



July 28, 2017

***Addressed to:***

British Columbia Securities Commission  
Alberta Securities Commission  
Financial and Consumer Affairs Authority of Saskatchewan  
The Manitoba Securities Commission  
Ontario Securities Commission  
Autorité des marchés financiers (Québec)  
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  
Superintendent of Securities, Northwest Territories  
Superintendent of Securities, Yukon  
Superintendent of Securities, Nunavut

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**RE: CSA Consultation Paper 51-404**

We appreciate the opportunity to share our views and provide input on the areas included in the Canadian Securities Administrators (CSA) *Consultation Paper 51-404 on Considerations for Reducing Regulatory Burden for Non-Investment Fund Reporting issuers*. We commend the CSA for re-examining the issue of regulatory reporting, particularly in areas where compliance with the requirements may impose a burden on reporting issuers that is out of proportion to the regulatory objectives for which they were originally intended.

We encourage the CSA to continue its outreach to investors, preparers, and other stakeholders groups to obtain feedback in connection with this initiative. We believe this is an important step in continuing to improve the disclosure of decision-useful information.

Our specific observations and recommendations are based on our experiences in working with Canadian regulatory reporting requirements as independent auditors. The body of this letter provides our views on

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key issues raised in the CSA Consultation Paper, while the Appendix outlines specific areas where we have provided more detailed comments with respect to certain questions posed in the CSA Consultation Paper.

Our key areas of comment relating to the following proposals:

### ***I. Streamlined rules for categories of reporting issuers***

The current regulatory reporting regime delineates TSX-Venture Exchange issuers and non-venture issuers, permitting the former to comply with continuous disclosure requirements that are generally less onerous than those applied by other reporting issuers. We support the view that a reporting issuer's listing status is not necessarily a proxy for issuer size, and that alternative size-based metrics, such as assets, revenue, market capitalisation, or some combination thereof, should be considered for purposes of determining reporting requirements.

The United States Securities and Exchange Commission (SEC) currently allows for reduced reporting requirements for a category of "smaller reporting companies", which are companies with less than US\$75 million in common equity public float or, in the case of companies without a publicly traded float, less than US\$50 million in revenue. The SEC also recognises different categories of reporting issuers based on the *Accelerated Filer System*, which was initially intended as a way to divide the population of SEC reporting requirements between those that would be required to file Form 10-K and 10-Q on an accelerated basis and those that would be permitted to use the later filing deadlines. Subsequent SEC rulemaking activities have leveraged these designations, such as the streamlined adoption of (and exemption from, in the case of non-accelerated filers) the auditor attestation under SOX 404. By adopting a regime in Canada similar to the *Accelerated Filer System* applied by the SEC, the CSA could facilitate a more "phased in approach" to the application of new or revised reporting requirements, disclosures and filing deadlines. For example, this approach might be useful in facilitating a streamlined approach to the adoption of certain aspects of the new *CAS Auditor Reporting Standards*.

We also support initiatives that would extend regulatory relief for companies planning to file their Initial Public Offering (IPO) in Canada, and encourage the CSA to explore the qualifying criteria (including entry and exit provisions) and other forms of relief provided to emerging growth companies (EGCs) under the US *Jumpstart Our Business Startups Act (2012) (JOBS Act)*.

We agree that any such size-based distinction using objectively determinable metrics would have to be set at thresholds more reflective of our Canadian capital markets. For instance, we noted that approximately 60%<sup>1</sup> of Canadian public companies (excluding SEC registrants) are listed on the Venture or Canadian

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<sup>1</sup> The following percentage was based on a summary of data generated from the S&P Capital IQ web portal as at May 11, 2017. Of the approximate 3,350 Canadian listed entities (excluding Canadian SEC registrants), an estimated 2,000 (60%) are listed on the TSX-Venture Exchange (TSX-V) or Canadian National Stock Exchange (CNSE), with the remaining 1,350 (40%) listed on the Toronto Stock Exchange.



