

November 2009

Activity Report Continuous Disclosure Review Program



Companies

Mining Companies

Investment Funds

IFRS

 **AUTORITÉ
DES MARCHÉS
FINANCIERS**

5 YEARS OF A COMMITMENT TO
INFORMATION, REGULATION, PROTECTION.

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Message from the Superintendent, Securities Markets

In accordance with its mission, the *Autorité des marchés financiers* (“AMF”) monitors securities markets with a view to fostering their efficiency. As part of its Continuous Disclosure Review Program (“CDR Program”), the AMF oversees compliance by reporting issuers with their obligations to provide quality continuous disclosure. The core objectives of the program are to ensure compliance with the Act and the regulations and to educate reporting issuers on the nature and extent of their continuous disclosure obligations.

I invite you to read this 7th edition of the CDR Program Activity Report for the fiscal year ended March 31, 2009. In addition to the highlights and results of our reviews, it provides tools and illustrative examples to assist in enhancing disclosure quality. Beside, during the past fiscal year, the AMF stepped up its efforts to monitor compliance with continuous disclosure obligations pertaining to certain aspects related to the financial crisis.

You will note that this year’s report features a new section for mining companies. We considered it important to include this section, particularly in light of the specific regulation governing this sector. An entire section is also dedicated to the changeover to International Financial Reporting Standards (IFRS), to help companies and investment funds better understand the extent of the changes and the new requirements effective under IFRS.

In light of the current economic situation, I encourage companies and investment funds to strive for excellence in continuous disclosure reporting. Investor confidence depends in large part on the transparency, integrity and quality of the information provided by reporting issuers.



Louis Morisset

Superintendent, Securities Markets

Introduction

The Continuous Disclosure Review Program¹ (CDR Program) has been a key component of the oversight activities of the *Autorité des marchés financiers* (AMF) since 2001. Mindful of the importance for reporting issuers to provide the marketplace with quality continuous disclosure in compliance with the Act and the regulations,² the AMF has invested considerable efforts and resources in this program.

The CDR Program is intended for reporting issuers whose head offices are located in Québec. Issuers are divided into two categories: companies and investment funds.³ Reviews conducted under this program focus on documents filed pursuant to the continuous disclosure obligations applicable to these two categories of issuer, including:

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

The AMF follows the harmonized continuous disclosure review program established in 2004 by the Canadian Securities Administrators (CSA). CSA Staff Notice 51-312 (Revised): *Harmonized Continuous Disclosure Review Program* ("Notice 51-312") provides an update of the Continuous Disclosure Review Program.

This Activity Report presents the results of the reviews conducted during the fiscal year ended March 31, 2009. It also discusses certain regulatory provisions and accounting requirements, and areas on which we will focus our attention in fiscal 2009-2010.

For ease of reading and to better address the specific needs of different market participants, this year's report is divided into four sections:

- › Continuous Disclosure Review Program – Companies
- › Continuous Disclosure Review Program – Mining Companies
- › Continuous Disclosure Review Program – Investment Funds
- › Changeover to International Financial Reporting Standards (IFRS)

The first section outlines the general continuous disclosure aspects common to all companies (in particular, *Regulation 51-102 respecting Continuous Disclosure Obligations*). The second section outlines additional aspects specific to mining companies (*Regulation 43-101 respecting Standards of Disclosure for Mineral Projects*). Continuous disclosure obligations applicable to investment funds (notably, *Regulation 81-106 respecting Investment Fund Continuous Disclosure*) are grouped in the third section. The last section deals with the changeover to IFRS, which concerns all reporting issuers.

The AMF encourages corporate officers, investment fund managers and their respective advisers to draw on the report's recommendations when preparing continuous disclosure documents. Although not exhaustive, these recommendations provide guidance on important CDR Program topics.

1 Additional information on the CDR Program is available on the AMF website at www.lautorite.qc.ca.

2 In this report, "the Act and the regulations" means the *Securities Act*, R.S.Q., c. V-1.1, as well as regulations and other texts setting out continuous disclosure requirements. A list of the principal regulations and other texts is provided in the appendix.

3 In this report "companies" means those issuers contemplated in *Regulation 51-102 respecting Continuous Disclosure Obligations* and "investment funds" means those issuers contemplated in *Regulation 81-106 respecting Investment Fund Continuous Disclosure*.



Continuous Disclosure Review Program Companies

This section presents the results of the reviews under the CDR Program for companies. In July 2009, the CSA published Staff Notice 51-329, *Continuous Disclosure Review Program Activities for the fiscal year ended March 31, 2009* (“Notice 51-329”), which summarizes the consolidated results of the Canada-wide program. Intended as a complement to Notice 51-329, this section discusses the highlights for the same period and the results of the reviews conducted under the AMF’s CDR Program. Lastly, it outlines the areas of focus for fiscal 2009-2010.

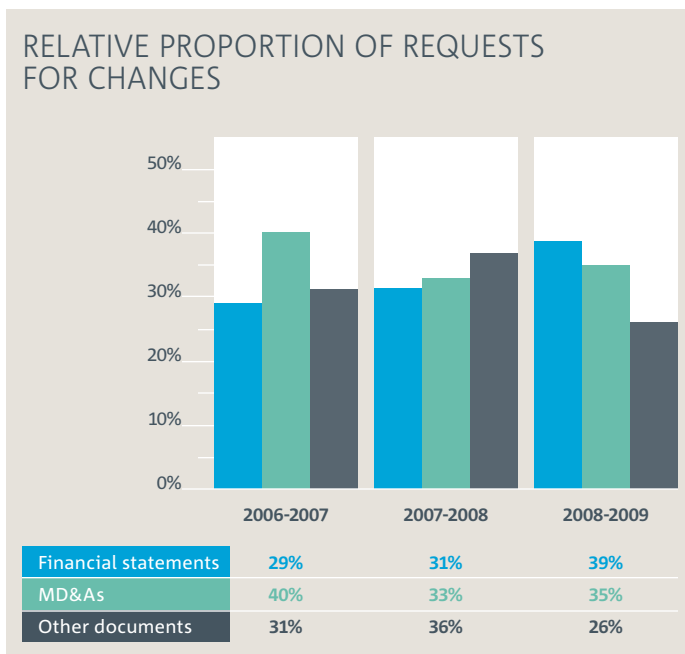
REVIEW HIGHLIGHTS

Fiscal 2008-2009 was marked by the liquidity crisis. In response, the AMF focused its reviews on certain issuers, such as those in the banking and financial services sector and companies at risk of liquidity problems, emphasizing transparency and completeness of disclosures.

While some reviews focused on issues specific to the liquidity crisis, a large number of reviews covered all continuous disclosure documents. In total, the documents of some 100 companies were reviewed during the year.

Most companies selected for review were required to make prospective changes or restatements. As indicated in Notice 51-312, restatements are required only when material deficiencies or errors are identified.

The following chart shows the relative proportion of requests for changes, including prospective changes and restatements, for the past three fiscal years by type of document.



During the past three years, requests for changes by type of document varied mainly as a result of the extent of new accounting requirements or regulatory provisions. In fiscal 2008-2009, requests for changes to financial statements rose primarily as a result of non-compliance with the financial instrument disclosure requirements of the *CICA Handbook*. Moreover, many companies failed to provide sufficient analysis in their MD&As. Lastly, despite enhanced disclosure in the other documents reviewed under the CDR Program for companies, including information circulars and annual information forms, disclosure regarding audit committees and corporate governance practices continued to be deficient.

Companies previously selected under the program benefit from the review process and produce better quality continuous disclosure documents. As regards companies selected for a first full review, the number of requests for changes was higher for issuers listed on the TSX Venture Exchange than for issuers listed on the Toronto Stock Exchange.

REVIEW RESULTS

1 Financial statements

The review of annual and interim financial statements is an important part of the activities of the CDR Program for companies. Requests for changes made following these reviews concerned compliance with generally accepted accounting principles (GAAP). The *CICA Handbook* is the primary reference framework for GAAP.

During the period covered by this report, 39% of requests for changes pertained to financial statements and concerned various items. The most common deficiencies are presented in the table summarizing common requests for changes to financial statements. Given the numerous requests for changes to financial instruments and the significant impact of the economic situation on the fair value of financial instruments, it was considered necessary to revisit this topic and provide an example of financial statement disclosure of the fair value determination of a financial instrument using a valuation technique. The *CICA Handbook* contains other equally important issues, but these are not discussed in this section.

a) Common requests for changes

Deficiencies identified in financial statements varied depending on the size and complexity of the issuer's operations. The following table summarizes the deficiencies frequently identified in the continuous disclosure records of companies with a market capitalization of less than \$500 million and those with a market capitalization greater than \$500 million. However, the deficiencies, which are listed by *CICA Handbook* section, may be common to both categories of issuer, and some resulted in a similar number of requests for changes.

