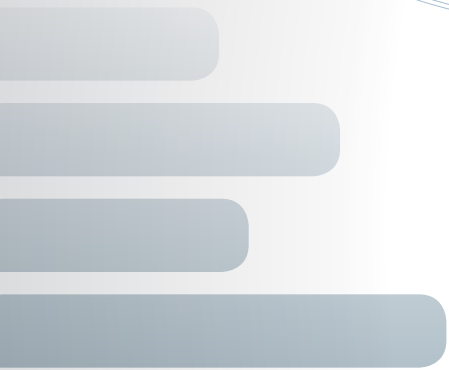
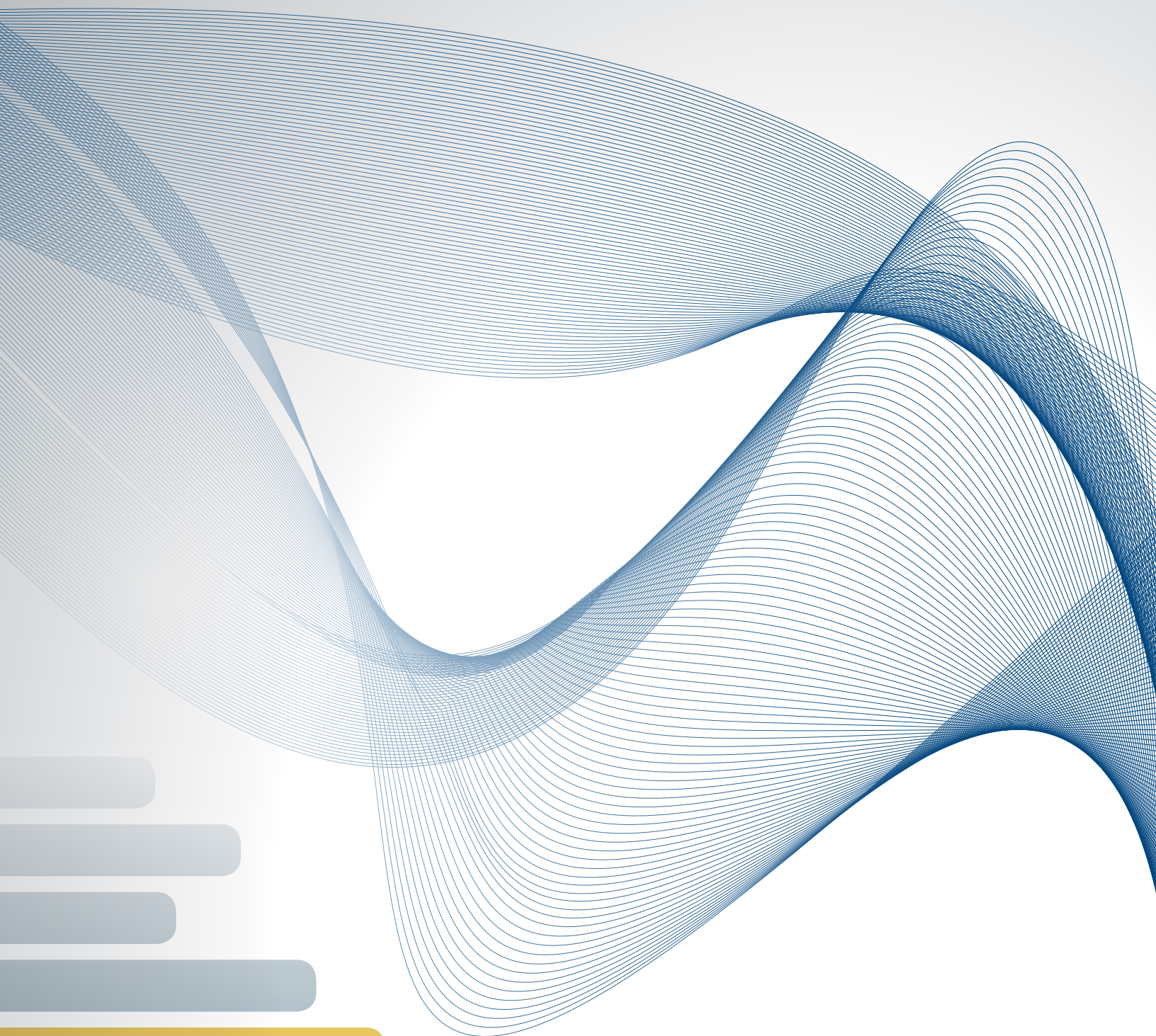