National Stock Exchange, yet this accounts for only less than 5%<sup>2</sup> of the market capitalisation in Canada. We also noted that the median market capitalisation<sup>3</sup> of Canadian listed companies on the TSX and TSX-V is approximately \$139.4 million and \$5.7 million, respectively. In making an objective determination of the appropriate thresholds, we believe more detailed analysis and outreach would need to be carried out, to arrive at size thresholds that make sense for Canadian stakeholders. However, we encourage and support the CSA in taking such steps to improve the stratification of reporting issuers in Canada. In doing so, requirements can be streamlined to ensure the proper balance between costs of compliance and investor protection.

We recognize the impact that volatility in the market can have on shifting a company's filing status between categories, if we were to move to a size-based distinction. For example, by using a single valuation such as market capitalisation as the quantitative criterion to define a "smaller reporting issuer", an established company that experiences financial distress or for which market value has declined significantly, could become eligible for relief as a smaller reporting issuer, notwithstanding the maturity, size and complexity of the Company. Accordingly, we suggest that any proposals that establish categories of companies (or even the size distinction for determining a smaller reporting issuer) should be based on perhaps annual revenue or total assets in addition to market capitalisation.

## ***II. Audited financial statement requirements in an IPO prospectus***

Under the current rules, an issuer must include in an IPO prospectus audited financial statements for its three most recently completed financial years. Venture issuers need include only two years, and an exemption from the audit requirement is available for issuers of a certain size. We would support proposals that would expand the eligibility to include two years of audited financial statements in an IPO prospectus, and that this relief should be provided to all companies that meet certain eligibility criteria, that includes a revenue metric. Audited financial statements for a full 3 years not always readily available, with the earliest year in the three year history being the least comparable period, either due to a Company's organic growth or growth through acquisition. The earliest year is also frequently audited by "other auditors" which adds complexity to the process of "going public". We believe that limiting the reporting issuer (and any of its "primary businesses" – see further comments below) financial statements and selected financial data to a two year period, similar to the model applied by Emerging Growth Companies (EGCs) reporting under the JOBs Act, would encourage capital formation in Canada while still providing investors with useful and reliable financial information upon which to form an investment decision.

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<sup>2</sup> Calculation of "less than 5%" is based on an estimated total market capitalization at May 11, 2017 (from data generated from the S&P Capital IQ) for Canadian listed entities (excluding SEC registrants) of \$1,059 billion, of which \$43 billion is listed on the TSX-V or CNSE.

<sup>3</sup> TSX/TSX-V 2017 Guide to Listing; these figures include SEC registrants and are based on market capitalization as at December 31, 2016.



### ***IPO filings and “primary business” financial statements***

We believe the CSA should re-examine its approach to the inclusion of audited financial statements of a primary business or businesses of the reporting issuer in an IPO filing. While the term “*primary business*” is not defined in Canadian securities law, we understand Section 5.3 of the Companion Policy to NI 41-101 provides guidance as to when a reasonable investor reading a prospectus would regard an acquired business to be the “*primary business*” of the reporting issuer. We also note that in many instances, audited financial statements of insignificant businesses have been requested for inclusion in an IPO filing, regardless of the level of materiality to the consolidated entity. We recognise the importance of ensuring sufficient historical financial data or a “track record” be provided to investors and that this information should be subject to audit and/or review, particularly in the case of companies where its only source of operating history is from the entities that it has acquired in the last 2-3 years. However, we believe that ignoring the significant tests for primary businesses is one of the most significant hurdles facing companies attempting to go public in Canada. We encourage the CSA to review its approach to primary business financial statements, and allow for reporting issuers to apply some level of significance that aligns with the significance tests under the acquisition financial statements requirements.

### ***III. Business Acquisition Reports – Revisiting the Requirements***

Business acquisition reports (BARs) have been consistently identified as an area of financial reporting where the burden of compliance exceeds the benefit, largely due to the lengthy period (75 days after closing date) that reporting issuers have to file the BAR. We note that the 75-day period is consistent with the length of time SEC filers are given to file acquired business financial statements and the related pro forma financial information on Form 8-K. Stakeholders, however, have argued that the information included in the BAR is not timely or ‘decision-useful’ and therefore should be eliminated. We have noted in practice that many reporting issuers file the BAR well in advance of the 75-day period, and that the additional time is typically only needed when financial information for the acquiree was not previously available and/or subject to audit or review (which is often the situation with smaller reporting issuers).