COMMON REQUESTS FOR CHANGES TO FINANCIAL STATEMENTS

CICA Handbook Section	Description of deficiency	<\$500 M	>\$500 M
1540 – Cash flow statements	Amounts presented net instead of gross (1540.23) Non-cash transactions included (1540.46)	✓	
1581 – Business combinations	Information omitted where purchase price allocation not finalized (1581.55(f)) Amount of goodwill expected to be deductible for tax purposes not disclosed (1581.56 (c)(i)) Amount of goodwill by reportable segment not disclosed (1581.56 (c)(ii))		✓
1701 – Segment disclosures	Factors used to identify reportable segments not disclosed (1701.29) Geographic information incomplete (1701.40) Information about major customers combined or omitted (1701.42)	✓	
3461 – Employee future benefits	Method used in calculating market-related value for each class of assets not disclosed (3461.152(b)) Measurement date and dates of actuarial valuations omitted (3461.154(b)) Amount paid or payable for employee future benefits not disclosed (3461.154(e))		✓
3500 – Earnings per share	Information on potentially dilutive securities incomplete (3500.65(c))	✓	
3840 – Related party transactions	Description of related party transactions incomplete or omitted (3840.46)	✓	✓
3861/3862 – Financial instruments – Disclosure and presentation	Carrying amounts of each category of financial assets and liabilities not disclosed (3862.08) Carrying amount of financial assets pledged as collateral for liabilities and terms and conditions relating to pledge not disclosed (3862.14) Information on methods and valuation techniques used in determining fair values incomplete or omitted (3862.27) Information on the nature and extent of risks arising from financial instruments incomplete (3862.31) Sensitivity analysis for each type of market risk not disclosed (3862.40)	✓	✓
3870 – Stock-based compensation and other stock-based payments	Description of plans and vesting requirements incomplete (3870.67) Weighted average grant-date fair value not disclosed (3870.68(b)) Factors to consider in calculating expected volatility not considered (3870.A14)	✓	✓

Some deficiencies shown in the above table recurred over several years despite the requirements set out in the *CICA Handbook*. It is important that companies rigorously apply all GAAP and pay greater attention to the application of new accounting requirements.

Some of the deficiencies identified in the continuous disclosure records reviewed during the fiscal year are explained more fully below:

› ***Stock-based compensation and other stock-based payments***

Companies are required to provide a full description of their stock-based compensation plans, including vesting requirements. They must also ensure that the fair value calculation of options granted is in accordance with *CICA Handbook* requirements.

› ***Segment disclosures***

It is important for companies to be aware of segment disclosure requirements. For example, they must disclose in their financial statements information about the extent of their reliance on major customers, including the total amount of revenues from such customers.

› ***Financial instruments – Disclosure and presentation***

Companies must ensure that they disclose information that enables users of their financial statements to evaluate the nature and extent of risks arising from financial instruments to which they are exposed. In addition, under the *CICA Handbook*, companies are required to disclose the methods and the assumptions applied in determining fair values of each class of financial assets or financial liabilities when a valuation technique is used.

› ***Business combinations***

In addition to the disclosure requirements regarding business combinations set out in the *CICA Handbook*, it is important that companies properly identify and measure all intangible assets acquired. They must also have adequate documentation to support the determination of the useful lives of intangible assets and, if applicable, their classification as intangible assets with indefinite useful lives.

The first two deficiencies occurred more frequently in the records of companies with a market capitalization of less than \$500 million, whereas the last two deficiencies were observed more often in the records of companies with a market capitalization greater than \$500 million.

b) **Recap of accounting requirements concerning financial instruments**

Accounting standards concerning financial instruments have evolved significantly in recent years. Two new *CICA Handbook* sections, Section 3862, “Financial instruments – Disclosures” (“Section 3862”) and Section 3863, “Financial instruments – Presentation” replaced Section 3861, “Financial instruments – Disclosure and presentation” and are effective for fiscal years beginning on or after October 1, 2007.

In addition, in response to the financial crisis, additional amendments to the *CICA Handbook* were made or proposed and Financial Reporting Commentaries issued by the Accounting Standards Board of Canada (AcSB).

These amendments and commentaries are listed below:

› ***Section 3855, Financial instruments – Recognition and measurement***

This Section was amended to permit, under rare circumstances, the reclassification out of the held-for-trading category of financial assets no longer held for the purpose of selling them in the near term. The current financial crisis can be considered a rare circumstance. At the same time, Section 3862 was amended to specify the disclosure required when an entity reclassifies a financial instrument.

› ***Section 3862, Financial instruments – Disclosure***

This Section was amended in June 2009. The amendments were intended to enhance disclosure about fair market measurements, including the relative reliability of the inputs used in those measurements, and about the liquidity risk of financial instruments. Under the amendments, fair value measurements must be categorized using the following three-level hierarchy that reflects the significance of the inputs used in making the measurements:

- › quoted prices in active markets for identical assets or liabilities (Level 1);
- › inputs other than quoted prices included in Level 1 that are observable for the asset or liability, either directly or indirectly (Level 2); and
- › inputs for the asset or liability that are not based on observable market data (Level 3).

› **Estimating fair value of financial instruments in inactive markets**

The Financial Reporting Commentary on estimating the fair value of financial instruments in inactive markets issued by the AcSB in November 2008 provides guidance on how a company should estimate fair value when markets are inactive.

› **Asset-backed commercial paper (ABCP)**

Between October 2007 and February 2009, the AcSB issued four commentaries on non-bank-sponsored asset-backed commercial paper (ABCP). However, the AcSB withdrew three of these commentaries on June 30, 2009 because they referred to U.S. guidance that has been replaced. Only the February 2, 2009 commentary remains in effect.

In view of the difficulties brought about by the current financial crisis in measuring the fair value of some financial instruments, companies should be vigilant about providing transparent disclosure regarding their fair value estimates of financial instruments. Disclosure is especially important in the case of measurement uncertainty with respect to the fair value of certain financial instruments. Section 1508 of the *CICA Handbook*, “Measurement uncertainty,” also contains requirements in this regard.

c) Example

FINANCIAL STATEMENT DISCLOSURE OF FAIR VALUE OF A FINANCIAL INSTRUMENT

The following is an example of disclosure in the financial statements of the fair value of a financial instrument determined using a valuation technique. Note that this example does not reflect the amendments made to Section 3862 in June 2009.

Since the market for these notes is inactive, the Company estimated their fair value using the discounted cash flow method. The main assumptions relied on in this valuation model include expected coupons, expected maturity date of notes and an appropriate discount rate given the risk of future losses. The discount rate was determined using observable market assumptions for similar securities. Future cash flows were discounted over periods varying from two to five years.

The discount factors include an expected return of 141 basis points and the Canada bond rate plus 1,100 basis points. Risk premiums added to the rate of Canada bonds reflect liquidity, credit and other risks. This discount rate takes into account current rates of return on markets for securities with similar features. It also takes into consideration other data related to the market which reflect the most accurate information available to the Company.

The fair value of the notes is highly uncertain. Although management is of the opinion that its valuation model is appropriate, changes in key assumptions, in particular those used to estimate returns and credit and liquidity risk, could have a significant impact on the value attributed to the notes in the forthcoming year.

The Company has undertaken a sensitivity analysis of the model used to value its notes and observed that an increase of 100 basis points in the discount rate would reduce the fair value of its investments by 4.5%, or \$1.8 million, before taxes.

2 Management's discussion and analysis (MD&A)

Again this year, the review of MD&As under the CDR Program generated more than one-third of requests for changes. The MD&A is intended to be a narrative explanation of how a company performed during the period covered by the financial statements, and the company's financial condition and future prospects. The objective of preparing the MD&A should be to improve the company's overall financial disclosure by giving a balanced discussion of the company's results, financial condition and future prospects. These provisions with regard to the MD&A are set out in *Form 51-102F1, Management's Discussion & Analysis of Regulation 51-102 respecting Continuous Disclosure* ("Form 51-102F1").

a) Common requests for changes

The deficiencies most often identified are presented in the table of common requests for changes to the MD&A. Although they may apply to all companies, the deficiencies most often identified with respect to companies with a market capitalization of less than \$500 million are presented separately from those identified with respect to companies with a market capitalization greater than \$500 million.