# Activity Report

for the Continuous  
Disclosure Review Program



September 2015

**Companies**



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Note: For the sake of conciseness, the full name of regulations and notices are provided only in an appendix.



# Message from the Senior Director, Continuous Disclosure

I am pleased to present the thirteenth edition of the Activity Report for the Continuous Disclosure Review Program (CDR Program) of the *Autorité des marchés financiers* (“AMF”).

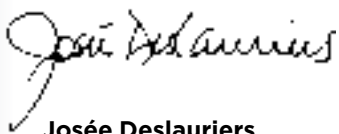
The monitoring activities carried out within the scope of the CDR Program allow us to gauge the extent to which companies are complying with regulatory continuous disclosure requirements. Although we noted, over the past several years, that Québec companies are increasingly mindful of the importance of providing the market with high quality continuous disclosure documents, in the course of our reviews we nevertheless continue to find material recurring deficiencies.

A number of these deficiencies were published on July 16, 2015 in [CSA Staff Notice 51-344](#). That document presents the activities of the pan-Canadian Continuous Disclosure Review Program and contains guidance and relevant examples that can help Québec companies comply with their continuous disclosure obligations. I invite you to read it.

This Activity Report is intended to supplement this Notice. This year, we wish to draw your attention to recurring deficiencies that we consider to be particularly material. They pertain to the following matters:

- *Non-GAAP measures* – Non-GAAP measures are predominant in management’s discussion and analysis (MD&A) presented by companies, sometimes to the detriment of the financial measures set out in the financial statements.
- *Significant accounting policies* – Too often, descriptions of significant accounting policies use boilerplate language instead of descriptions that are specific to the company’s operations.
- *Disclosure for mineral projects on company websites* – Disclosure for mineral projects on a company’s website, whether the disclosure is scientific or technical or pertains to preliminary economic assessments, does not always comply with the requirements of [Regulation 43-101](#).

We expect companies to improve their presentation with regard to these three matters. We will pay particular attention to these matters in our upcoming reviews. We also hope this Activity Report will be useful and provide you with practical tools to ensure compliance of your continuous disclosure documents.



**Josée Deslauriers**

Senior Director, Continuous Disclosure

# Continuous Disclosure Review Program

## INTRODUCTION

This report on the Continuous Disclosure Review Program (CDR Program) is intended for companies<sup>1</sup> and their advisers as well as other market participants. It sets out some of the more material recurring deficiencies identified in the course of our reviews of corporate continuous disclosures and provides guidance to assist companies in areas where the quality of their disclosure needs improvement. Topics on which the AMF intends to focus in 2015-2016 as regards continuous disclosure are also covered. This report is intended to supplement [CSA Staff Notice 51-344](#), published on July 16, 2015, which presents the activities of the pan-Canadian Continuous Disclosure Review Program.

An overview of regulatory amendments relating to the continuous disclosure obligations of companies rounds out this report. Appendix A sets out regulatory amendments that came into force during the past year, those that will come into force in the near future and proposed amendments.

The reviews carried out within the scope of the CDR Program are based on the Harmonized Continuous Disclosure Review Program established by the Canadian Securities Administrators (CSA). [CSA Staff Notice 51-312 \(revised\)](#) provides a more detailed description of the program and how it functions.

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<sup>1</sup> In this report, “companies” refers to reporting issuers subject to Regulation 51-102 or Regulation 51-105.

## COMMON MATERIAL DEFICIENCIES IDENTIFIED IN 2014-2015

### 1. Deficiencies related to non-GAAP measures

Non-GAAP measures<sup>2</sup> (“NGMs”) are worrisome when the disclosure that accompanies them is incomplete. Over the past few years, we have noted that a number of issuers, particularly large issuers, are using NGMs in a manner that could mislead investors.

