome and, in many cases, very difficult to achieve as an issuer may not present the equivalent disaggregated GAAP financial measure in the financial statements.
- We believe that the Proposed NI should permit reconciliation of a non-GAAP financial measure to an item in the financial statements as a whole (including the notes to the financial statements), as the financial statements are prepared in accordance with applicable accounting principles.
- We believe that the financial statements as a whole (including the notes to the financial statements) should qualify as a GAAP source, as the notes are prepared in accordance with applicable accounting principles, and are within the scope of the annual audit.

In our opinion, disclosure requirements should only apply to the highest aggregation of a non-GAAP financial measure (see example below).

Underwriting income (core) as presented in a company’s MD&A (both on a consolidated level and by line of business) is a non-GAAP measure, as it excludes certain elements which are not representative of the company’s core performance. The underwriting income (core) at the consolidated level is reconciled with the financial statements, in compliance with the requirements. However, the company may not present underwriting income by line of business in the financial statements, rendering it difficult to provide reconciliations to the Financial Statements for each line of business.

Proposed example for reconciliation of a disaggregated item:

Core underwriting income	201X
<i>Line of business A</i>	10
<i>Line of business B</i>	20
<i>Line of business C</i>	30
Consolidated core underwriting income (Non-GAAP)	60
<i>Reconciling item 1</i>	(10)
<i>Reconciling item 2</i>	15
Underwriting income (as per financial statements)	65

b. Full statement of profit or loss of non-GAAP financial measures

Related extract from Proposed NI

- *Presenting a full statement of profit or loss and other comprehensive income of non-GAAP financial measures without presenting it in the form of a reconciliation of each non-GAAP financial measure to the most directly comparable measure, sometimes referred to as a single column approach;*

Specific comments

- If a table of consolidated highlights contains several non-GAAP financial measures, **which ultimately reconcile to a GAAP financial measure** without presenting it in the form of a reconciliation of each non-GAAP financial measure, would this be permissible?
- See below for an example.

In our opinion, the following disclosure of profit and loss should be permissible under the Proposed NI (see example below).

Consolidated results	201X
Core pre-tax income component A	10
Core pre-tax income component B	20
Core pre-tax income component C	30
Core pre-tax income (Non-GAAP)	60
Non-core pre-tax income (see details in Table X)	(10)
Pre-tax income (GAAP)	50
Income tax expense	(5)
Net income (GAAP)	45

c. Non-GAAP financial measures that are ratios

Related extract from Proposed NI

- Paragraph 3(b) (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) 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.

Specific comments

- Based on the above extract, it is unclear as to whether a non-GAAP financial ratio, e.g. Core EPS, can be presented in the MD&A without presenting the GAAP financial measure (EPS) in the MD&A, if the GAAP financial measure (EPS) is presented with similar prominence in the primary financial statements.

We seek clarification on this item, as we interpret it to mean that if Core EPS is presented with no more prominence in the MD&A than EPS is presented in the financial statements, then the prominence requirements do not apply.

d. Definition of a capital management measure

Related extract from Proposed NI

- “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;
- 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.

Specific comments

- Requirements in Section 7 (capital management measures) apply to a capital management measure that ‘is not a total, subtotal or line item presented in the primary financial statements’.
- This would imply that all capital management measures are subject to the disclosure requirements, since, by definition, capital management measures are not presented in the primary financial statements, but rather in the notes to the financial statements.
- The requirements in Section 7 seem excessive given that all disclosure requirements proposed are already included in the notes to the financial statements, thereby creating duplicate disclosure.

We believe that if a capital management measure is presented within the financial statements (including the notes to the financial statements), and that measure is calculated in accordance with applicable accounting policies or within the specifications of another regulator, it should not qualify as a non-GAAP financial measure.

e. **Primary financial statements and notes to the financial statements**

Related extract from Proposed NI

- *The Instrument uses the terms “statement of financial position”, “statement of profit or loss and other comprehensive income”, “statement of changes in equity”, and “statement of cash flows”, to describe the primary financial statements.*
- *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...*

Specific comments

- Throughout the Proposed NI, the distinction is made between primary financial statements and notes to the financial statements, for instance by **only allowing reconciliations to the most directly comparable financial measure presented in the primary financial statements.**

In our opinion, the financial statements as a whole should be considered as a reliable source of GAAP financial measures, as they are prepared in accordance with applicable accounting principles.