In evaluating this issue, we would recommend that the CSA consider the significant acquisition requirements (and the related BAR filing) separately; (1) BAR filing requirements on a continuous disclosure basis; and (2) Information about significant (probable) acquisitions in a prospectus. For example, in applying the significant acquisition requirements to recent or proposed acquisitions in connection with a prospectus filing (where proceeds raised will be used to consummate or finance the acquisition), we believe this is important information to provide potential investors under the prospectus offering, and should not be eliminated, or significantly reduced. With respect to the BAR filings on a continuous disclosure basis, we are not generally supportive of reducing the 75-day reporting period, or eliminating the BAR requirements entirely, regardless of size of reporting issuer. Our view is that the regulatory burden could be noticeably reduced by revisiting the nature and thresholds established in the size tests. For instance, the current threshold of 20% could be increased to a new minimum threshold (or more streamlined thresholds that are dependent on size of reporting issuer, as discussed under Part I above), with some additional relief provided to smaller reporting issuers that could be comparable to the



current TSX-Venture thresholds (of 100%). We also support revising the “nature” of the significance tests; for instance, the income test could be replaced with (or supplemented by) a revenue test; the investment test could compare “purchase price” against the market capitalization of the reporting issuer. For more detailed comments on significant tests, refer to the Appendix to this comment letter.

We believe pro forma financial information provides useful information for investors in evaluating the impact of recent or probable acquisition(s) in a prospectus, particularly when combined with other capital transactions such as a share issuance or debt refinancing transaction. IFRS 3, *Business Combinations* and ASC Topic 805, *Business Combination* both require disclosure of pro forma revenues and profit or loss for the period for significant acquisitions (with significance being evaluated at 20% or higher) which suggests that standard-setters consider pro forma financial information relevant and useful. Despite its limitations, we do not support the elimination of the pro forma financial statements from BAR and prospectus filings, on the basis that we believe it continues to provide users with financial information that they can use to evaluate the financial effects of a business combination on the acquirer.

#### ***IV. Auditor review of interim financial statements in offering documents***

We do not support the proposal to remove the prospectus requirement for reviews of interim financial statements, for the following reasons:

- 1) Canadian auditing standards require a review of unaudited interim financial statements included/incorporated by reference in an offering document, in order for auditors to issue regulatory consent. Therefore, any decision to eliminate the review requirement in securities regulation will have important consequences under CASs, and an auditor’s ability to comply with professional standards when issuing a consent pursuant to CPA Section 7150, *Auditor’s Consent to the Use of a Report of the Auditor included in an Offering Document*. Any decisions by the CSA in this regard would have to involve the Auditing and Assurance Standards Board (AASB).
- 2) We continue to believe there are incremental benefits of engaging the auditor to perform a review of interim financial statements in prospectus filings, and that any proposal to eliminate this requirement would not only position Canada ‘out of step’ with our closest capital market (the US), but would not be in the interest of investors.
- 3) We believe the quality of interim financial statements would decline, absent the involvement of a reporting issuer’s auditor, particularly for the smaller reporting issuers that might have less sophisticated systems and controls and limited resources. Management and audit committees are likely to benefit from regular quarterly discussions with the reporting issuers’ auditor, which we believe translates into better quarterly financial reporting documents.
- 4) Consideration should be given to the negative impact that a “no auditor review” might have in applying CPA Section 7200, *Auditor Assistance to Underwriters and Others*, in the context of an offering document. Specifically, the CSA should note that an auditor is frequently requested to



provide negative assurance on unaudited interim financial statements, and to “comfort” financial information derived from a Company’s accounting records. Auditors are able to provide this, on the basis of their understanding of a Company’s internal control, which is derived principally from the audit engagement, but also from subsequent review engagements. Finally, we also note that pursuant to PCAOB AU 634.46, an auditor can only provide negative assurance as to subsequent changes in specified financial statement items as of a date (a “change period”) less than 135 days from the end of the most recent period for which the auditor has performed an audit or review. For instance, a calendar-year end company filing semi-annually on August 15<sup>th</sup> of each year would be restricted to “reporting procedures performed and findings obtained” for any US underwritten offerings (where US underwriters request PCAOB comfort letter) during the period from May 15<sup>th</sup> to approximately August 15<sup>th</sup>. Therefore, removing the requirement to have interim financial statements reviewed by a Company’s auditor could have important commercial consequences by impacting a Company’s ability to raise capital.