#### What is an NGM?

Generally speaking, an NGM is a numerical measure of a company’s financial performance, financial position or cash flow that excludes amounts from, or includes amounts in, a measure presented in the financial statements prepared in accordance with IFRS. Examples include “adjusted net income,” “EBITDA excluding restructuring costs” and “free cash flow.”

Companies present NGMs in their MD&As, in press releases announcing financial results, in circulars, on their websites and in their annual reports, particularly in messages to shareholders. The CDR Program reviews address all these elements.

#### What are the AMF’s principal findings and observations regarding NGMs?

Many companies present NGMs which allow them to report their financial performance in a more favourable light. The AMF’s observations are intended to ensure that the guidance set out in [CSA Staff Notice 52-306 \(revised\)](#) is followed.

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<sup>2</sup> GAAP refers to “generally accepted accounting principles.” GAAP for companies with public disclosure requirements are generally the IFRS (International Financial Reporting Standards).

## What are the AMF's principal recommendations regarding NGMs?

Companies that present NGMs should accompany them with appropriate disclosure, as provided for in [CSA Staff Notice 52-306 \(revised\)](#). The following are the AMF's principal recommendations:

1. Companies should present with equal or greater prominence to that of the NGMs, the most directly comparable financial measures calculated in accordance with IFRS and presented in their financial statements.

<b>Example of incomplete disclosure</b>		
Financial highlights of the financial year (in thousands of \$)	<b>2014</b>	2013
Revenue	<b>10,000</b>	8,000
Adjusted EBITDA	<b>2,000</b>	2,500
Adjusted net income	<b>1,000</b>	1,500
Free cash flow	<b>4,000</b>	4,500
[Assumption: Further on, the line items in this table are discussed.]		

<b>Example of improved disclosure</b>		
Financial highlights of the financial year (in thousands of \$)	<b>2014</b>	2013
Revenue	<b>10,000</b>	8,000
Adjusted EBITDA	<b>2,000</b>	2,500
Adjusted net income	<b>1,000</b>	1,500
Net income	<b>(5,000)</b>	(2,000)
Free cash flow	<b>4,000</b>	4,500
Cash flows from operating activities	<b>(500)</b>	(250)
[Assumption: A reconciliation of the NGMs with the most directly comparable financial measures calculated in accordance with IFRS is presented further on in the document as well as a discussion of all the line items.]		

In the example of improved disclosure above, the highlights include the most directly comparable financial measures calculated in accordance with IFRS, namely net income and cash flows from operating activities. Furthermore, the assumed discussion addresses all the line items, not just the NGMs.

2. Companies should avoid mixing NGMs with the most directly comparable financial measures calculated in accordance with IFRS, particularly when they present their financial performance in a more favourable light thanks to an NGM that they have not always clearly defined.

For example, if a company states that "it earned record net income" or that "it saw growth in the ABC operating segment," it should clearly indicate that these are NGMs, define them while avoiding the use of IFRS terms, explain how they are relevant to investors and provide a clear quantitative reconciliation with financial measures calculated in accordance with IFRS. In addition to its positive discussion of NGMs, the company should discuss the most directly comparable measures presented in its financial statements prepared in accordance with IFRS.



3. Companies should generally not describe adjustments included in NGMs as non-recurring, infrequent or unusual, when a similar loss or gain is reasonably likely to occur within the next two financial years or occurred during the prior two years.

For example, IFRS requirements regarding impairment of assets can result in companies often reporting impairment losses. These losses should not generally be qualified as non-recurring.

4. Companies should explain how NGMs allow investors to better understand their financial position and the additional purposes, if any, for which NGMs are being used.

For example, the usefulness of the NGM “net adjusted income” is not clearly stated if the company merely explains that this NGM makes it possible to assess performance without regard to acquisition, depreciation and amortization costs or restructuring costs.