4. Is the proposed exemption for SEC foreign issuers appropriate?

Yes, as they currently comply with SEC Regulation G which is extensive in scope.

5. Question: Is the proposed exclusion of oral statements to the application appropriate?

Yes. It would be very difficult, indeed nearly impossible, to apply these requirements to oral statements made by management.

6. Question: Is the proposed inclusion of all documents to the application appropriate? If not, for which documents should an exclusion be made available?

As mentioned in the General Comments Section, we believe that the scope of the Proposed NI is overly broad and that it should only apply to the company's documents filed on SEDAR and other documents available on its website.

OTHER COMMENTS

1. Labelling

Related extract from Proposed NI

- Any label or term used to describe a non-GAAP financial measure or adjustments in a reconciliation must be appropriate given the nature of information.
- *The following are a few examples which we consider would not be in compliance with the labelling requirement in paragraph 3(a) of the Instrument:*
 - *Labels that cause confusion with amounts prepared in accordance with the financial reporting framework used in the preparation of the issuer's financial statements. Using terms or labels which are the same as, or confusingly similar to, those normally used under the financial reporting framework is misleading. For example, a measure labelled as "cash flows from operations" calculated as cash flows from operating activities before changes in non-cash working capital items, is confusingly similar to the term "cash flows from operating activities" specified in IAS 7 Statement of Cash Flows.*

We agree that proper labelling of non-GAAP financial measures is important to avoid potential confusion with similar measures presented in the financial statements.

Specific comments

- We believe that **adding "core" or "adjusted" in front of each non-GAAP financial measure that is entity-specific** is a very effective way to signal to readers that the measure is an **adjustment** to a GAAP financial measure and that it may not be comparable across entities.
- This labeling also makes it **easy for the users to understand what the most comparable GAAP financial measure is**. Example: Core EPS (non-GAAP financial measure) vs EPS (GAAP financial measure).
- It could also be useful to lay out the **best practices for nomenclature of terms**. Many companies use the same terms (adjusted, core, operating, etc.) to mean different things and a general set of 'best practices' could prove useful, especially to smaller organizations. For instance:
 - Guidelines could lay out that 'adjusted' should be for one-off items, or that 'core/operating' could be for revenue streams that the organization considers as key.
 - Return on Equity (ROE) should be labelled as such only if calculated based on the last twelve months (to remove quarterly seasonality); otherwise, it should be labelled as Annualized ROE.
 - Consider setting an official reference guide of **preferred definitions** for commonly used measures such as ROE, book value per share, dividend yield, dividend payout ratio, debt-to-total capital, etc.

2. Reconciliation of a non-GAAP financial measures

Related extract from Proposed NI

- *Where a reconciling item is **not extracted directly from the issuer's primary financial statements**, but is a component of a line item in the issuer's primary financial statements or originates from outside the primary financial statements, the reconciliation should:*
 - *explain how the figure is calculated;*
 - *include a description of the line item of the primary financial statements where the reconciling item originates, if any; and*
 - *discuss significant judgments and estimates, if any, that management has made in developing the reconciling items used in the reconciliation.*

We find the above disclosure excessive. We believe that no additional disclosure should be required for a reconciling item that is disclosed in the financial statements (including the notes to the financial statements) and thus calculated according to applicable accounting principles.

Related extract from Proposed NI

An issuer should disclose any income tax effects of its non-GAAP financial measure depending on the nature of that measure. However, adjustments to arrive at the non-GAAP financial measure should not be presented "net of tax" but should be shown as a separate adjustment and clearly explained.

We believe that it should be permissible to present reconciling items net of taxes, where both the GAAP and non-GAAP financial measures are presented net of tax (e.g.: reconciling items between Adjusted EPS and EPS should be presented net of tax, as both these items are net of tax).