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Activity Report for the Continuous Disclosure Review Program



Companies

Investment funds

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Message from the Superintendent, Securities Markets

I am pleased to present the tenth edition of our Activity Report for the [Continuous Disclosure Review Program](#) (CDR Program) which covers the fiscal year ended March 31, 2012. It sets out, in particular, the results of reviews we carried out on companies and investment funds as well as an overview of recent amendments to continuous disclosure obligations.

It specifically presents the results of our reviews of the application by companies of International Financial Reporting Standards (IFRS), given that the majority of publicly accountable companies have now prepared financial statements in accordance with IFRS. Although we identified some deficiencies, we noted that Québec companies have nonetheless applied these new accounting principles with rigour. I encourage company officers to pursue their efforts in applying these standards.

In the course of our reviews of investment funds, we noted certain deficiencies, but we also sensed that fund managers have the desire to present quality disclosure. It is important that they provide relevant disclosure, as of now, pertaining to the changeover to IFRS, notwithstanding that the Accounting Standards Board has agreed to defer the changeover to financial years beginning on or after January 1, 2014.

We believe that our CDR Program, through its objectives—seeking compliance with the existing regulatory framework and making reporting issuers aware of compliance requirements—plays an important role in the regulation of the securities markets in Québec. I am convinced that the efforts made by the *Autorité des marchés financiers* (AMF) and by reporting issuers within the scope of the CDR Program are contributing to the availability of high quality continuous disclosure documents in the markets.



Louis Morisset

Superintendent, Securities Markets

Introduction

For the past ten years, the *Autorité des marchés financiers* (AMF) has published the results of reviews conducted within the scope of its [Continuous Disclosure Review Program](#) (CDR Program), a program established to review the compliance and general quality of the continuous disclosure documents of reporting issuers with a head office in Québec or, in the case of investment funds, with a manager whose head office is in Québec.

Reporting issuers can be divided into two groups: companies subject to [Regulation 51-102](#)¹ and investment funds subject to [Regulation 81-106](#). Under the Act and the regulations,² these reporting issuers must file a number of continuous disclosure documents. As part of the CDR Program, the AMF reviews the following documents, in particular:

- the financial statements;
- management's discussion & analysis (MD&A) or management reports of fund performance;
- annual information forms (AIF);
- information circulars; and
- technical reports.

This Activity Report covering the period from April 1, 2011 to March 31, 2012 is divided into two main sections, one for [companies](#) and the other for [investment funds](#). Each part presents a summary of the reviews conducted in 2011-2012 and the main deficiencies identified, as well as provides an overview of recent amendments to the continuous disclosure obligations and glances at the reviews contemplated for 2012-2013.

1 For the sake of conciseness, the full name of regulations and notices are listed in an [appendix](#).

2 In this report, "the Act and the regulations" means the [Securities Act, R.S.Q., c. V 1.1](#), as well as the [regulations and other texts setting out continuous disclosure requirements](#). A list of the principal regulations and other texts is set forth in an [appendix](#).



Continuous Disclosure Review Program

Companies

Companies subject to [Regulation 51-102](#)³ (“companies”) must file various documents with the AMF in order to satisfy their continuous disclosure obligations. Through systematic summary reviews, full reviews or issue-oriented reviews, the AMF helps companies comply with their obligations.

The following are the various reviews conducted within the scope of the CDR Program:

➤ **Systematic summary reviews**

These reviews target all companies and, among other things, examine compliance with deadlines for the filing of financial statements and the MD&A as well as the proper filing of certification of disclosure in annual and interim filings. The reviews also check for the inclusion and presentation of the elements prescribed by regulation.

➤ **Full reviews**

These reviews target a sampling of companies and cover compliance with continuous disclosure obligations for the entire continuous disclosure record. This year, they covered the following matters, in particular:

- disclosure pertaining to the first IFRS-compliant interim financial reports;
- disclosure pertaining to the first IFRS-compliant interim financial reports;
- disclosure relating to the audit committee and to corporate governance practices;
- disclosure included in the statement of executive compensation.

➤ **Issue-oriented reviews**

These reviews usually target a sampling of companies and examine a specific accounting, legal or regulatory issue. This year, they covered the following matters, in particular:

- MD&A disclosure prior to the adoption of IFRS, regarding the changeover to these new standards;
- disclosure for mineral projects.

3 For the sake of conciseness, the full name of regulations and notices are listed in an [appendix](#).

The full reviews and issue-oriented reviews carried out by the AMF rely on the harmonized continuous disclosure review program established by the [Canadian Securities Administrators \(CSA\)](#). [CSA Staff Notice 51-312 \(revised\)](#) provides more detailed information about how this program functions.

Following a review in which material deficiencies are identified regarding the application of the Act, the regulations or an accounting standard, the AMF requires that the incorrect information be corrected immediately and the documents refiled. If the AMF determines that improvements are required, it can also request that amendments be made when the company next files documents.