5. In their discussion and analysis of executive compensation, companies should explain how NGM-based performance goals they disclose are calculated from financial statements prepared in accordance with IFRS. Item 2 of [Form 51-102F6](#) sets out these requirements.
6. Companies should clearly indicate in their disclosure about their dividend and distribution policy whether the amounts to be distributed are determined on the basis of an NGM. Furthermore, they should provide a reconciliation between the NGM and the most directly comparable financial measure calculated in accordance with IFRS.

### Warning

The use of NGMs, particularly if these measures present financial performance in a more favourable light, may mislead investors if they are not accompanied by the appropriate disclosure. Companies that fail to comply with [CSA Staff Notice 52-306 \(revised\)](#) may be required to correct and refile the documents in question and they may face other measures.

## 2. Deficiencies related to significant accounting policies

A company’s accounting policies are particularly relevant to investors who wish to fully understand how transactions and other events are reflected in a company’s financial performance and financial position.

### What must companies disclose regarding their significant accounting policies?

IAS 1, *Presentation of Financial Statements*, states that, in their summary of significant accounting policies, companies must disclose the measurement basis (or bases) used in preparing the financial statements, and the other accounting policies used that are relevant to an understanding of the financial statements. It also states that companies must disclose, in their summary or in other notes, the judgments that management has made in the process of applying the company’s accounting policies and that have the most significant impact on the amounts recognized in the financial statements.

Companies may also refer to Part 4 of [Regulation 51-102](#), which contains provisions dealing, among other things, with the content of the financial statements (including the notes), with filing deadlines and with a change of auditor.

## What are the AMF's principal findings and observations regarding accounting policies?

A large number of companies use boilerplate language to disclose their accounting policies. Some even omit a description of the significant judgments made by management. Ultimately, the AMF's observations seek to ensure that disclosure is made in accordance with IFRS and reflects the company's specific activities as well as the significant judgments made by management.

## What are the AMF's principal recommendations regarding accounting policies?

In order to provide disclosure that is useful to investors, companies must present IFRS compliant information. The following are the AMF's principal recommendations:

1. Companies must provide descriptions of their accounting policies that are complete and specific to their operations.

### Example of incomplete disclosure

Recognition of revenue

Revenue is measured at the fair value of the consideration received or receivable.

### Example of improved disclosure

Recognition of revenue

Revenue is measured at the fair value of the consideration received or receivable, and is recognized as earned, as indicated below:

- Revenue from the sale of equipment and parts is recognized when the goods are shipped to customers.
- Revenue from the design, manufacture, installation and assembly of equipment is recognized on the basis of the percentage of the contract costs incurred in relation to the total estimated contract costs.
- Revenue from the lease of equipment is recognized on a straight-line basis over the term of the lease.

A provision is established for anticipated returns, for losses from the recovery of debts and for warranty costs, determined on the basis of past experience, for the estimated costs to meet contractual obligations and for other contingencies related to sales, in accordance with the terms of each individual contract.

2. Companies must provide relevant disclosure regarding the significant judgments made by management.

For example, companies must disclose the significant judgments made in evaluating the facts and circumstances showing the existence of an indication of impairment and the factors considered in order to determine that an entire enterprise is composed of a single cash-generating unit. They must also disclose the significant judgments made in determining control of an entity when less than 50% of the voting rights are held.

### Warning

Companies are responsible for ensuring that the disclosure contained in their financial statements is IFRS compliant. Companies that fail to comply with IFRS may be required to restate the amounts in question and refile the financial statements in question.

### 3. Deficiencies related to disclosure for mineral projects on companies' website

Mining companies constitute nearly one third of Québec companies and therefore continue to attract particular attention under the CDR Program. We noted on several occasions that information disseminated on the websites of mining companies does not comply with [Regulation 43-101](#).

#### What does [Regulation 43-101](#) require with respect to disclosure disseminated on the website of companies?

Within the meaning of [Regulation 43-101](#), information disseminated on a website is a “written disclosure.” The results of an economic analysis, estimates of mineral resources and mineral reserves, and disclosure about exploration and development work, among other things, must comply with the general rules applicable to disclosure relating to mineral projects.

For more information on the review of website investor presentations by mining issuers, please refer to [CSA Staff Notice 43-309](#).