COMMON REQUESTS FOR CHANGES TO THE MD&A

Description of regulatory provision	Description of deficiency	<\$500 M	>\$500 M
General provisions	Objective of MD&A partially achieved (Part 1(a) of Form 51-102F1)	✓	
Overall performance	Analysis of reportable segments incomplete or omitted (Item 1.2(a) and (b) of Form 51-102F1)	✓	
Selected annual information	Incorrect amount of long-term financial liabilities (Item 1.3(1)(e) of Form 51-102F1)		✓
Selected annual information and summary of quarterly results	Information omitted on factors that caused period to period variations (Items 1.3 and 1.5 of Form 51-102F1)	✓	
Results of operations	Analysis of net sales and factors that caused period to period variations incomplete (Item 1.4(a) of Form 51-102F1) Analysis of gross profit incomplete or inaccurate (Item 1.4(c) of Form 51-102F1)	✓	✓
Liquidity	Analysis of liquidity incomplete (Item 1.6 of Form 51-102F1)	✓	
Transactions with related parties	Information on the purpose of the transaction and the measurement basis used incomplete or omitted (Item 1.9 of Form 51-102F1)	✓	
Non-GAAP financial measures	Use of non-GAAP financial measures that do not comply with guidance in CSA Staff Notice 52-306 (Revised), <i>Non-GAAP Financial Measures</i> ("Notice 52-306")	✓	✓

Some of the deficiencies identified in the continuous disclosure records reviewed during the fiscal year are explained more fully below:

› **General provisions**

Companies must endeavour to improve MD&A disclosure. In particular, companies operating in a specialized field or high-tech sector do not sufficiently describe their operations, thereby restricting the use of their MD&As.

It is therefore important to remind companies of the requirements under Part 1(a) of Form 51-102F1. The MD&A should:

- › help current and prospective investors understand what the financial statements show and do not show;
- › discuss important trends and risks that have affected the financial statements, and trends and risks that are reasonably likely to affect them in the future; and
- › provide information about the quality, and potential variability, of the company's earnings and cash flow, to assist investors in determining whether past performance is indicative of future performance.

› **Results of operations – Sales and revenues**

Any change in net sales caused by selling prices, quantity of goods or services being sold or the introduction of new products or services should be analyzed. Companies with more than one operating business segment must analyze net sales for each segment.

› **Results of operations – Gross profit**

At times, information on gross profit is vague. It is sometimes difficult to interpret and may even be separate from some of the components that are usually part of the calculation of gross profit. In addition, for companies that provide segment disclosure, the use of different approaches to analyze gross profit for each segment is occasionally confusing.

› **Non-GAAP financial measures**

Companies are required to meet the expectations set out in Notice 52-306. In particular, they must identify and provide the requisite disclosure about each non-GAAP financial measure reported in the MD&A.

The first two deficiencies occurred more frequently in the records of companies with a market capitalization of less than \$500 million, whereas the last two deficiencies were observed more often in the records of companies with a market capitalization greater than \$500 million.

b) **Liquidity crisis**

In fall 2008, the AMF was part of a CSA review initiative undertaken in response to the liquidity crisis. The reviews focused on the completeness and transparency of disclosures by companies in their continuous disclosure documents, including, the MD&A. The reviews primarily covered financial services sector companies and companies seemingly at high risk of liquidity problems due to (1) high indebtedness; (2) substantial long-term debt maturing in the near term; or (3) negative working capital.

Further to this review, the AMF employed a proactive approach and requested that the quarterly and annual filings of numerous companies contain enhanced MD&A disclosure of the impact of the liquidity crisis on their financial condition and access to financing.

To assist companies in preparing their MD&As, illustrative examples of the most common deficiencies identified in recent fiscal years supplement this section (see page 19). These examples are taken from documents previously issued by the AMF or the CSA and are grouped according to the items set out in Form 51-102F1.

3 Other continuous disclosure documents

The CDR Program for companies also places emphasis on compliance with numerous regulations affecting other continuous disclosure documents such as circulars, annual information forms and material change reports. The most common requests for changes to these documents pertained to the provisions set out in *Regulation 52-110 respecting Audit Committees* (“Regulation 52-110”) and *Regulation 58-101 respecting Disclosure of Corporate Governance Practices* (“Regulation 58-101”). Some illustrative examples of these topics are provided in this subsection. Regulatory provisions pertaining to material change reports are recapped below, since comments regarding material change reporting are often issued to companies.

a) Common requests for changes

The most common deficiencies identified are presented in the following table. Since continuous disclosure forms may vary depending on whether or not a company qualifies as a venture issuer,⁴ deficiencies identified with regard to venture and non-venture issuers are presented separately.

COMMON REQUESTS FOR CHANGES TO OTHER CONTINUOUS DISCLOSURE DOCUMENTS

Regulatory provision ⁵	Description of deficiency	Venture issuer	Non-venture issuer
Regulation 52-110	Charter of audit committee responsibilities incomplete (section 2.3 of Regulation 52-110)	✓	✓
Form 52-110F1, Audit Committee Information required in an AIF	Indication regarding independence of each audit committee member omitted (Item 2(i) of Form 52-110F1) Nature of external auditor service fees by category omitted (Item 9 of Form 52-110F1)		✓
Form 52-110F2, Disclosure by Venture Issuers	Description of education and experience of each audit committee member incomplete or omitted (Item 3 of Form 52-110F2) Nature of external auditor service fees omitted (Item 7 of Form 52-110F2)	✓	
Regulation 58-101	Code not filed (section 2.3 of Regulation 58-101)	✓	✓
Form 58-101F1, Corporate Governance Disclosure	Incomplete description of what the board does to facilitate open and candid discussion among its independent directors and to provide leadership where the chair of the board is not independent (Item 1(e) and (f) of Form 58-101F1) Position descriptions incomplete or omitted (Item 3 of Form 58-101F1) Incomplete description of steps the board takes to encourage an objective nomination process (Item 6 of Form 58-101F1)		✓
Form 58-101F2, Corporate Governance Disclosure (Venture Issuers)	Incomplete description of how the board of directors facilitates its exercise of independent supervision over management (Item 1 of Form 58-101F2)	✓	

4 Defined in Regulation 51-102 as a reporting issuer that, among other things, does not have any of its securities listed or quoted on the Toronto Stock Exchange.

5 For complete information on regulations, consult the “Laws and Regulations” section of the AMF website at www.lautorite.qc.ca.

b) Examples

REGULATION 52-110 RESPECTING AUDIT COMMITTEES

On a number of occasions, comments were issued to companies regarding the independence of some of their audit committee members. Therefore, it is important to remind companies (other than venture issuers) of their obligation to ensure that all audit committee members are independent.

Under section 1.4 of Regulation 52-110, a committee member is considered to be independent if he or she has no direct or indirect material relationship with the company. A “material relationship” means a relationship which could be reasonably expected to interfere with the exercise of a member’s independent judgment. This section of the Regulation presents situations where individuals are considered to have a material relationship with a company. It is also important to note that companies must respect the independence obligation for the last three years.

The following example illustrates a material relationship referred to in section 1.4(3)(e) of Regulation 52-110.

Mr. Tremblay is a director of Canada Public Company (“CPC”). He held the position of Vice-President, Legal Affairs at Québec Manufacturing Company (“QMC”) before retiring in the summer of 2007. Mr. Smith is Chief Financial Officer of CPC. He has also been a member of QMC’s Compensation Committee since 2006.

Mr. Tremblay is considered to have a material relationship with CPC and is therefore not independent. In fact, within the last three years, he was an executive officer of QMC. Mr. Smith, who is Chief Financial Officer of CPC, is a member of QMC’s Compensation Committee. Mr. Smith had an influence on Mr. Tremblay’s compensation.

REGULATION 58-101 RESPECTING DISCLOSURE OF CORPORATE GOVERNANCE PRACTICES

Companies must adequately disclose their corporate governance practices. For example, Item 6 of Form 58-101F1, *Corporate Governance Disclosure* requires companies to describe the process by which the board identifies new candidates for board nomination. Disclosure by companies reviewed was often deficient.

Some companies simply indicated that the nominee committee or another board committee was responsible for identifying candidates. Others merely stated that the nominee committee was responsible for recommending candidates for board nomination. This type of disclosure is insufficient, as it does not explain the process for identifying new board nominees.

The following example illustrates full disclosure of board nominee selection process.