1.1 REVIEW RESULTS

Systematic summary reviews

After the systematic summary review of the various continuous disclosure documents, approximately 4% of the documents reviewed had to be refiled.

Full reviews and issue-oriented reviews

During the fiscal year, 102 of the 300 companies targeted by the CDR Program underwent a full review and 95 underwent an issue-oriented review. Following these reviews, approximately 6% of the documents reviewed had to be refiled. In order to improve the presentation of their continuous disclosure information, nearly all the companies targeted by these reviews will have to make changes in their next filings.

1.2 MAIN DEFICIENCIES IDENTIFIED

The main deficiencies noted with respect to the various accounting requirements and regulatory provisions dealing with continuous disclosure are presented in tables 1 to 3. They include relevant references and reminders in order to help companies comply with and have a better understanding of their continuous disclosure obligations.

1.2.1 Deficiencies identified in the financial statements

[Table 1](#) sets out the main deficiencies identified in the financial statements. These deficiencies were noted primarily in reviews performed on interim financial reports prepared in accordance with IFRS, dealing in particular with disclosure required under *IFRS 1, First-time Adoption of International Financial Reporting Standards*, *IAS 1, Presentation of Financial Statements* and *IAS 34, Interim Financial Reporting*.

Although the quality of the financial statements reviewed was generally satisfactory and filing deadlines were met, there is room for improvement in the financial statements.

TABLE 1 – DEFICIENCIES IDENTIFIED IN THE FINANCIAL STATEMENTS

First-time Adoption of International Financial Reporting Standards

- Description of the effect of the transition insufficient or unclear
- Reconciliation to total comprehensive income for the comparable interim period omitted
- Adjustment resulting from the recognition of deferred tax in respect of the issuance of flow-through shares in the comparable period omitted

IFRS 1, First-time Adoption of International Financial Reporting Standards

REMINDER

Descriptions and reconciliations must be presented so as to enable users to understand material adjustments to the financial statements.

Presentation of Financial Statements

- Failure to use a classification based on the nature or function within the company when presenting the analysis of expenses recognized in profit or loss
- Exclusion of depreciation and amortization expense in “results from operating activities” presented in the statement of comprehensive income
- Certain minimum required line items in the statement of financial position (such as “provisions”) omitted
- Note regarding the company’s ability to continue as a going concern in the presence of material uncertainties related thereto omitted
- Description of certain accounting policies incomplete or containing boilerplate wording
- Description of certain accounting policies not in accordance with IFRS reflecting previous accounting principles

IAS 1, Presentation of Financial Statements

REMINDER

In order for their financial statements to provide reliable and relevant information, companies must comply with the provisions set forth in IFRS regarding the presentation of financial statements.

Interim Financial Reporting

- Statement of compliance with IFRS presented, although the interim financial report contains a set of condensed financial statements
- Presentation of a comparable period in the statement of changes in equity inadequate
- Certain headings in the condensed financial statements omitted

IAS 34, Interim Financial Reporting

REMINDER

Interim financial reports may contain condensed financial statements. However, they must include, at a minimum, each of the headings and subtotals that were included in the most recent annual financial statements. Furthermore, if the interim financial report is described as complying with IFRS, it must comply with all of the requirements of IFRS, including all of the information to be presented.

Impairment of assets

- Testing for impairment not done, although the carrying amount of the net assets of the entity is more than its market capitalization as at the end of the reporting period

IAS 36, Impairment of assets

REMINDER

At the end of each reporting period, companies must assess whether there is any indication that an asset may be impaired. If any such indication exists, they must estimate the recoverable amount of that asset.

1.2.2 Deficiencies identified in the MD&A

Table 2 sets out the main deficiencies identified in the MD&A. They were noted in reviews dealing, in particular, with compliance with *Form 51-102F1*.

Management's discussion and analysis is the essential complement to the financial statements. It must provide a narrative explanation, through the eyes of management, of:

- how the company performed during the period covered by the financial statements;
- the company's financial condition;
- the company's future prospects.