- 5) Many reporting issuers that are also SEC reporting issuers will continue to obtain reviews of their interim financial statements, in order to maintain access to US capital markets. We believe this will not only create an un-level playing field, but will also lead to confusion in the marketplace, as it will not be apparent from one prospectus filing to the next whether the auditor was engaged to complete a review of the interim financial statements or not. We recommend that the CSA retain its current requirement for a review of interim financial statements included or incorporated by reference in an offering document.

## ***V. Semi-annual reporting***

We would not be supportive of a change to semi-annual reporting in Canada, as we continue to believe there is value in regular and timely communication from management to investors about the company’s financial performance and financial condition. Quarterly reporting provides investors with more data points to evaluate trend analysis over time, and provides early warning disclosures that are useful to investors. While we acknowledge that replacing quarterly reporting with semi-annual reporting would follow the requirements in many other markets such as the UK, the EU and Australia, we also note that many companies in their jurisdictions have elected to continue with their quarterly reporting, for many of the reasons we have articulated above<sup>4</sup>. We also note that the “demographics” in these other markets, such as the median size of reporting issuer may not be comparable to our capital markets.

We are concerned that reducing a reporting issuers’ communications to six month intervals will result in an information gap of “public” and “private” information amongst investors, and that the “private”

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<sup>4</sup> In a recent study titled, “*Impact of Reporting Frequency on UK Public Companies*” issued in March 2017 by the CFA Institute Research Foundation, it was reported that less than 10% of UK companies ceased quarterly reporting when the UK reintroduced the semi-annual reporting requirement in 2014 after having mandated quarterly reporting in 2007. The study also commented that initiation of quarterly reporting had no real impact on investment decisions in the 2007 to 2014 period.



information will only be disseminated amongst more sophisticated groups of investor. Eliminating Q1 and Q3 reporting may undermine the financial reporting “discipline” and “controls” that have developed as a result of preparing a quarterly report every 3 months, especially amongst smaller reporting issuers. We believe this could ultimately contribute to a decline in the quality of financial reporting, which is not in the interest of stakeholders.

Finally, we would be concerned how semi-annual reporting might impact the application of IFRS/GAAP, particularly in instances where a particular standard requires management to evaluate for changes in facts and circumstances, triggering events or changes in estimates at each “reporting period”. By extending this reporting period to 6 months, we anticipate that a number of items will either not be accounted for and reported in a timely manner, or might not be unrecognized altogether, due to a further change in facts and circumstances within the same reporting period, or early indicators that the trend may reverse. For instance, an impairment trigger (and possible or actual impairment) arising in March of a company’s calendar year would not be accounted for and reported on until late July or early August of that same year. Our view is that this lengthy reporting period would not benefit investors, who are used to relying on more timely and relevant financial information.

We acknowledge that the burden associated with quarterly reporting could be reduced by modifying the quarterly MD&A Form requirements, and encouraging reporting issuers to focus on the relevance and usefulness of the information being disclosed in the quarterly report. While we believe the requirement to present interim financial statements on a quarterly basis under IAS 34 should be maintained, there are opportunities for a reporting issuer’s MD&A to be simplified and streamlined to focus more on key highlights or changes during the quarter, critical KPIs, and new transactions or developments only.

#### ***VI. Eliminating overlap in regulatory requirements and filing under one document***

We encourage and support the CSA’s initiative to identify overlap in its regulatory requirements. There are a number of opportunities identified by the CSA staff in the Consultation Paper, for a reporting issuer’s MD&A and AIF to be streamlined to eliminate the duplication of disclosures that are currently required pursuant to IFRS or US GAAP. We have identified a few additional areas of duplication which are highlighted in the Appendix to this letter.