#### What are the AMF's principal findings and observations regarding disclosure for mineral projects on companies' website?

The website of many mining companies' contain summaries of projects and general presentations without, however, complying with [Regulation 43-101](#).

#### What are the AMF's principal recommendations regarding disclosure for mineral projects on companies' website?

In order to ensure that the information disseminated on the website of mining companies is not misleading to investors, companies must ensure compliance with the applicable requirements of [Regulation 43-101](#). The following are the AMF's principal recommendations:

1. Technical information presented on a company's website must be reviewed by a qualified person. Companies must indicate the name of the qualified person and their relationship to the issuer in all documents containing scientific or technical disclosure, including investor presentations.
2. The cautionary statements required by [Regulation 43-101](#) in connection with a preliminary economic assessment must be provided. Cautionary statements ensure that investors have a proper understanding of the limitations of the results of such assessments.

#### Warning

Mining companies must ensure that the disclosure contained on their website complies with [Regulation 43-101](#). Companies whose website fails to comply may be required to correct the disclosure on the website by modifying it or removing it from the website and publishing a press release clarifying or retracting the information. They may also be included on the list of defaulting reporting issuers or have the review of their prospectus delayed.

## PRINCIPAL AREAS OF FOCUS FOR 2015-2016

In addition to the matters discussed in the preceding section, which will continue to be monitored, the AMF will focus on the following matters as part of the CDR Program during the 2015-2016 financial year.

Where relevant, the AMF will report to the market on the results of issue-oriented reviews, either in a staff notice or in the next CDR Program Activity Report.

### **Representation of women on the board and in executive officer positions**

The disclosure provided by companies listed on the TSX will be reviewed in order to ensure that they are complying with governance requirements aimed at increasing the transparency of disclosure to investors on the representation of women on the board and in executive officer positions.

Reference: [Regulation 58-101](#)

### **Cyber Security**

Disclosure in continuous disclosure documents regarding cyber security risks to which companies are exposed and cyber crime incidents that may occur will be reviewed in order to ensure that companies are providing transparent disclosure to investors on an issue that could prove significant in certain industry sectors.

Reference: [CSA Staff Notice 11-326](#)

### **Measures implemented to allow certification of disclosure in issuers' annual and interim filings**

We will review the measures established by certifying officers in order to ensure that representations set forth in the certificates are adequate. This review follows an initiative launched during the 2013-2014 financial year and aims to obtain reasonable assurances that companies that did not qualify as venture issuers have developed internal control over financial reporting (ICFR) and disclosure controls and procedures (DC&P), and have assessed their operation.

Reference: [Regulation 52-109](#)

### **Disclosure for mineral projects**

Among other things, the validity of technical reports and their updates will be reviewed in order to ensure that mining companies are providing investors with full disclosure about their material mineral projects.

Reference: [Regulation 43-101](#)

## APPENDIX A – OVERVIEW OF REGULATORY AMENDMENTS

The following is an overview of regulatory amendments relating to the continuous disclosure obligations of companies that came into force during the past year, those that will come into force in the near future and those that are proposed.

Regulatory amendments that came into force during the past year		
Regulatory text	Summary of amendments	Date of coming into force
<a href="#">Regulation 52-108 respecting Auditor Oversight</a>	<p>The new Regulation 52-108 includes the following measures:</p> <ul style="list-style-type: none"> <li>• Requiring a public accounting firm to notify its reporting issuer clients if it is not in compliance with certain requirements in the regulation;</li> <li>• Changing the requirements for notices to the securities regulatory authorities in order to draw their attention to the types of remedial action imposed by the Canadian Public Accountability Board (“CPAB”), regardless of the labels CPAB attaches to them (e.g., “sanction” or “restriction”);</li> <li>• Reducing the period for filing the change of auditor notice required by Regulation 51-102 from 30 days to 14 days;</li> <li>• Requiring the new auditor and the predecessor auditor to notify the securities regulatory authorities if the issuer has not filed the change of auditor notice required by Regulation 51-102.</li> </ul>	Sept. 30, 2014
<a href="#">Regulation to amend Regulation 58-101 respecting Disclosure of Corporate Governance Practice</a>	<p>The amendments require non-venture issuers to provide annual disclosure about the representation of women on the board and in executive officer positions, more specifically:</p> <ul style="list-style-type: none"> <li>• Term limits for the directors;</li> <li>• Policies regarding the representation of women on the board;</li> <li>• Consideration by the board or nominating committee of the representation of women in the director identification and selection process;</li> <li>• Consideration by the issuer of the representation of women in executive officer appointments;</li> <li>• Targets regarding the representation of women on the board and in executive officer positions;</li> <li>• The number of women on the board and in executive officer positions.</li> </ul>	Dec. 31, 2014