TABLE 2 – DEFICIENCIES IDENTIFIED IN THE MD&A

Non-GAAP ⁴ financial measures and additional GAAP measure
<ul style="list-style-type: none"> ▸ Presentation of non-GAAP measures giving a more positive picture of financial performance, without the additional disclosure indicated in CSA Staff Notice 52-306 (revised) ▸ Non-meaningful presentation of additional GAAP measures (such as "income before the undernoted items") ▸ Presentation of earnings before interest, tax, depreciation and amortization (EBITDA) excluding other expenses <p><i>CSA Staff Notice 52-306 (revised)</i></p> <p>REMINDER <i>In order to provide a fair presentation of transactions and avoid misleading investors, companies that present non-GAAP financial measures and additional GAAP measures should accompany them with appropriate disclosure, in particular, a description of excluded elements.</i></p>
Discussion of operations
<ul style="list-style-type: none"> ▸ Analysis of revenue and factors that caused variations incomplete ▸ Analysis of the cost of sales or gross profit incomplete ▸ Analysis of significant projects that have not yet generated revenue incomplete <p><i>Item 1.4, Discussion of Operations of Form 51-102F1</i></p> <p><i>Section 5.3 of Regulation 51-102</i></p> <p>REMINDER <i>The discussion must clearly explain the factors that contributed to material variations in the company's operations during the last financial year or interim period.</i></p>
Transactions between related parties
<ul style="list-style-type: none"> ▸ Business purpose of the related party transaction omitted ▸ Identity of related parties omitted <p><i>Item 1.9, Transactions Between Related Parties of Form 51-102F1</i></p> <p>REMINDER <i>The analysis must discuss the qualitative characteristics of related party transactions. These are necessary for an understanding of the transactions' business purpose and economic substance.</i></p>

4 Generally Accepted Accounting Principles.

TABLE 2 – DEFICIENCIES IDENTIFIED IN THE MD&A (CONTINUED)

Changes in accounting policies

- Disclosure about significant accounting policy differences between prior GAAP and IFRS deficient
- Updated disclosure about the key decisions and changes relating to the changeover to IFRS omitted in the interim MD&A filed before the adoption of IFRS

CSA Staff Notice 52-320

CSA Staff Notice 52-326

Item 1.13, Changes in Accounting Policies including Initial Adoption of Form 51-102F1

REMINDER

Disclosure about accounting policy changes should enhance the relevance and reliability of a company's financial statements. It should allow the company's financial statements to be compared with the financial statements of other companies.

1.2.3 Deficiencies identified in the other continuous disclosure documents

Table 3 sets out the main deficiencies identified in the other required continuous disclosure documents, such as circulars, AIFs, technical reports and certificates.

Compliance reviews focused on various issues, in particular:

- statement of executive compensation;
- certification of disclosure in issuers' annual and interim filings;
- disclosure relating to the audit committee and to corporate governance practices;
- disclosure for mineral projects;
- information about principal securityholders.

TABLE 3 – DEFICIENCIES IDENTIFIED IN THE OTHER DOCUMENTS

Statement of executive compensation

- Discussion and analysis of compensation deficient, composed of boilerplate language that does not establish a clear link between performance goals and the compensation awarded
- Performance goals used to determine annual bonuses omitted
- Failure to quantify performance goals on the basis of objective measures (for example, EBITDA-related goals)
- Benchmarking group and selection criteria omitted
- Key assumptions and estimates used to calculate the fair value of option-based awards omitted or incomplete

Form 51-102F6

Certification of disclosure in issuers' annual and interim filings

- Conclusions of the certifying officers about the effectiveness of the disclosure controls and procedures (DC&P) or the internal control over financial reporting (ICFR) in the MD&A omitted, incomplete or qualified
- Certificate changed by omitting or adding text
- Dates of financial periods in certificates inaccurate

Regulation 52-109

CSA Staff Notice 52-327

Audit committees

- Audit committee's written charter omitted or incomplete
- Audit committee information required in an AIF or circular incomplete

Regulation 52-110

Disclosure of corporate governance practices

- Number of meetings held by the independent directors not disclosed
- Description of the way in which the board of directors ensures compliance with the code of conduct and ethics and the measures taken to encourage and promote a culture of ethical business conduct incomplete
- Description of the process for identifying new board nominees omitted
- Description of the process for assessing the effectiveness of the board and board committees incomplete

Regulation 58-101

CSA Staff Notice 58-306

TABLE 3 – DEFICIENCIES IDENTIFIED IN THE OTHER DOCUMENTS (CONTINUED)**Disclosure for mineral projects**

- Disclosure about preliminary economic assessments in various continuous disclosure documents and technical reports incomplete or inadequate
- Disclosure about certain material mineral projects incomplete
- Certificates and consents of qualified persons for technical reports omitted
- Source and date for historical estimates and comments on relevance and reliability of historical estimates omitted

Regulation 43-101

Information about principal securityholders

- Failure to disclose in the circular that a securityholder is a significant shareholder, when the holder is designated as such in the [System for Electronic Disclosure by Insiders \(SEDI\)](#)
- [Form 51-102F5](#)

1.3 AREAS OF FOCUS FOR 2012-2013

1.3.1 Regulatory overview

On July 31, 2012, *Regulation 51-105*, a new regulation respecting continuous disclosure of issuers quoted in the U.S. over-the-counter markets, came into force. Table 4 provides a brief overview of this new regulation which must be taken into account by certain reporting issuers.