We also fully support proposals by the CSA requiring reporting issuers to file under one document – similar to the SEC’s requirements under Form 10-K and 10-Q. We believe the use of a single filing document would foster more streamlined reporting, with less duplication and repetition throughout. Our view is that the longstanding filing regime whereby Canadian reporting issuers file their financial statements, MD&A and certifications – concurrently, but under separate cover/forms – should be revisited, and that the impetus for disclosure improvements might very well be achieved by establishing a “new single form”. Refer to the Appendix for additional points on this issue.



## ***VII. Streamlining offerings for reporting issuers***

We are supportive of proposals by the CSA to reduce or eliminate short form disclosure requirements that are duplicative, outdated, or misaligned with current market practices. We encourage the CSA to leverage existing disclosures wherever practical, so that reporting issuers only have to report certain “core information” once, unless there are material changes to that information. For example, the requirement to provide a summary description of the business and risk factors should be limited to where there are updates or changes from the most recent annual or quarterly filing.

We would also support revisiting the adoption of an alternative prospectus model that would provide for more concise and focused disclosure relating to the specific offering, than under the current short form prospectus regime. Access to financial and non-financial information today is significantly different from the early 2000’s when the IDS and CMA requirements were initially developed. Therefore, a regime in which a prospectus document focuses on transactional information only, and “incorporates by reference” a reporting issuer’s relevant profile and periodic disclosures would create a more streamlined offering document directed towards meeting important informational needs of an investor with respect to the proposed transaction. Furthermore, we agree with the CSA’s comment that the Commissions in each of the various provinces and territories are more unified in their rules and approach to securities legislation and interpretation today, as compared to when the IDS and CMA requirements were initially developed. Therefore, common ground towards a more simplified prospectus regime is likely more achievable than in prior years.

## ***VIII. Other Matters***

### **Acceptable accounting principles for Canadian issuers**

Under existing Canadian securities regulations (specifically, 52-107, Part 3) Canadian issuers that are not SEC issuers are required to prepare financial statements in accordance with IFRS. SEC issuers, however, are permitted to prepare financial statements in accordance with either IFRS or US GAAP. In other words, the ability to prepare US GAAP financial statements is limited to those Canadian reporting issuers that are also SEC registrants.

We have noted instances where Canadian issuers have elected to register (or are actively planning to register) with the SEC, in order to qualify as an SEC issuer. The primary purpose of the SEC registration is to be able to apply (or continue to apply) US GAAP. The US registration is not based on a company’s plans to participate in US capital markets. We anticipate this number to increase in the coming year, particularly as the temporary exemption granted to rate regulated entities expires. We do not see how restricting the application of US GAAP to SEC issuers is in the interest of Canadian investors.

We would support a change to National Instrument 52-107, *Acceptable Accounting Principles and Auditing Standards*, that permits all Canadian issuers the choice between IFRS or US GAAP. US GAAP is a widely accepted and well-understood accounting framework applied by many reporting issuers in



Canada. Recent standard-setting activities by the FASB and the IASB have been significant, with the two accounting frameworks moving closer – not further apart. We also note that the incremental cost of becoming an SEC issuer, including possible compliance with auditor attestation under SOX 404, would increase the burden of ongoing reporting for those companies. We therefore do not believe the restriction on applying US GAAP is in the best interests of investors, and should be revisited from when the rules were initially considered at the time of transition to IFRS in Canada in 2011.

***IX. Significance of the multi-jurisdictional disclosure system (MJDS) in Canada***

In evaluating the CSA proposals in the Consultation Paper and drafting our response, we are mindful of how some of these proposals could impact the long-standing “Multi-Jurisdictional Disclosure System” between Canada and the US. This regime allows eligible Canadian foreign private issuers to file prospectuses and continuous disclosure documents using documents that are prepared largely in accordance with Canadian regulatory requirements. Foreign private issuers in other territories file annually on Form 20-F and must file prospectuses using non-MJDS forms. As the CSA considers possible changes to its regulatory filing requirements, we believe it is important to reflect on how such changes may be perceived by the SEC. Our view is that the more aligned our filing requirements become with other jurisdictions that file as foreign private issuers, SEC could question the reason for maintaining MJDS, specifically the ability to file on Form 40-F (instead of Form 20-F) and Form F-10. We believe this should be factored into the CSA’s consideration of future proposals.