The board of directors has conferred on the Corporate Governance Committee responsibility for identifying new candidates for director positions and for proposing these candidates to the board of directors. The process by which the Corporate Governance Committee identifies new candidates for director positions begins with the approval by the board of a statement of competencies and experience sought with respect to each new candidate. The board of directors or management may propose candidates to the committee. On occasion, the services of a recruitment adviser may be used. Potential candidates are interviewed by the chairman of the board of directors and the lead director as well as by the other members of the board, as necessary. An invitation to join the board is made only where board consensus regarding the proposed candidate is obtained.

c) Recap of regulatory provisions regarding material change reports

MATERIAL CHANGE REPORTS

Companies generally file news releases when a material change occurs. However, they are also required to file a material change report (“MCR”) within 10 days of the change. Some companies never file MCRs. Although a company may determine the changes that are material within the meaning of *Regulation 51-102 respecting Continuous Disclosure Obligations* (“Regulation 51-102”), the absence of such timely disclosure is cause for concern.

Companies are strongly recommended to refer to Part 7 of Regulation 51-102 and to *Policy Statement 51-201, Disclosure Standards*. Part IV of this Policy Statement, which is intended to be informative, may assist companies in determining whether a change is material.

AREAS OF FOCUS FOR 2009-2010

In the coming fiscal year, the AMF will place greater emphasis on certain regulatory provisions and recent accounting requirements. Companies and their advisers should consider the topics presented below when preparing continuous disclosure documents. Moreover, given that previous activity reports did not cover provisions related to material contracts and that some future reviews will be conducted on this topic, a brief outline of these obligations was deemed appropriate.

1 Recap – Notice 51-329

As indicated in Notice 51-329, during fiscal 2009-2010, some of the topics that may receive greater focus include:

- › valuation of goodwill, intangibles and asset impairments (*CICA Handbook* Section 3063, “Impairment of long-lived assets,” and Section 3064, “Goodwill and intangible assets”);
- › going concern issues including the new accounting requirements (paragraphs .08A and .08B of *CICA Handbook* Section 1400, “General standards of financial statement presentation”);
- › disclosure relating to executive compensation in accordance with *Form 51-102F6, Statement of Executive Compensation (in respect of financial years ending on or after December 31, 2008)*;
- › disclosures of changeover plans in the MD&A regarding International Financial Reporting Standards (IFRS). This topic is also discussed in section 4 of this report – Changeover to International Financial Reporting Standards (IFRS);
- › material contract requirements in Regulation 51-102;
- › *Regulation 52-109 respecting Certification of Disclosure in Issuers’ Annual and Interim Filings*.

2 Material contracts

The CSA amended the continuous disclosure obligations to harmonize them with certain requirements in *Regulation 41-101 respecting General Prospectus Requirements*. These conforming amendments came into force on March 17, 2008 and relate to material contracts in particular, as specified in section 12.2 of Regulation 51-102.

a) Contracts to be filed

Companies are required to file all material contracts, other than those entered into in the ordinary course of business. Although the amended provisions retain the exemption for contracts entered into in the ordinary course of business, the following contracts must now be filed:

- › contracts to which directors, officers, or promoters are parties other than contracts of employment;
- › contracts to sell the majority of the company's products or services or to purchase the majority of the company's requirements of goods, services, or raw materials;
- › franchises or licences or other agreements to use a patent, formula, trade secret, process or trade name;
- › financing or credit agreements with terms that have a direct correlation with anticipated cash distributions;
- › external management or external administration agreements;
- › contracts on which the company's business is substantially dependent.

Material contracts still in effect that are not eligible for the exemption and entered into since January 1, 2002 must be filed. Contracts entered into within the last financial year must also be filed. These contracts must be filed when the material change report is filed or, in all other cases, when the AIF is filed or within 120 days after the end of the issuer's most recently completed financial year.

b) Omissions and redaction

Certain provisions in a material contract may be omitted or marked to be unreadable if disclosure of the provision is believed to be seriously prejudicial or violate a confidentiality provision. However, omissions and redactions in respect of the following contracts are no longer permitted:

- › debt covenants and ratios in financing or credit agreements;
- › events of default or other terms relating to the termination of the material contract;
- › other terms necessary for understanding the impact of the material contract on the business of the reporting issuer.

In addition, if a company omits or redacts a provision in a material contract, it must include a description of the type of information that has been omitted or marked to be unreadable immediately after the provision in the copy of the material contract filed.

The AMF will pay special attention to compliance with these recent provisions. Unless already done so, companies must review material contracts entered into in the ordinary course of business to determine which contracts are not eligible for an exemption under the new obligations and must file these contracts. Companies are also required to disclose in the AIF these additional contracts to comply with the requirements of Item 15 of *Form 51-102F2, Annual Information Form*.

The AMF encourages companies to review the new accounting requirements and regulatory provisions to ensure adequate application. Companies are also urged to apply all GAAP rigorously when preparing their financial statements so as to provide disclosure quality. Moreover, companies should strive to produce an exemplary MD&A, since this document is a prime source of communication between companies and investors. The information disclosed in all public documents, whether they discuss corporate governance or other topics related to continuous disclosure, must always be transparent.

COMPLEMENTARY INFORMATION – EXAMPLES OF MD&A ANALYSIS

Following are examples of incomplete analyses, often accompanied by in-depth analyses. These examples may be used as models to improve MD&A disclosure. These examples are not exhaustive and are categorized according to the items in Form 51-102F1. Depending on the circumstances, companies should comment on other matters than those in these examples.

Overall performance, Item 1.2(d) and (e) of Form 51-102F1

Omission of the discussion of the effect of business acquisitions or discontinued operations

DEFICIENT ANALYSIS: During the last quarter of the fiscal year, to account for discontinued non-strategic operations, the company recorded a goodwill impairment charge resulting from a business acquisition made at the end of the preceding fiscal year.

The company should provide more detailed explanations of the cause of the impairment loss related to the acquired entity and of the reasons for discontinuing operations.

IN-DEPTH ANALYSIS

During the last quarter of the fiscal year, the company recorded a goodwill impairment charge resulting from a business acquisition made at the end of the preceding fiscal year. The impairment loss stems from the closing of a division that manufactured machined parts for a clientele mainly concentrated in the automobile industry. Since this industry is not considered to be strategic for the company and in view of the changed economic situation, the company decided to no longer maintain this division.

Results of operations, Item 1.4(a) and (b) of Form 51-102F1

Omission of quantification of factors that caused variations in net sales

DEFICIENT ANALYSIS: Net sales for the year for our two geographic sectors amounted to \$3,500,000 compared with \$1,700,000 for the preceding year, an increase of 106%. The winter months are usually slower for the company. However, this year, the company experienced growth stemming from higher demand for products A and B and an increase in prices.

The company should have provided an analysis of its net sales by reporting segment. It should have also indicated the quantitative impact on net sales of the increase in demand for products A and B as well as the impact of the price increase. Moreover, it should have indicated why demand for products A and B increased despite the winter months, when business is usually slower.

Results of operations, Item 1.4(a) and (c) of Form 51-102F1

Reproduction of financial statement figures and omission of comments on variations

DEFICIENT ANALYSIS:⁶ Net sales increased from \$900,000 to \$1,080,000, a 20% increase. Gross margin increased from \$400,000 to \$408,000, a 2% increase.

Companies should quantify how volume and price changes affected revenues, and discuss why changes occurred. If other elements affected revenues, such as the introduction of a new product or new competitors, the MD&A should also address those factors. Companies should not limit the operational analysis to net sales; if companies experienced a change in their gross margin percentage, the MD&A should discuss the factors behind the change.

IN-DEPTH ANALYSIS

Three factors caused a net revenue increase of \$180,000:

- › increased sales volume of Product X – \$60,000;
- › decreased unit price of Product X – (\$30,000); and
- › the introduction of a new product during the fourth quarter, Product Y – \$150,000.

In late 2008, we anticipated new competition entering our market, so we discounted our remaining Product X units to encourage their sale and to allow us to focus on its replacement, Product Y. Discounts on Product X caused the reduced gross margin percentage. We expect to continue discounting Product X in the first quarter, but expect our gross margin to improve as Product Y replaces Product X.

⁶ Abridged version of an example from pages 6 and 7 of CSA Staff Notice 51-316, *Continuous Disclosure Review of Smaller Issuers* ("Notice 51-316").