TABLE 4 – OVERVIEW OF NEW REGULATION 51-105

Issuers quoted in the U.S. over-the-counter markets	
To whom does <i>Regulation 51-105</i> apply	
This regulation applies to an OTC issuer, within the meaning of <i>Regulation 51-105</i> , that has obtained a ticker symbol from the U.S. Financial Industry Regulatory Authority (FINRA) for a class of its securities and has a significant connection to Québec if at least one of the following apply:	
<ul style="list-style-type: none"> ➤ its business is directed or administered in or from Québec; ➤ promotional activities are conducted in or from Québec; ➤ before the ticker-symbol date, the issuer distributed a security to a person resident in Québec and that security is of the class of securities that became the issuer's OTC-quoted securities. 	
What are the principal objectives of <i>Regulation 51-105</i>	
<ul style="list-style-type: none"> ➤ Discourage the manufacture and sale of U.S. OTC-quoted shell companies that are used for abusive or fraudulent purposes. ➤ Improve disclosure by issuers with a significant connection to Québec whose securities are quoted in the U.S. OTC markets. 	
What are the obligations of OTC issuers	
These issuers are subject to the same disclosure requirements as other reporting issuers. For purposes of continuous disclosure obligations, they are treated like venture issuers, as defined in <i>Regulation 51-102</i> , except they are required to file an AIF.	
<p>The AMF rendered a decision exempting certain persons from the application of <i>Regulation 51-105</i> by reason of the regulatory framework governing certain OTC reporting issuers in jurisdictions outside Canada and because the regulation's objectives do not apply to certain issuers.</p> <hr/> <p>DECISION NO. 2012-PDG-0161:</p> <p>Décision générale visant à décider que certaines personnes n'ont pas la qualité d'émetteur assujéti du marché de gré à gré en vertu de l'article 3 du Règlement 51-105 sur les émetteurs cotés sur les marchés de gré à gré américains [Blanket ruling to the effect that certain persons are not OTC reporting issuers within the meaning of section 3 of <i>Regulation 51-105</i> respecting Issuers Quoted in the U.S. Over-the-Counter Market]</p>	
Date on which <i>Regulation 51-105</i> came into force: July 31, 2012	

Moreover, Draft Regulation 51-103, a draft regulation respecting ongoing governance and disclosure requirements for venture issuers, is still under consultation. Table 5 provides a brief overview of the draft regulation, which may or may not be adopted as presented or amended.

TABLE 5 – OVERVIEW OF DRAFT REGULATION 51-103

Ongoing governance and disclosure requirements for venture issuers

To whom does *Draft Regulation 51-103* apply

This draft regulation applies to venture issuers, namely, issuers that trade only on junior markets, such as the TSX Venture Exchange or the Canadian National Stock Exchange, and certain unlisted issuers.

What are the principal objectives of *Draft Regulation 51-103*

- Improve access to key information and facilitate informed decision-making by venture issuer investors.
- Allow venture issuer management more time to focus on the growth of their company's business by reducing the time venture issuer management must spend reading and trying to understand disclosure requirements.
- Enhance investor confidence in the venture market by introducing substantive governance standards relating to conflicts of interest, related party transactions and insider trading.

What are the key changes to continuous disclosure obligations

- Consolidate disclosure of the venture issuer's business, management, governance practices, audited annual financial statements, associated MD&A and CEO/CFO certifications in a single document, the annual report.
- Replace interim MD&A requirements with a requirement for a short discussion of the venture issuer's operations and liquidity ("quarterly highlights") to accompany the 3-, 6- and 9-month interim financial reports.
- Replace the requirement for business acquisition reports in connection with acquisitions of significant businesses with enhanced continuous disclosure reporting.
- Introduce substantive corporate governance requirements relating to conflicts of interest, related party transactions and insider trading.
- Tailor and streamline director and executive compensation disclosure.
- Introduce a new long form prospectus containing disclosure conforming to the disclosure required in the annual report and require only two instead of three years of audited financial statements to be included in a long form prospectus filed by a venture issuer.
- Permit a venture issuer to incorporate by reference into a short form prospectus, TSX Venture Exchange short form offering document or qualifying issuer offering memorandum the continuous disclosure documents prepared in compliance with the draft regulation.
- Require the filing of a technical report under Regulation 43-101 – Trigger for a mining technical report when filing a short form prospectus only if the venture issuer has not done so in the 12 months preceding the date of the preliminary short form prospectus.

On September 13, 2012, the CSA published for comment a second Draft Regulation 51-103 whose comment period ends on December 12, 2012.

1.3.2 Current and planned reviews

The full reviews planned for the 2012-2013 fiscal year will once again focus on company compliance with IFRS financial statement requirements, with a particular emphasis on certain subjects, such as:

- ▮ significant judgments and estimates made by management;
- ▮ business combinations;
- ▮ impairment of assets.