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We appreciate the opportunity to express our views and would be pleased to discuss our comments or answer any questions that the CSA staff of the Commissions may have. Please contact Michael Walke at 416-815-5011 or Carolyn Anthony at 416-815-5266 regarding our submission.

Sincerely,

*PricewaterhouseCoopers LLP*

PricewaterhouseCoopers LLP  
Chartered Professional Accountants

***Specific Observations on the Significance Tests***

*As discussed in our comment letter (Section III), we believe the CSA should re-examine the **nature and thresholds of the significance tests** that determine when audited financial statements for recent or probable significant acquisitions or under the BAR filing requirements.*

We believe there are a number of situations in which the existing significance tests indicate that acquisition financial statements are required when it would not appear to be a significant acquisition. This is usually a result of the application of the **income test** to situations in which there are unusual items in the current year of the reporting issuer or the acquiree that have the effect of distorting the impact the acquiree will have on the reporting issuer. In some instances, the reporting issuer will seek relief from providing financial statements on the basis that, notwithstanding the mechanical application of the test, the acquiree was not significant. CSA Staff has granted the requested relief, however the process of requesting relief can often delay the completion of the transaction, and there is an element of uncertainty in any request.

Likewise, there can be situations in which an acquiree will have a significant impact in future periods on the reporting issuer, but because of unusual items included in pre-tax income of either the acquiree or reporting issuer, would not be significant under the existing test and, as a result, financial statements are not required. In addition, pre-tax income may often be impacted by how the acquiree is capitalised. For instance, an acquiree may have historically been highly leveraged, which resulted in significant financing costs that reduce pre-tax income. This may yield a conclusion that the acquiree is not significant, when, in fact, it could have a significant impact on future operations of the reporting issuer. The following comments focus on each of the significance tests and areas where we believe changes should be considered:

***Income Test***

We recommend that the CSA consider replacing the income test with a revenue test, on the basis that it is a better indicator of relative significance of the acquiree to the reporting issuer than pre-tax income because it would eliminate the impact of unusual income and expense items for both the acquiree and the reporting issuer, as well as eliminate the impact of the acquiree's historical capitalisation. If the CSA decides to retain the income test, we recommend considering a two-step approach to determine significance. For example, if the income test exceeds the significance threshold of 20%, one of the other existing significance tests (investment or asset test) should also be met at some specified lower level for the evaluated entity to be deemed significant. We would also support proposals to raise the level of significance threshold from 20% to a higher % for smaller reporting issuers that file on the non-venture exchange.



**Investment Test**

We recommend the CSA consider modifying the investment test to compare the consideration transferred to the reporting issuer’s market capitalisation<sup>5</sup>, as opposed to the current test which compares a fair value metric to a carrying value metric (total assets of the reporting issuer). As an increasing number of companies have assets that are not reflected in the historical cost accounting model, we believe that the use of market values, as opposed to historical cost, may be a better indicator of the relative significance of an acquisition.

**Reducing disclosure requirements in annual and interim filings**

*Are there disclosure requirements for annual and interim filing documents that are overly burdensome for reporting issuers to prepare? Would the removal of these requirements deprive investors of any relevant information required to make an investment decision? (Consultation Question 2.3.21)*

**Fourth quarter in Interim MD&A / Summary of Quarterly Results**

NI 51-102F1 requires companies to discuss and analyse fourth quarter events or items that affected its financial condition, financial performance or cash flows, year-end and other adjustments, seasonal aspects of a company’s business and dispositions of business segments. We frequently note significant duplication between the fourth quarter discussion of results and the annual discussion of results for the year, particularly as it relates to significant transactions. CSA should revisit its current requirements under Part 1.5, *Summary of Quarterly Results* and Part 1.10, *Fourth Quarter*, and consider reducing/consolidating the requirements. For instance, we believe reporting issuers should only discuss unusual adjustments or events arising in the fourth quarter of the current year, that are material to the comparative quarterly financial information presented in the table under Part 1.5. Furthermore, we believe smaller reporting issuers should be exempt from both Part 1.5 and Part 1.10 of the current 51-102F1.