Regulatory amendments that came into force during the past year		
Regulatory text	Summary of amendments	Date of coming into force
Regulation to amend <a href="#">Regulation 51-102 respecting Continuous Disclosure Obligations</a> and concordant regulations	<p>The amendments are intended to streamline the disclosure requirements of venture issuers. They include the following measures:</p> <ul style="list-style-type: none"> <li>• Allowing venture issuers to satisfy the requirement for MD&amp;A for interim financial periods with a streamlined and highly focused report on quarterly highlights;</li> <li>• Implementing a new tailored form of executive compensation disclosure;</li> <li>• Reducing the instances in which a business acquisition report (BAR) must be filed;</li> <li>• Creating a new requirement for audit committees to have a majority of independent members;</li> <li>• Amending the prospectus disclosure requirements to reduce the number of years of audited financial statements required for venture issuers becoming reporting issuers and to cause the disclosure requirements to conform to the proposed amendments related to continuous disclosure.</li> </ul> <p>The amendments also include the following measures for venture issuers as well as non-venture issuers:</p> <ul style="list-style-type: none"> <li>• Revising the AIF disclosure for mining issuers to cause that disclosure to conform to the amendments made to Regulation 43-101 in 2011;</li> <li>• Clarifying the executive compensation disclosure filing deadlines.</li> </ul>	June 30, 2015
Regulation to Amend <a href="#">Regulation 51-101 respecting Standards of Disclosure for Oil and Gas Activities</a>	<p>The amendments are intended to promote better disclosure of resources other than reserves and associated metrics while at the same time providing increased flexibility for oil and gas reporting issuers that report in a variety of different locations worldwide. The amendments are also intended to bring the regulation into harmony with proposed changes to the <i>Canadian Oil and Gas Evaluation Handbook</i>.</p>	July 1, 2015

Regulatory amendments that will come into force		
Regulatory text	Summary of amendments	Expected date of coming into force
None.		

<b>Proposed regulatory amendments</b> (currently under public consultation or under review by the AMF)		
Regulatory text	Summary of proposed amendments	Next step
<p><a href="#">Regulation to amend Regulation 11-102 respecting Passport System</a> and concordant policy statements, including:</p> <ul style="list-style-type: none"> <li>• <a href="#">Draft Policy Statement 11-206 respecting Process for Cease to be a Reporting Issuer Applications</a></li> <li>• <a href="#">Draft Policy Statement 11-207 respecting Failure-to-File Cease Trade Orders and Revocations under Passport</a></li> </ul>	<p>The purpose of the proposed amendments is to expand the passport system to two new areas: applications to cease to be a reporting issuer and the issuance and revocation (including a variation) of failure-to-file cease trade orders.</p> <p><i>Draft Policy Statement 11-206</i> describes the process for the filing and review of an application by a filer to cease to be a reporting issuer in all jurisdictions of Canada in which it is a reporting issuer.</p> <p><i>Draft Policy Statement 11-207</i> provides guidance to issuers, investors and other market participants regarding how the Canadian Securities Administrators will generally respond to certain types of continuous disclosure defaults by a reporting issuer, and it describes the process for issuing and revoking a failure-to-file cease trade order in multiple jurisdictions under the passport system.</p>	<p>The consultation period ended on June 15, 2015. The comments received are currently under review by the AMF and the other participating regulators.</p>

## APPENDIX B - PRINCIPAL REGULATIONS PRESCRIBED FOR COMPANIES

The following regulations and other texts contain the principal provisions of the continuous disclosure system applicable to companies. Other obligations may apply. All these regulations and other texts are published under the heading [Securities and Derivatives - Laws and Regulations](#) on the website of the AMF ([www.lautorite.qc.ca](http://www.lautorite.qc.ca)).