Certain issue-oriented reviews are also planned, including:

- **Issue-oriented review of non-GAAP measures and additional GAAP measures**

This review will examine company compliance with the guidance set out in [CSA Staff Notice 52-306 \(revised\)](#). In particular, we will examine whether companies are complying with recommended practices regarding additional GAAP measures.

- **Issue-oriented review on the measures implemented to allow certification of disclosure in issuers' annual and interim filings**

This review will examine company compliance with [Regulation 52-109](#). We will review the measures established by certifying officers to help ensure that representations set forth in the certificates are adequate.



Continuous Disclosure Review Program

Investment Funds

Investment funds that are subject to [Regulation 81-106](#)⁶ and whose manager has its head office in Québec must file several documents with the AMF in order to satisfy their continuous disclosure obligations. As part of the CDR Program, the AMF helps funds comply with their obligations. The AMF examines compliance of the continuous disclosure record with the provisions of [Regulation 81-106](#) and the other provisions in force, including those in [Regulation 81-102](#) and [Regulation 81-107](#).

The following are the various reviews conducted within the scope of the CDR Program:

➤ **Systematic summary reviews**

These reviews target all funds and, among other things, examine compliance with deadlines for the filing of financial statements, management reports of fund performance and compliance reports. The reviews also check for the inclusion and presentation of the elements prescribed by regulation.

➤ **Full reviews**

These reviews target a particular fund or family of funds and cover compliance with continuous disclosure obligations for the entire continuous disclosure record.

➤ **Issue-oriented reviews**

These reviews target a sampling of funds and examine a specific accounting, legal or regulatory issue. This year, the issue-oriented review examined fund compliance with the investment objectives and strategies stated in their prospectus and with investment restrictions prescribed by regulation.

Following a review in which material deficiencies are identified regarding the application of the Act, the regulations or an accounting standard, the AMF requires that the incorrect information be corrected immediately and the documents refiled. If the AMF determines that improvements are required, it can also request that amendments be made when the fund next files documents.

6 For the sake of conciseness, the full name of regulations and notices are listed in an [appendix](#).

2.1 REVIEW RESULTS

Systematic summary reviews

After the systematic summary review of the various continuous disclosure documents targeting all funds, less than 1% of the documents had to be refiled.

Full reviews and issue-oriented reviews

During the fiscal year, 53 of the 370 funds that are reporting issuers were targeted by one or more full or issue-oriented reviews. Funds were selected for full reviews based on criteria pertaining to financial and non-financial information published by the funds and their manager.

Following these reviews, few funds were required to file a missing document or restate a document. However, the AMF issued numerous observations requiring improvements in funds' next filings in order to enhance the transparency and clarity of their disclosure.

2.2 MAIN DEFICIENCIES IDENTIFIED

The main deficiencies noted with respect to the various applicable accounting requirements and regulatory provisions are presented in tables 1 to 4. They include relevant references and reminders in order to help funds comply with and have a better understanding of their continuous disclosure obligations.

2.2.1 Deficiencies identified in the financial statements

Table 1 sets out the main deficiencies identified in the financial statements. They were noted in reviews focused, in particular, on annual and interim financial statement compliance with Canadian generally accepted accounting principles (GAAP) applicable to funds, namely, Part V of the *CICA Handbook* and Parts 2 and 3 of *Regulation 81-106*.

TABLE 1 – DEFICIENCIES IDENTIFIED IN THE FINANCIAL STATEMENTS

Sensitivity analysis related to financial instrument risk

- Sensitivity analysis presented on an aggregate basis for all funds in the same group
- Disclosure for the comparative period omitted from the table of fair value hierarchy used in measuring the fair value of financial instruments (levels 1, 2 and 3)

CICA Handbook Section 3862, "Financial instruments – Disclosures"

REMINDER

Sensitivity analyses must be performed and presented separately for each fund so investors can assess the risks specific to each fund. In order to comply with accounting standards, the table of fair value hierarchy must disclose information for the previous period. This information allows investors to compare changes in fair value measurement levels for the major classes of financial instruments (levels 1, 2 and 3) from one financial year to another.

IFRS transition disclosure

- Disclosure of key elements of the IFRS changeover plan insufficient
- Disclosure of timing and progress omitted
- Disclosure of accounting policy decisions made or to be made omitted
- Disclosure of major differences the fund has identified between its current accounting policies and those it expects to apply under IFRS omitted or insufficient

CSA Staff Notice 52-320

REMINDER

IFRS transition disclosure, tailored to the context and particular characteristics of a fund, is important. It allows investors to understand the key changes that will result from the changeover to IFRS, particularly regarding the significant financial statement items, notwithstanding deferral of the adoption of IFRS to financial years beginning on or after January 1, 2014.