Results of operations, Item 1.4(d) of Form 51-102F1

Omission of analysis of current projects for companies with significant projects that have not yet generated operating revenue

Companies should provide in the MD&A an analysis of their significant projects that have not yet generated operating revenue. They must discuss the analysis of each project, plans, status of the project relative to plans, costs, and additional time needed to complete plans. As applicable, they must also discuss the reasons why anticipated stages of a plan were not achieved.

IN-DEPTH ANALYSIS⁷

The Company is developing a medical device to treat burn victims. The product will accelerate the victim's healing process, while reducing pain and scarring. The Company expects this technology will have other applications such as in cosmetic surgery. The Company intends to market the product to hospitals and large care centres, and license the product for use internationally.

Before the Company can market the product, it must receive regulatory approval. In this past year, the Company successfully completed the preliminary testing of its technology. In August of this year, the Company began clinical trials to obtain FDA approval. Initial test results are positive, and the Company has provided additional information to the Food and Drug Administration (FDA). The Company does not expect to receive FDA approval for at least 2 years. The Company expects to begin shipping the product 4 months after receiving FDA approval. The Company has spent approximately \$1.2 million to date developing and testing the technology, and will require an additional \$1.3 million to complete testing and receive FDA approval. Following FDA approval, the Company expects to incur \$2 million in production and marketing costs to bring this product to market.

As disclosed in previous MD&A, initial test results required the Company to modify its prototype. As a result, the Company is currently \$500,000 over budget and 6 months behind schedule. Since this event, the Company has experienced no additional delays or unexpected costs.

⁷ Abridged version of an example from page 9 of Notice 51-316.

Liquidity, Item 1.6 of Form 51-102F1

Omission of the discussion on liquidity and short- and long-term liquidity requirements

DEFICIENT ANALYSIS:⁸ As at year-end, the Company had cash of \$9,000 and accounts receivable of \$50,000. Current assets amounted to \$150,000 with current liabilities of \$400,000 resulting in a working capital deficit of \$250,000. The Company believes that it has sufficient capital on hand to satisfy working capital requirements for the next 12 months.

Companies often reproduce information from the balance sheet and cash flow statement rather than analyze liquidity. If a company has a working capital deficiency, it should explain how it will meet its obligations as they become due and remedy the deficiency. It must provide an analysis of its ability to generate sufficient amounts of cash and cash equivalents to fund its activities. It should discuss provisions in debt agreements that could affect its cash flow. If there is a default under such an agreement, the MD&A should explain how the issuer will address the weakness.

IN-DEPTH ANALYSIS

As of year-end, the Company's debt to equity ratio was in breach of a covenant in its loan agreement. Subsequent to year-end, the Company:

- › renegotiated the covenants in the loan agreement to cure the default; and;
- › borrowed an additional \$300,000 to meet current and future working capital requirements.

New terms under the loan agreement restrict repayment of existing debt payable to related parties. We estimate that the Company will need \$500,000 over the next two years to complete its exploration project. In the short-term, the Company will rely on advances from shareholders and the exercise of options and share purchase warrants to fund exploration costs.

Capital resources, Item 1.7 of Form 51-102F1

Omission of analysis of expected source of funds and sources of financing arranged but not yet used

DEFICIENT ANALYSIS: As of year-end, the Company had commitments related to a licensing agreement for an amount of \$250,000. It also had a balance payable of \$875,000 for production equipment ordered in the fourth quarter but which is expected to be delivered six months after the order is accepted.

In addition to describing the nature and amount of its commitments, the Company should describe the purpose of the commitments and the expected source of funds to meet these commitments. It should also analyze known trends in its capital sources, including expected changes in the mix and relative cost of these resources.

IN-DEPTH ANALYSIS

As of year-end, the Company had a balance payable of \$875,000 on production equipment ordered in the fourth quarter but which is expected to be delivered six months after the order is accepted. This equipment will be used to manufacture product X; the Company intends to commence manufacturing of product X under licence at the end of the third quarter. The Company will draw on the revolving credit recently renegotiated to meet this commitment. Despite the current credit crunch, the Company succeeded in obtaining an additional \$200,000 on this revolving credit, which is now at its authorized limit of \$1 million. This revolving credit was undrawn at year-end.

The Company has future commitments amounting to \$250,000 related to the manufacturing agreements under licence for product X. This commitment will be reimbursed by royalties on net sales realized. The Company anticipates that it will need 5 to 7 years to settle this commitment.

Transactions with related parties, Item 1.9 of Form 51-102F1

Omission of information on transactions with related parties

DEFICIENT ANALYSIS: During the year, the Company paid \$60,000 in interest on a loan payable to the majority shareholder. It also paid \$45,000 (\$15,000 per month) in rent to a company controlled by the CEO.

These transactions have a common element: Their business purpose is not explained. As well, companies often reproduce the information on related party transactions that appears in their financial statements without analyzing the transactions. The discussion of transactions with related parties in the MD&A should include an analysis of the qualitative and quantitative characteristics that are necessary for an understanding of the transactions' business purpose and economic substance.

IN-DEPTH ANALYSIS⁹

During the year, the Company paid \$60,000 in interest on a loan payable to the majority shareholder. The unsecured loan bears interest at 9% per annum, and matures in two years with an option by the Company to extinguish the debt at any time without penalty. The Company consummated this related party transaction because alternate sources of financing were unavailable due to the Company's limited operating history and lack of collateral. The Company also paid \$45,000 (\$15,000 per month) in rent to a company controlled by the CEO. The Company had outgrown its previous location and opted not to renew its lease. The Company entered into this month-to-month lease until the Company constructs its new premises (presently estimated to be April next year).

9 Abridged version of an example on page 10 of Notice 51-316.



Continuous Disclosure Review Program

Mining Companies

Many reporting issuers with head offices in Québec are mining companies. This section of the report outlines the results of reviews of compliance with *Regulation 43-101 respecting Standards of Disclosure for Mineral Projects* (“Regulation 43-101”). It therefore complements the preceding section on the CDR Program for companies.

REVIEW RESULTS

1 Regulation 43-101

Regulation 43-101 sets out the requirements to be met when a mining company discloses scientific or technical information on mineral projects. Under the requirements, this information must be based on a technical report or other information prepared by a qualified person.¹⁰ The Regulation applies to both oral statements and written disclosure made by or on behalf of the company. It also applies to any printed representation whether produced or disseminated on paper or electronically, including websites.

a) Common requests for changes

The common compliance deficiencies of mining companies identified with respect to Regulation 43-101 are presented below.

COMMON REQUESTS FOR CHANGES RELATED TO REGULATION 43-101

Topic	Description of deficiency
Technical report	Technical reports not filed for certain material properties disclosed in the annual information form (paragraph 4.2(1)(f) of Regulation 43-101)
Certificate and consent of qualified person	Certificates and consents of all qualified persons preparing a technical report omitted (section 3.3 of Policy Statement to Regulation 43-101) Date and duration of the personal inspection of the property by the qualified person not indicated in the certificate (paragraph 8.1(2)(d) of Regulation 43-101) Item or items of the technical report for which each qualified person is responsible (where more than one qualified person prepares a technical report) omitted in the certificate (paragraph 8.1(2)(e) of Regulation 43-101)
Preliminary assessment	Disclaimers in disclosure of results of preliminary assessment omitted (paragraphs 2.3(3)(b) and 3.4(e) of Regulation 43-101) Use of the expression “economic viability of mineral resources” instead of “potential viability of mineral resources” (section 1.1 of Regulation 43-101)
Potential quantity and grade	Quantity and grade of deposit disclosed but not expressed as ranges (subsection 2.3(2) of Regulation 43-101) Disclaimers regarding potential quantity and grade omitted (paragraph 2.3(2)(b) of Regulation 43-101)
Name of qualified person	Name of qualified person responsible for written scientific or technical information about a mineral project omitted (section 3.1 of Regulation 43-101)
Disclosure of historical estimates	Source and date of historical estimate not indicated (paragraph 2.4(1)(a) of Regulation 43-101) Comments on relevance and reliability of estimate omitted (paragraphs 2.4(1)(b) and 4.2(2)(b) of Regulation 43-101)
All disclosure of mineral resources or mineral reserves	Categories applicable to mineral resources and reserves not respected (sections 1.2, 1.3 and 2.2 of Regulation 43-101) All categories of mineral resources combined; quantity and grade of each category not indicated (section 2.2 of Regulation 43-101) Inferred mineral resources added to other categories of mineral resources (section 2.2 of Regulation 43-101)

¹⁰ Defined in section 1.1 of Regulation 43-101.

b) Recap of regulatory provisions and disclosure examples

In order to further detail the common requests for changes regarding mineral project disclosure, this subsection highlights certain regulatory provisions and provides examples which mining companies can draw on to improve continuous disclosure quality.