**Discussion of prior period results from MD&A**

We are supportive of proposals that would eliminate the discussion of prior period result from MD&A in lieu of an appropriate cross-reference to where such discussion can be found within a reporting issuer’s prior year’s MD&A.

**Eliminating overlap in regulatory requirements**

*Would modifying any of the above areas<sup>6</sup> in the MD&A form requirements result in a loss of significant information to an investor? (Consultation Question 27)*

We are supportive of proposals by the CSA to undertake a review of its MD&A form requirements to identify redundancies and outdated requirements, including those that arise from new accounting standards, in order to limit instances of overlapping and duplicative disclosures between 51-102F1 and a reporting issuer’s

<sup>5</sup> If a reporting issuer does not have public equity outstanding and its fair value is not readily available, the carrying value of the reporting issuer’s total assets should be used as the denominator. However, we believe such instances will be more of an exception, in the context of applying the BAR requirements.

<sup>6</sup> The “above areas” referred to in the CSA Consultation Paper are financial instruments, critical estimates, change in accounting policies, and contractual obligations.

IFRS financial statements. We do not believe that removing this information from the MD&A would result in a loss of information to an investor. For example:

- **Financial instruments** – Many of the disclosure requirements of Part 1.14 of 51-102F1 duplicate information that is already required by IFRS and US GAAP. Given the redundancy, we recommend that the CSA consider whether Part 1.14 of 51-102 F1 is necessary.
- **Critical accounting estimates** – The requirement to provide a discussion of critical accounting estimates pursuant to Section 1.12 of 51-102F1 can be helpful to an investor and other users of the financial statements in understanding how events and the passage of time will impact the financial statements in the future. While the disclosure contemplated in the MD&A has the potential to be very valuable, a number of companies simply repeat the accounting policy disclosures required by IFRS or US GAAP and do not provide information on the assumptions used and how those assumptions will impact future periods. We believe it would be beneficial to incorporate a principles-based requirement for disclosure about critical accounting estimates that is more focused on the disclosure of information needed to *supplement* disclosure already provided in the financial statements. We believe disclosures regarding critical accounting estimates and policies should provide investors with an understanding of the estimation process and areas in which changes in the assumptions would have a material impact on the financial statements.
- **Change in accounting policies** – The requirement to provide a discussion of changes in accounting policies pursuant to Section 1.13 of 51-102F1 can also be helpful to an investor and other users of the financial statements in understanding the impact of such changes on the financial statements. Again, as with critical accounting estimates, we believe that certain of the disclosures required under this section are duplicative of the existing disclosures requirements under IFRS and US GAAP. We would support a more principles-based approach to this disclosure that focuses on *supplementing* the financial statement disclosure. For example, any operational impacts or changes, as a result of the change in accounting policy that has occurred or is expected to occur.
- **Contractual obligations** – We believe that many of the disclosures required by the table of contractual obligations duplicate information that is already required by IFRS or US GAAP. Given the redundancy and the existing requirements to disclosure information about liquidity and capital resources in financial statements and MD&A, we recommend that the CSA consider whether the disclosure of contractual obligations as set out in the Instructions to Section 1.6 of 51-102F1 is useful.

*Are there other areas where the MD&A form requirements overlap with existing IFRS requirements? (Consultation Question 2.4.28). Are there other areas of overlap in continuous disclosure rules? (Consultation Question 2.4.30)*

We believe the following areas of the MD&A form requirements should be examined for purposes of redundancy with IFRS financial statements.