<a href="#">Regulation 43-101</a>	respecting Standards of Disclosure for Mineral Projects
<a href="#">Regulation 51-101</a>	respecting Standards of Disclosure for Oil and Gas Activities
<a href="#">Regulation 51-102</a>	respecting Continuous Disclosure Obligations
<a href="#">Form 51-102F1</a>	Management's Discussion and Analysis
<a href="#">Form 51-102F2</a>	Annual Information Form
<a href="#">Form 51-102F3</a>	Material Change Report
<a href="#">Form 51-102F4</a>	Business Acquisition Report
<a href="#">Form 51-102F5</a>	Information Circular
<a href="#">Form 51-102F6</a>	Statement of Executive Compensation (in respect of financial years ending on or after December 31, 2008)
<a href="#">Form 51-102F6V</a>	Statement of Executive Compensation - Venture Issuers
<a href="#">Regulation 51-105</a>	respecting Issuers Quoted in the U.S. Over-the-Counter Markets
<a href="#">National Policy 51-201</a>	Disclosure Standards
<a href="#">Regulation 52-107</a>	respecting Acceptable Accounting Principles and Auditing Standards
<a href="#">Regulation 52-108</a>	respecting Auditor Oversight
<a href="#">Regulation 52-109</a>	respecting Certification of Disclosure in Issuers' Annual and Interim Filings
<a href="#">Regulation 52-110</a>	respecting Audit Committees
<a href="#">Regulation 54-101</a>	respecting Communication with Beneficial Owners of Securities of a Reporting Issuer
<a href="#">Regulation 58-101</a>	respecting Disclosure of Corporate Governance Practices



Moreover, the following notices set out the results of certain reviews and provide additional guidance on continuous disclosure reporting.

<a href="#">CSA Staff Notice 11-326</a>	Cyber Security
<a href="#">CSA Staff Notice 43-309</a>	Review of Website Investor Presentations by Mining Issuers
<a href="#">CSA Staff Notice 51-312 (revised)</a>	Harmonized Continuous Disclosure Review Program
<a href="#">CSA Staff Notice 51-331</a>	Report on Staff's Review of Executive Compensation Disclosure
<a href="#">CSA Staff Notice 51-333</a>	Environmental Reporting Guidance
<a href="#">CSA Staff Notice 51-344</a>	Continuous Disclosure Review Program Activities for the fiscal year ended March 31, 2015
<a href="#">CSA Staff Notice 52-306 (revised)</a>	Non-GAAP Financial Measures and Additional GAAP Measures
<a href="#">CSA Staff Notice 52-327</a>	Certification Compliance Update

## CONTACT PERSONS

We welcome comments and suggestions on how to improve this report.

For more information or to provide us with your comments, please contact any of the following persons:

**Josée Deslauriers**

Senior Director, Continuous Disclosure

Telephone: 514-395-0337, ext. 4371

Toll-free: 1-877-525-0337, ext. 4371

E-mail: [josee.deslauriers@lautorite.qc.ca](mailto:josee.deslauriers@lautorite.qc.ca)

**Martin Latulippe**

Director, Continuous Disclosure

Telephone: 514-395-0337, ext. 4331

Toll-free: 1-877-525-0337, ext. 4331

E-mail: [martin.latulippe@lautorite.qc.ca](mailto:martin.latulippe@lautorite.qc.ca)

**Nadine Gamelin**

Analyst, Continuous Disclosure

Telephone: 514-395-0337, ext. 4417

Toll-free: 1-877-525-0337, ext. 4417

E-mail: [nadine.gamelin@lautorite.qc.ca](mailto:nadine.gamelin@lautorite.qc.ca)