› **Technical report**

Under Regulation 43-101, companies must file a technical report in certain situations for each property material to them.¹¹ The report must be prepared in accordance with *Form 43-101F1, Technical Report* (“Form 43-101F1”) and must be prepared by a qualified person who, in certain cases, must be independent of the company. The AMF pays special attention to this document, since it helps validate disclosure of companies’ mineral projects.

Part 4 of Regulation 43-101 discusses situations where a technical report must be filed. This includes:

- › filing of an annual information form that includes scientific and technical information for a mineral project material to the company;
- › first time disclosure of mineral resources, mineral reserves or a preliminary assessment; and
- › disclosure of a material change in mineral resources, mineral reserves or a preliminary assessment.

Lastly, qualified persons must be independent if they are preparing technical reports in support of a first time disclosure of mineral resources, mineral reserves, a preliminary assessment or a 100% or greater change in mineral resources or reserves.

› **Certificates and consents of qualified persons**

When a technical report is filed, the certificates and consents of each qualified person responsible for preparing each portion of the technical report must also be filed. The company is responsible for ensuring that these documents are compliant and have been filed. If they fail to do so, the AMF may conclude that the technical report is invalid.

The certificate of a qualified person must contain all of the information in subsection 8.1(2) of Regulation 43-101. The AMF reminds issuers that each qualified person responsible for preparing the technical report must provide the certificate required under the Regulation.

As regards consents of qualified persons, under Regulation 43-101, a statement of each qualified person must be filed:

- › consenting to the public filing of the technical report and to extracts from, or a summary of, the technical report in any other disclosure being filed by the company; and
- › confirming that the qualified person has read the written disclosure being filed and that it fairly and accurately represents the information in the technical report that supports the disclosure.

When filing a consent, the company must ensure that each of these requirements is satisfied, failing which the consent of the qualified person will not be compliant.

¹¹ Information on the assessment of materiality is provided in section 2.4 of the *Policy Statement to Regulation 43-101 respecting Standards of Disclosure for Mineral Projects*.

› **Preliminary assessment**

A preliminary assessment or “scoping study” is a study that includes an economic analysis of the potential viability of mineral resources taken at an early stage of the project, namely, prior to the completion of a preliminary feasibility study. The preliminary assessment must be in the form set out in Form 43-101F1.

The AMF is aware that companies may need to conduct a preliminary assessment as soon as the initial determination of mineral resources on a property is made, even if they are only inferred mineral resources. However, it is important to note that Regulation 43-101 requires companies that disclose the results of a preliminary assessment to provide the disclaimers under 3.4(e) and 2.3(3)(b). These disclaimers are intended to draw attention to the limitations of the information. The company must include them in the paragraph discussing the preliminary assessment or in the subsequent paragraph for each preliminary assessment disclosure.

Following is an example of adequate disclosure of a preliminary assessment:

The preliminary assessment confirmed the potential viability of the project based on an estimate of resources at June 2009 that includes 36.8 Mt grading 1.6 g/t Au (1.9 M oz) of indicated resources and 27.7 Mt grading 1.7 g/t Au (1.9 M oz) of inferred resources. The economic viability of the mineral resources that are not mineral reserves has not been demonstrated. The assessment is preliminary in nature and includes inferred mineral resources that are considered too speculative geologically to have the economic considerations applied to them that would enable them to be categorized as mineral reserves, and there is no certainty that the preliminary assessment will be realized.

› **Potential quantity and grade expressed as ranges**

Only those categories of reserves and mineral resources provided in Regulation 43-101 may be used to express the quantity, grade or content of a mineral deposit. Companies may nonetheless need to establish the potential quantity and grade of a mineral deposit that is to be the target of further exploration. Under Regulation 43-101, disclosure of the potential quantity and grade of a deposit expressed as ranges is acceptable, provided that a disclaimer is made regarding the uncertainty of the disclosure due to the early stage of the project.

Following is an example of adequate disclosure of ranges of potential quantity and grade:

The Company estimates, based on preliminary information available, that the Wawistan exploration target has the potential for the discovery of a gold deposit which may contain from 250,000 to 270,000 tonnes grading 15 to 16 g/t Au thus containing 120,000 to 140,000 ounces of gold. To date no mineral resource (measured, indicated or inferred) has been determined on the property. The potential quantity and grade of the Wawistan target remain conceptual in nature. There has been insufficient exploration to define a mineral resource and it is uncertain if further exploration will result in the target being delineated as a mineral resource.

› **Names of qualified persons**

Regulation 43-101 requires disclosure of the identity of the qualified person responsible for the written technical and scientific information disclosed about mineral projects material to the company, including their relationship to the company. This requirement applies to any written disclosure, including news releases, websites, MD&As and annual information forms.

› **Disclosure of historical estimates**

Disclosure of historical estimates prepared prior to February 2001 is permitted if each disclosure satisfies certain requirements, such as identifying the source and date of the historical estimate. It must also include a statement that the qualified person has not done sufficient work to classify the historical estimate as current mineral resources and that the historical estimate should not be relied upon.

Following is an example of adequate disclosure of historical estimates of resources:

Historical estimates of 675,000 tonnes of mineral resources grading 4.5 g/t Au were prepared in 1986 in respect of the property by Mr. Tremblay, Geo., of Consultants Inc. on behalf of Resources Corporation Inc. The company is not treating the historical resources as mineral resources as defined in Regulation 43-101 because it has not done sufficient work to enable a qualified person to make an up-to-date estimate of the mineral resources. The public should not rely upon these historical estimates. The company expects to conduct extensive exploration work during the year to determine the existence of mineral resources on the project.

› **All disclosure of mineral resources or mineral reserves**

Disclosure of mineral resources and reserves must always comply with the requirements under Regulation 43-101, including the use of applicable categories or mineral resources and reserves and separate reporting of each category of mineral resources and mineral reserves.

Following is an example of adequate disclosure of estimates of mineral resources:

The following estimate of mineral resources was calculated as at December 31, 2008 in accordance with the definitions adopted by the Canadian Institute of Mining, Metallurgy and Petroleum. The estimate was prepared by Mr. Smith, Geo., an independent qualified person, in a technical report dated January 15, 2009.

Category	Tonnes	Grade	Ounces
Measured	6,090,000	2.33	456,209
Indicated	1,204,000	2.27	87,080
Total: Measured and indicated	7,294,000	2.33	543,289
Inferred	1,191,000	2.21	84 625

The estimate of mineral resources was prepared in order to assess the potential for open-pit mining of a deposit of large quantities of low-grade minerals. The block model was used with a block size of 7.6 m x 7.6 m x 3 m.

AREAS OF FOCUS FOR 2009-2010

In addition to the areas of focus presented in the preceding section on the CDR Program for companies, it is important to note that the CSA began its review of Regulation 43-101 in January 2009. The project was initiated in response to a number of concerns that have developed since the implementation in 2001 of Regulation 43-101. Some potential areas for consideration under this project include:

- › reducing the regulatory burden of consents of qualified persons;
- › reducing the qualified person's liability and responsibility for issuer disclosure;
- › reassessing technical report triggers to make sure the right ones are in place;
- › creating broader and more flexible rules for disclosing previous resource and reserve estimates;
- › introducing a separate form of technical report for advanced mineral projects; and
- › updating accepted foreign professional associations.

The AMF encourages mining companies to rigorously apply all of the regulatory provisions to improve the quality of their disclosure to the marketplace, in particular with regard to mineral projects.



Continuous Disclosure Review Program

Investment Funds

This section discusses the results of the work undertaken as part of the CDR Program for investment funds¹² (“funds”), presenting both the highlights and results of the full and issue-oriented reviews conducted during the fiscal year. Lastly, it outlines the areas of focus for fiscal 2009-2010.

REVIEW HIGHLIGHTS

The 2008-2009 fiscal year was marked by the fall in stock markets and the implementation of the restructuring plan for the non bank sponsored asset-backed commercial paper (ABCP) market following the suspension of ABCP transactions in August 2007. In response to these significant events and in order to pursue the efforts undertaken in the preceding fiscal year, the AMF conducted issue-oriented reviews on:

- › money market mutual funds;
- › independent review committee (“IRC”) reports; and
- › presentation of policies and procedures for valuing portfolio assets in order to calculate the net asset value in annual information forms.

In addition, full reviews focused on certain issuers selected mainly because of their exposure to ABCP. These reviews emphasized the presentation and analysis of risks, as well as the transparency of the information disclosed.