Statement of operations

- Grouping in the same line item of fees that should be presented under separate line items

CICA Handbook Section 1520, "Income Statement"

Section 3.2 of Regulation 81-106

Item 8 of Part A of Form 81-101F1

Item 1 of Part 2 of Form 81-101F3

Item 10 of Form 41-101F2

Item 3.6 of Form 41-101F2

REMINDER

The detailed disclosure required by Regulation 81-106 in each statement comprising the financial statements must allow investors to understand a fund's performance and compare it with the performance of other funds. It also allows investors to compare the type of fees paid by the fund with disclosure in the prospectus.

2.2.2 Deficiencies identified in the management report of fund performance

Table 2 sets out the main deficiencies identified in the management reports of fund performance. They were noted in reviews dealing with compliance with *Form 81-106F1*.

The management report of fund performance is an important disclosure document. It helps investors understand a fund's financial results and performance.

TABLE 2 – DEFICIENCIES IDENTIFIED IN THE MANAGEMENT REPORTS OF FUND PERFORMANCE**Benchmarks**

- Description of benchmark omitted or incomplete
- Discussion of the fund's performance as compared with its benchmark omitted
- Reasons for change of benchmark omitted

Item 4.3 of Part B of Form 81-106F1

REMINDER

The comparison of a fund's performance with broad-based securities market indices or non-securities market indices is necessary. It allows investors to compare such performance with the performance of market sectors in which the fund invests. Funds must provide complete disclosure to investors.

Summary of investment portfolio

- Breakdown of the portfolio into subgroups inappropriate
- Presentation of the top 25 positions held, each expressed as a percentage of the fair value of the portfolio or of net assets, not as a percentage of the net asset value of the fund
- Cash and cash equivalents not treated as one separate discrete category

Items 5(2)(a) and 5(2)(b) of Part B of Form 81-106F1

REMINDER

The breakdown by subgroup must be divided in light of the fund's objectives and strategies in order to facilitate an analysis of its performance and a comparison with other funds.

Related party transactions

- Description of related party transactions incomplete or omitted
- Identity of related parties and their relationship to the fund omitted
- Failure to state whether the fund relied on the positive recommendation or approval of the independent review committee to proceed with the transaction

Item 2.5 of Part B of Form 81-106F1

REMINDER

Disclosure about related party transactions must be complete and transparent so that investors can have an overview of this type of transaction.

Improper terminology

- Confusion between the use of the terms "net assets" and "net asset value"

Section 1.1 of Regulation 81-106

Subsection 3.6 (5) of Regulation 81-106

Part 14 of Regulation 81-106

REMINDER

The terms used must be accurate in order to help investors understand a fund's continuous disclosure documents. The value of a fund's net assets is determined in accordance with GAAP and presented in the financial statements. Net asset value is determined in accordance with Part 14 of Regulation 81-106 and is used for transaction purposes.

2.2.3 Other deficiencies identified

Table 3 sets out certain material deficiencies identified during the various reviews.

TABLE 3 – OTHER DEFICIENCIES IDENTIFIED

Conflicts of interest referred to the independent review committee (IRC)

- Conflict of interest matters not referred to the IRC by the manager

Section 1.2 of *Regulation 81-107*

Part 5 of *Regulation 81-107*

REMINDER

Many conflict of interest matters are intrinsically linked to a fund's operations. Identification and referral of these matters to the IRC by the manager form the basis of good governance. The AMF considers the IRC to be an important part of a fund's good governance.

Budget overruns

- Significant overrun of budgeted operating expenses set out in the prospectus and failure to disclose overrun to investors within a reasonable period

Part 11 of *Regulation 81-106*

Item 3.6 of *Form 41-101F2*

Item 10 of *Form 41-101F2*

REMINDER

Information in the prospectus about the operating expense budget is an important element considered by investors when deciding to invest. Any significant budget overrun must be disclosed quickly to the market and investors.

Website

- Disclosure of fund performance without the prescribed warning
- Presentation of management expense ratio without indicating the period for which the disclosure is provided
- Comparison of management expense ratio with non-recent industry data
- Disclosure of the nature of fees and expenses payable by the fund different than the disclosure in the prospectus

Subsection 15.4 (6) of *Regulation 81-102*

Section 15.5 of *Regulation 81-102*

REMINDER

Disclosure on the website must be consistent with disclosure in the prospectus and continuous disclosure documents so that investors are provided with accurate and relevant information allowing them to make informed investment decisions.