- **Off-balance sheet disclosures** – The requirement in MD&A to disclose certain off-balance sheet arrangements was primarily intended to help users of financial statements understand certain exposures by such arrangements. However, the accounting and disclosure requirements – particularly as it relates to “*structured entities*” – have evolved such that, many of the required financial statement disclosures related to off balance sheet arrangements, now specified under IFRS and US GAAP<sup>7</sup>, address the objectives of the MD&A discussion of off-balance sheet arrangements. This results in a redundancy that we believe should be eliminated.
- **Related party disclosures** – We believe there is considerable overlap between the disclosures provided pursuant to 1.9, *Transactions between related parties*, and the requirements of IAS 24. Many reporting issuers simply duplicate the disclosures that are included in the notes to the financial statements. And while we recognise that the CSA would like reporting issuers to “complement and supplement” the financial statement disclosures, consideration should be given to limiting the form requirements to what is incrementally required. For example, 51-102F1 specifically requires a reporting issuer to identify the related person or entity, as well as to discuss the business purpose of the transaction. By limiting the form requirements, we believe it will encourage better compliance and less duplication.
- **Liquidity risks** – We believe there is some duplication between 1.6 of Form 51-102F1 and the disclosures required under IFRS 7, and the liquidity risks associated with financial instruments.
- **Legal proceedings in AIF and Financial Statements** – Other areas of overlap include discussions of legal proceedings in the AIF which oftentimes is similar (even identical) to that which is disclosed in the IFRS or US GAAP financial statements. We believe that it would be worthwhile for the CSA to evaluate whether disclosures provided under the requirements of Item 12, *Legal Proceedings and Regulatory Action* in the AIF, Form 51-102F2 are duplicative of the requirements under IFRS or US GAAP. The CSA should consider how changing the disclosure requirements of the AIF form might result in improved information for investors.

*Should we consolidate the MD&A, AIF and financial statements into one document? (Consultation Question 2.4.29)*

We are supportive of proposals that would consolidate the annual and quarterly continuous disclosure documents into a single filing document. We believe there are several benefits to filing a consolidated annual and quarterly filing document, using a model that is similar to the approach followed by the SEC, under Form 10-K and 10-Q.

<sup>7</sup> Specifically, the disclosure requirements of IFRS 10, *Consolidated Financial Statements*, and IFRS 12, *Disclosure of Interest in Other Entities*; and US GAAP, FASB ASC Topic 810 – *Consolidation*.



- **Simplification of reporting obligations:** We believe the current model whereby a reporting issuer files multiple documents concurrently on SEDAR in meeting its annual and interim reporting obligations is outdated and overly complex, when compared to filing a single annual or quarterly report. We especially see no basis for requiring “separate” submissions of the financial statements, MD&A and related certifications, when all such documents must be dated and filed “concurrently” under Canadian securities requirements.
- **More effective and streamlined document:** We believe one document would result in less duplication between the financial statements, MD&A (and AIF – in the case of annual reporting) and ultimately streamline the annual and quarterly reporting. Reporting issuers might be more willing to cross-reference to other sections within a single document, vs. cross-referencing between separately filed documents. We also believe there is an opportunity for the CSA to effect positive “disclosure simplification” change by requiring ‘new form’ that will encourage reporting issuers (and their advisors) to take a “fresh look” at “duplication” and “disclosure overload” that appears within a single document.
- **Scalability and transparency:** Annual and quarterly Form requirements could be readily “scaled” to meet the disclosure requirements of a particular category of reporting issuer. For example, a “small reporting issuer” would follow the Form requirements (and reporting deadlines) designated for that particular “size” of reporting issuer, and the Form would be clearly distinguishable by investors. To illustrate, Form 10-K clearly identifies on the cover to the annual report:

*Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See the definitions of “large accelerated filer”, “accelerated filer” and “smaller reporting company” in Rule 12b-2 of the Exchange Act.*

<i>Large accelerated filer</i> <input type="checkbox"/>	<i>Accelerated filer</i> <input type="checkbox"/>	<i>Non-accelerated filer</i> <input type="checkbox"/>	<i>Smaller reporting company</i> <input checked="" type="checkbox"/>
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- **Integration with CAS 720 and 5020:** We believe the use of one document would provide more clarity to when an auditor is associated with “other information” contained in a document that includes the auditor’s report. This issue will become important under the new Auditor Reporting requirements under CAS 720 as well as the Standard on Association under Section 5020. As auditors, in order to comply with these professional standards, it is important for us to identify the “other information” contained in “the filing” that includes our auditor’s report. By presenting the MD&A, AIF and financial statements (and the auditor’s report thereon) in one document, this will clearly define the parameters of what constitutes “other information” for purposes of complying with this new standard.