Requests for changes in connection with full reviews mainly concerned the notes to the financial statements, namely, the disclosure of accounting policies on the valuation of portfolio securities, the description of risks and the related sensitivity analysis. A number of comments were issued with respect to fund performance presented in the management report of fund performance, particularly in the results of operations, financial highlights and past performance sections.

REVIEW RESULTS

1 Financial statements

a) Statement of operations

Most of the funds reviewed did not disclose the information required under sections 3.1, 3.2 and 3.3 of *Regulation 81-106 respecting Investment Fund Continuous Disclosure* (“Regulation 81-106”) as separate line items. The deficiencies included grouping expenses that should have been disclosed under separate line items in the statement of operations. For example, some funds combined audit and legal fees under “professional fees” or portfolio transaction fees with registrar fees.

The sole exception to these financial statement disclosure requirements is set out in section 3.7 of Regulation 81-106 concerning inapplicable line items.

Moreover, certain wording about the nature of the line item was also confusing. For example, some funds used the term “regulatory fees” instead of “securityholder reporting costs.” In another case, costs were grouped as “administration costs” and the details required under section 3.2 of Regulation 81-106 were disclosed in a note to the financial statements. Although the requisite information was available to financial statement readers, Regulation 81-106 stipulates that items be disclosed in the statement of operations rather than in a note to the financial statements.

It is essential that issuers apply these regulatory provisions and use the terminology in Regulation 81-106 so that investors are better able to compare and understand the financial information presented by funds.

b) Notes to financial statements

The notes to the financial statements of some funds did not disclose all of the information required about the basis used for determining fair value and cost of portfolio assets. The main deficiencies noted concerned the lack of, or incomplete disclosure of, accounting policies adopted by funds to value portfolio assets.

For example, some funds investing part of their portfolios in assets of private enterprises did not disclose the accounting policies regarding the valuation techniques used to determine the fair value of the assets of those companies.

The disclosure of this information is required under paragraph 3.6(1)1. of Regulation 81-106 and paragraph 1505.04 of the *CICA Handbook*. The AMF therefore encourages managers to consult paragraphs 3855.A47 to 3855.A53 of the *CICA Handbook*, which discuss valuation techniques where the market for a financial instrument is not active.

Given that the basis for determining fair value has a material impact on a fund’s financial statements, the notes to the financial statements should contain a clear and complete description of the significant accounting policies of the fund.

¹² The term “investment fund” means issuers referred to by *Regulation 81-106 respecting Investment Fund Disclosure*.

The Financial Reporting Commentary issued in November 2008 by the Accounting Standards Board (AcSB) entitled *Estimating Fair Value of Financial Instruments in Inactive Markets* provides guidance to companies on how to estimate fair value in inactive markets.

Moreover, for all reviews performed, the required disclosures on related party transactions under paragraphs 3840.46 to 3840.58 of the *CICA Handbook* were missing or incomplete. The determination of related parties warrants special attention. Instruction (1) of Item 2.5 of Part B of *Form 81-106F1, Contents of Annual and Interim Management Report of Fund Performance* (“Form 81-106F1”) provides additional guidance to funds on determining who is a related party.

Deficiencies were also noted in the application of *CICA Handbook* Section 3862, *Financial instruments – Disclosures* (“Section 3862”). These deficiencies were mainly related to the identification of risks that could affect funds, the description of these risks and, where applicable, the related sensitivity analysis. Funds must clearly identify the risks arising from the financial instruments to which they are exposed. For each type of risk arising from financial instruments, the notes to the financial statements must describe:

- › the exposures to risk and how they arise;
- › the objectives, policies and processes for managing the risk;
- › the methods used to measure the risk;
- › any changes in the above from the previous period; and
- › quantitative data about exposure to risk for each type of risk arising from financial instruments, where applicable.

c) Other deficiencies

The summary table below presents other deficiencies identified in the financial statements and the auditor’s report for which the AMF requested that the funds file amended financial statements.

REQUESTS FOR CHANGES TO FINANCIAL STATEMENTS AND THE AUDITOR’S REPORT

Accounting standard or regulatory provision	Description of deficiency
CICA Handbook Section 3855, Financial instruments – Recognition and measurement	Listed portfolio assets valued at closing price rather than last bid price (3855.A45)
Regulation 81-106, CICA Handbook Section 5400, The auditor’s standard report, and the Professional Code¹³	Non-compliant auditor’s reports (section 2.7 of Regulation 81-106)
Regulation 81-106	Statement of net assets without comparative figures (subparagraph 2.1(1)(a) of Regulation 81-106)

2 Management report of fund performance

The purpose of the management report of fund performance is to make the financial information disclosed by a fund more accessible. The report must explain, from the manager’s viewpoint, the fund’s results of operations and financial position.

It is important to remember that the management report of fund performance must state the information in plain language. It must also avoid excessive use of financial jargon and technical terms. If a complex expression is required, a brief explanation or a definition of the expression should be added. If the situation allows, it is preferable to use expressions that are easier to understand. For example, an expression such as “total after-tax return on money-at-risk” should be avoided and an alternative expression used, such as “after-tax return for a unitholder.”

¹³ As amended by *An Act to amend the Professional Code and the Chartered Accountants Act in respect of public accountancy*, in force since December 15, 2008.

It is also the fund manager's responsibility to ensure that the description of a financial instrument or a financial statement line item is consistent in all continuous disclosure documents. For example, if the term "servicing fee" is used in the simplified prospectus, this same term should be used in the financial statements, the annual information form and the management report of fund performance. The definition of a term should also be the same in all continuous disclosure documents.

a) Results of operations

The management discussion of fund performance is designed to complement and supplement the financial statements. In accordance with Item 2.3 of Part B of Form 81-106F1, this discussion must, in particular, allow investors to make a connection between the performance of the fund and its results of operations. In general, the summaries of results of operations reviewed did not meet this objective, because the discussion of the significant factors that affected the performance of the fund was incomplete or superficial.

In addition, investment portfolio composition, changes to the composition and the impact of these changes on fund performance must be discussed. For example, if a manager increases the proportion of fixed-income securities or invests more heavily in a particular geographical location or industry, these changes must be discussed and the impact on the fund's performance disclosed. Readers must also be given a brief explanation of any significant increase or decrease in income or expenses compared with the preceding year.

Particular attention is paid to management's discussion of fund performance, since it is intended to give investors the ability to look at the investment fund through the eyes of management by providing an analysis of the fund's investment activities and operations. The AMF invites managers to consult Item 2 of Part A of Form 81-106F1.

It is also recommended that managers who present the performance of broad-based securities market indices in the summary of the results of operations make concrete links between the performance of the indices presented and the performance of the fund. The objective is to show investors that the fund's performance is related to the performance of the industry or market sectors in which the fund invests.

b) Financial highlights

A number of notes accompanying the tables provided for under section 3.1 of Part B of Form 81-106F1 were missing or incomplete. Also, certain terms used were not the terms prescribed under this section.

The notes accompanying the tables are important because they provide information needed to understand the financial data provided in the tables. Similarly, given that different financial reporting methods make it difficult for investors to understand and compare information, the terms used must be the same for all funds.

We also noted calculation and presentation errors in the "Net Assets per Unit" table. For example, realized gains and losses were presented with unrealized gains and losses, which is contrary to the instructions in Item 3, "Financial Highlights."

Finally, deficiencies were identified in the "Ratios and Supplemental Data" table. Some funds failed to include information such as the management expense ratio, while others disclosed a management expense ratio that was not calculated in accordance with Part 15 of Regulation 81-106.

c) Past performance

For some non-redeemable investment funds, annual returns and annual compound returns were not calculated in accordance with Part 15 of *Regulation 81-102 respecting Mutual Funds* ("Regulation 81-102"). Funds must calculate returns in accordance with Regulation 81-102, even if they are not otherwise subject to this regulation. It is important that returns be calculated using a standardized formula so that the returns of different funds can be compared.

One fund did not use an appropriate securities market index to compare its annual compound returns. Under subsection 4.3(2) of Part B of Form 81-106F1, a fund must compare its performance relative to “appropriate broad-based securities market indices.” The fund may also compare its performance to one or more “non-securities indices or narrowly-based market indices” that reflect the market sectors in which it invests. The appropriate securities market index selected must not only provide useful comparatives to the performance of the fund, it must also be recognized and reliable. The same holds true for non-securities indices and narrowly-based market indices.

of Form 81-106F1 requires the summary of investment portfolio to break down the entire portfolio of a fund into the most appropriate subgroups or categories. This breakdown into the most appropriate categories is important, because the summary of investment portfolio draws the attention of investors to the risks and opportunities associated with the types of investments, geographical locations and industry sectors. It also allows investors to broadly determine the extent to which a fund meets its investment objectives and strategies at a given moment. The AMF encourages managers to consult the instructions relating to this Item.