TABLE 3 – OTHER DEFICIENCIES IDENTIFIED (CONTINUED)

Proxy voting record
<ul style="list-style-type: none"> ➤ Brief description of matters voted on at a meeting of securityholders of an issuer in which the fund invests omitted ➤ Failure to indicate whether the matters voted on were proposed by the issuer, its management or another person ➤ List of securities entitling the fund to vote incomplete ➤ Failure to state whether the fund voted for or against the recommendations of management of the issuer <p><i>Section 10.3 of Regulation 81-106</i></p> <p>REMINDER <i>A complete proxy voting record is useful to investors for purposes of analyzing and assessing voting decisions made by the portfolio managers.</i></p>
Custodian's compliance report
<ul style="list-style-type: none"> ➤ Report not filed or filed late <p><i>Section 6.7 of Regulation 81-102</i> <i>Section 14.6 of Regulation 41-101</i></p> <p>REMINDER <i>The custodian plays an important role, because it is responsible for holding the fund's assets. The custodian's compliance report must be filed within 30 days after the filing of the financial statements.</i></p>

2.2.4 Deficiencies identified in issue-oriented reviews

Table 4 sets out the main deficiencies identified during the issue-oriented review of compliance with investment objectives, strategies and restrictions. The review was carried out on a representative sampling of 38 funds.

The AMF examined whether the selected funds complied with:

- the investment objectives and strategies stated in their prospectus;
- the investment restrictions set forth in Part 2 of *Regulation 81-102*.

To do so, the AMF compared the disclosure in the prospectus with the statement of investment portfolio on a given date.

On the whole, the selected funds were complying with their investment objectives and strategies as well as the applicable restrictions under Part 2 of *Regulation 81-102*, on the date of the review. However, the AMF did ask certain funds to improve their prospectus so as to provide greater details or enhance the clarity of their disclosure.

TABLE 4 – DEFICIENCIES IDENTIFIED WITH RESPECT TO COMPLIANCE WITH INVESTMENT OBJECTIVES, STRATEGIES AND RESTRICTIONS

Small-cap funds

- Criteria used by the portfolio manager to define small-cap issuers omitted

Item 7 of Part B of Form 81-101F1

REMINDER

The criteria used by the portfolio manager to identify small-cap issuers can vary significantly from one fund to another. Disclosure of these criteria in the prospectus is useful to investors for purposes of assessing the fund's investment strategy. Furthermore, it makes it possible to compare funds with similar investment objectives and strategies.

Investment objectives

- Investment strategies inconsistent with investment objective
- Investment objective not accurately reflecting the portfolio manager's vision

Item 6 of Part B of Form 81-101F1

Item 7 of Part B of Form 81-101F1

REMINDER

The investment strategies must explain how the fund intends to achieve its objectives; they must be clear and consistent with the fund's investment objectives. Furthermore, particular care must be taken when drafting the investment objectives so that they accurately reflect the portfolio manager's philosophy and vision for the fund.

2.3 AREAS OF FOCUS FOR 2012-2013

2.3.1 Regulatory overview

During the year, the AMF will continue to work on proposed regulatory amendments pertaining to the changeover to IFRS. Table 5 sets out the status of the changeover to IFRS for funds.

TABLE 5 – STATUS OF THE CHANGEOVER TO IFRS

Changeover to IFRS
<p>The Accounting Standards Board of Canada (AcSB) has decided to defer the IFRS changeover date for investment companies to January 1, 2014. Until then, funds will use Part V of the <i>CICA Handbook</i>.</p> <p>Following the publication by the International Accounting Standards Board (IASB) of the exposure draft on investment entities on August 25, 2011, CSA staff resumed their work on proposed amendments to <i>Regulation 81-106</i>.</p> <p>Readers may recall that the purpose of the proposed amendments published on October 16, 2009 includes:</p> <ul style="list-style-type: none"> ➤ requiring funds to prepare their financial statements in accordance with Canadian GAAP applicable to publicly accountable enterprises and to report compliance with IFRS; ➤ updating the terms and phrases in <i>Regulation 81-106</i> in order to harmonize them with those in IFRS. <p>Given that certain IFRS standards applicable to funds are still in the process of being amended, the AMF is closely monitoring the work of the IASB and the AcSB and participates therein, as necessary.</p> <p><i>CSA Staff Notice 81-320 (revised)</i></p> <p><i>Date on which the amendments to Regulation 81-106 are expected to come into force: January 1, 2014</i></p>

2.3.2 Current and planned reviews

During the 2012 2013 fiscal year, the AMF expects to conduct issue-oriented reviews, including:

- **Issue-oriented review of synthetic funds**

This review will assess disclosure compliance and relevance in the various documents prepared by synthetic funds. We will pay particular attention to disclosure of the risks relating to the synthetic fund's exposure to a reference fund through derivatives, in particular, counterparty risk. Disclosure regarding management of the basket of securities given as collateral to the derivative counterparty will also be reviewed.

- **Issue-oriented review of fund facts document**

This review will examine, in particular, disclosure of the investment risk classification methodology adopted by the manager. Since July 8, 2011, all funds subject to *Regulation 81-101* have been required to file a fund facts document for each class or series of securities.

Conclusion

Within the scope of the CDR Program, the AMF seeks to ensure that companies and funds satisfy their continuous disclosure obligations by complying with requirements under the Act and the regulations. Although the AMF did ask the majority of companies and funds to improve their continuous disclosure documents, the quality of the continuous disclosure records reviewed during the 2011-2012 fiscal year was generally satisfactory.