**Luc Arsenault**

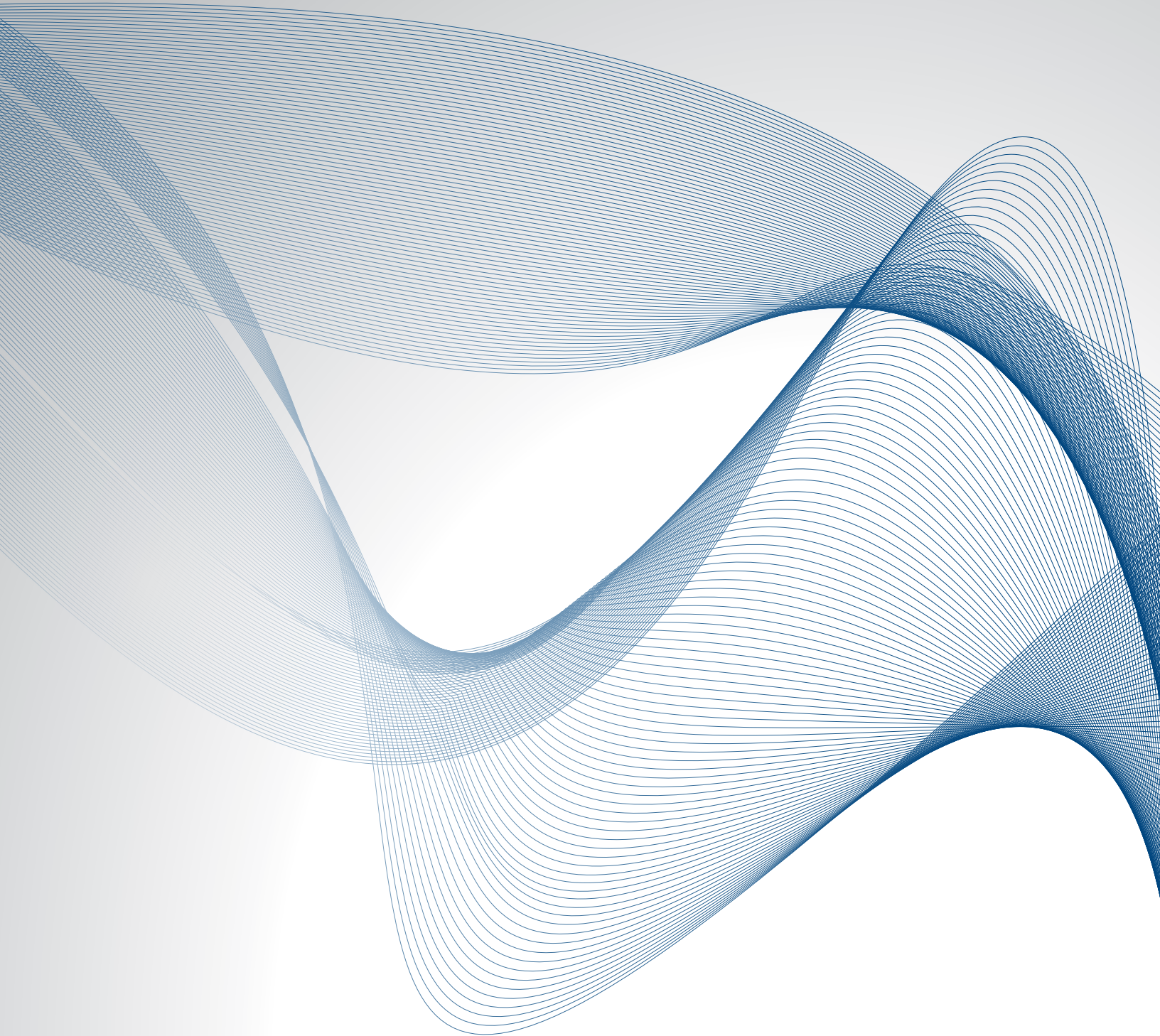
Geologist, Continuous Disclosure

Telephone: 514-395-0337, ext. 4373

Toll-free: 1-877-525-0337, ext. 4373

E-mail: [luc.arsenault@lautorite.qc.ca](mailto:luc.arsenault@lautorite.qc.ca)





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