The requests for improvements made to companies pertained primarily to the first IFRS-compliant interim financial statements. Some companies were required to provide more details about the effect of the transition from prior GAAP to IFRS. All in all, we noted that companies made significant efforts to make a successful transition. We hope the adoption of IFRS will benefit them and facilitate their access to the international markets.

The requests for improvements made to funds pertained mainly to the management report of fund performance, particularly the sections dealing with past performance and the summary of investment portfolio. Certain funds were also asked to make a number of amendments to the information on their website. Nonetheless, we noted that fund managers are careful about the quality of disclosure provided to investors and have taken the necessary measures to properly satisfy our requests.

We therefore encourage companies and funds to continue to work towards improving the quality of their continuous disclosure documents and their knowledge of the relevant regulatory provisions. The AMF routinely publishes communications about continuous disclosure obligations, including CSA staff notices and new regulations. We invite you to visit the website of the AMF on a regular basis at www.lautorite.qc.ca.

Appendix 1 – 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 – Securities Laws and Regulations* on the website of the AMF (www.lautorite.qc.ca).

CSA Staff Notice 51-312 (revised)	<i>Harmonized Continuous Disclosure Review Program</i>
CSA Staff Notice 51-333	<i>Environmental Reporting Guidance</i>
CSA Staff Notice 52-306 (revised)	<i>Non-GAAP Financial Measures and Additional GAAP Measures</i>
CSA Staff Notice 52-320	<i>Disclosure of Expected Changes in Accounting Policies Relating to Changeover to International Financial Reporting Standards</i>
CSA Staff Notice 52-326	<i>IFRS Transition Disclosure Review</i>
CSA Staff Notice 52-327	<i>Certification Compliance Update</i>
CSA Staff Notice 52-328	<i>Disclosure about Accounting Policies in the Year of Changeover to International Financial Reporting Standards (IFRS)</i>
CSA Staff Notice 58-306	<i>2010 Corporate Governance Disclosure Compliance Review</i>
Regulation 43-101	<i>respecting Standards of Disclosure for Mineral Projects</i>
Regulation 51-102 • <i>Form 51-102F1</i> • <i>Form 51-102F5</i> • <i>Form 51-102F6</i>	<i>respecting Continuous Disclosure Obligations</i> <i>Management's Discussion and Analysis</i> <i>Information circular</i> <i>Statement of Executive Compensation (in respect of financial years ending on or after December 31, 2008)</i>
Draft Regulation 51-103	<i>respecting Ongoing Governance and Disclosure Requirements for Venture Issuers</i>
Regulation 51-105	<i>respecting Issuers Quoted in the U.S. Over-the-Counter Markets</i>
Regulation 52-107	<i>respecting Acceptable Accounting Principles and Auditing Standards</i>
Regulation 52-109	<i>respecting Certification of Disclosure in Issuers' Annual and Interim Filings</i>
Regulation 52-110	<i>respecting Audit Committees</i>
Regulation 58-101	<i>respecting Disclosure of Corporate Governance Practices</i>

Appendix 2 – Principal regulations prescribed for investment funds

The following regulations and other texts contain the principal provisions of the continuous disclosure system applicable to funds as well as the provisions pertaining to distributions referred to in the text of this report. Other obligations may apply. All these regulations and other texts are published under the heading [Securities and Derivatives – Securities Laws and Regulations](#) on the website of the AMF (www.lautorite.qc.ca).

CSA Staff Notice 52-320	<i>Disclosure of Expected Changes in Accounting Policies Relating to Changeover to International Financial Reporting Standards</i>
CSA Staff Notice 81-320 (revised)	<i>Update on International Financial Reporting Standards for Investment Funds</i>
Regulation 31-103	<i>respecting Registration Requirements, Exemptions and Ongoing Registrant Obligations</i>
Regulation 41-101 • <i>Form 41-101F2</i>	<i>respecting General Prospectus Requirements</i> <i>Information Required in an Investment Fund Prospectus</i>
Regulation 81-101 • <i>Form 81-101F1</i> • <i>Form 81-101F3</i>	<i>respecting Mutual Fund Prospectus Disclosure</i> <i>Contents of Simplified Prospectus</i> <i>Contents of fund facts document</i>
Regulation 81-102	<i>respecting Mutual Funds</i>
Regulation 81-106 • <i>Form 81-106F1</i>	<i>respecting Investment Fund Continuous Disclosure</i> <i>Contents of annual and interim management report of fund performance</i>
Regulation 81-107	<i>respecting Independent Review Committee for Investment Funds</i>
Regulation respecting Development Capital Investment Fund Continuous Disclosure	

We welcome comments on this report or our CDR Program. They contribute to the ongoing improvement of our review process.

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

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