Another departure from compliance with this Item was the failure by some funds to disclose the top 25 positions held, each expressed as a percentage of their net asset value. This information is important, because it allows readers to quickly see the relative weight of the portfolio’s top positions.

d) Summary of investment portfolio

The breakdown of the investment portfolio did not always properly reflect the nature of the fund. Item 5 of Part B

3 Other continuous disclosure documents

The summary table below shows the common requests for changes issued with regard to deficiencies noted in funds’ other continuous disclosure documents. These requests for changes are important, and both funds and their managers should take them into account in order to improve the quality of the financial information they publish.

COMMON REQUESTS FOR CHANGES

Regulatory provision	Description of deficiency
Part 12 of Regulation 81-102	Compliance reports – signature on auditor’s report incorrect
Section 5.5 of Regulation 81-106	Annual financial statements and annual management reports on fund performance not posted to website
Section 6.2 of Regulation 81-106	Quarterly portfolio disclosure of certain funds not posted to website within specified deadline (subsection 6.2(2))
Section 10.4 of Regulation 81-106	Proxy voting records not prepared and not posted to website (subsection 10.4(1))
Section 14.2 of Regulation 81-106	Internal policies and procedures for determining fair value of portfolio securities incomplete or non-existent (subsection 14.2(1.3))
Section 16.4 of Regulation 81-106	Certain material contracts or amended contracts not filed on SEDAR

4 Other oversight activities

a) Money market mutual funds

In co-operation with other CSA members, the AMF conducted an issue-oriented review of money market mutual funds during fall 2008. The sampling of Québec funds encompassed 11 money market mutual funds, as well as some short-term funds with features similar to money market mutual funds. The main purpose of the review was to analyze the impact of the financial crisis on money market mutual funds (performance, massive redemptions, valuation of securities, etc.). The secondary purpose was to ensure that fund managers had sufficient risk management controls in place.

It was noted that, as at September 19, 2008, money market mutual funds were not significantly affected by the crisis, as the interest rates on the securities held in their portfolios were still relatively high. However, the general decline in interest rates on investment grade issuers had an adverse impact on money market mutual fund returns beginning in the weeks that followed. While the majority of money market mutual funds recorded small net redemptions in September 2008, most reported net subscriptions between January and September 2008.

In the documents provided by fund managers, no significant deficiencies were identified with respect to the policies and procedures they had in place to adequately manage money market mutual fund risks and ensure compliance with section 1.1 and Part 2 of Regulation 81-102.

Therefore, the controls carried out by managers enabled them to identify areas of non-compliance and take steps to address them. In fact, nine mutual funds reported issues of non-compliance between January and September 2008, namely, non-compliance with the definition of money market mutual funds under Regulation 81-102, with Part 2 of Regulation 81-102 or with the application of fair value principles for valuing certain portfolio securities.

In addition, as at September 19, 2008, no managers were compelled to devalue any portfolio security, although some securities advisers had to sell securities or place securities on a watch list for credit reasons.

A follow-up on this issue-oriented review conducted in June 2009 using publicly available data and information showed that money market mutual fund returns had dropped significantly, with some funds posting returns below 1%. As a result, some managers had to forego fees or reduce their management fees to sustain fund performance.

b) Independent Review Committee (IRC) reports

An issue-oriented review of IRC reports was conducted for funds with fiscal year-ends of December 31, 2007 or September 30, 2008. The review encompassed all funds subject to *Regulation 81-107 respecting Independent Review Committee for Investment Funds* ("Regulation 81-107") where the fund manager was headquartered in Québec, unless the IRC report had recently been part of a full review.

This issue-oriented review, led to discussing with IRC members of issues related to their roles and the application of Regulation 81-107.

Based on a reading of IRC reports, it was noted that some reports did not provide information to investors on the committee's concrete activities during the reporting period, although the reports complied overall with section 4.4 of Regulation 81-107.

The summary table below shows other deficiencies noted in IRC reports.

MAIN DEFICIENCIES IDENTIFIED IN IRC REPORTS

Regulatory provision	Description of deficiency
Section 3.2 of Regulation 81-106	Financial statements of several funds did not disclose IRC fees and expenses separately in the statement of operations (subsection 3.2 (8.1))
Section 3.13 of Regulation 81-107 and section 3.13 of Policy Statement to Regulation 81-107	Fees and expenses of IRC paid directly by manager instead of billed and paid by the fund and reimbursed by the manager
Section 4.4 of Regulation 81-107	Failure to disclosure information about the holding by IRC members of securities issued by the fund, the manager or any company that provides services to the fund or the manager (paragraph 4.4(1)(b))
Section 4.4 of Regulation 81-107	Failure to conclude if the manager did not follow an IRC recommendation or meet a condition regarding a conflict of interest matter (paragraphs 4.4(1)(g) and (h))
Section 4.4 of Regulation 81-107	Failure to include the list of funds covered by IRC report
Section 4.4 of Regulation 81-107	Failure to indicate IRC reporting period

Some reports provided additional information, which enabled readers to further understand IRC activities. Below are examples of relevant information in IRC reports:

- › summary of IRC activities during the reporting period, especially if the manager did not refer any conflict of interest matter to the committee during the period;
- › explicit indication that no conflict of interest matter was referred to the IRC, if applicable, to prevent any ambiguity;
- › summary of professional experience of IRC members, especially where they are not known publicly;
- › IRC contact information for readers' questions or comments;
- › summary of work plan for the forthcoming year.

Finally, some managers and IRC members indicated that they would be reviewing the process used to determine net asset value in order to ascertain whether a conflict of interest exists when net asset value is calculated by the manager or an entity related to the manager.

c) Annual information form

Disclosures in the "Valuation of Portfolio Securities" section of the annual information form generally need to be improved. The deficiencies commonly noted were:

- › failure to explain the differences in securities valuation methods for the calculation of net asset value and net assets, as a result of the application of *CICA Handbook* Section 3855, as required under Item 6(1.1) of *Form 81-101F2, Contents of Annual Information Form*;
- › absence of or unclear explanation that securities are valued at fair market for the purpose of calculating net asset value. For example, disclosures often stated that fixed-income securities were valued at cost together with accrued interest. However, indication that the

valuation of these securities is adjusted when the fair value differs significantly from the valuation method using a value equal to cost together with accrued interest was not always appropriate or was omitted;

- › failure to describe the methods used to value various types or classes of assets and liabilities for the purpose of calculating net asset value, as required under Item 6.1(1) of *Form 81-101F2, Contents of Annual Information Form*. In certain cases, there was no disclosure of the valuation method for fixed-income securities;
- › insufficient disclosure of the methods used to value the fair value of securities of private enterprises or for which there is no active market, for purposes of calculating net asset value;

- › use of imprecise terms, terms out of context, or terms not defined in securities legislation such as “current market value,” and “valued at full amount.” In order to avoid any ambiguity, it is important to use precise accounting terms or regulatory terms such as “fair value,” “cost,” “par value,” and “cost together with accrued interest.”

d) Structure of bank accounts

Some provisions of Regulation 81-102 regarding the commingling of amounts received or payable were not respected. In the case of certain mutual funds, amounts received by the principal distributor, or by a person providing services to the mutual fund or its principal distributor, for investment in, or on the redemption of, securities, were not kept in a trust account, in accordance with the conditions set out in subsection 11.1(1) of Regulation 81-102.

Managers must establish controls that provide assurance that the mutual funds under their management comply with the regulatory provisions applicable to them. The AMF therefore encourages managers to review parts 6 and 11 of Regulation 81-102.

AREAS OF FOCUS FOR 2009-2010

Half of the 2009-2010 fiscal year will be over at the time of publication of this Activity Report. In anticipation of the upcoming adoption of IFRS in Canada, the CSA are working on proposed amendments to Regulation 81-106 with respect to IFRS terminology and concepts.

Concurrently, regular monitoring of issuer reporting will be conducted for the disclosures required under CSA Staff Notice 52-320, *Disclosure of Expected Changes in Accounting Policies Relating to Changeover to International Financial Reporting Standards*. It is essential that managers, auditors and all other interested parties consult section 4 of this report, “Changeover to International Financial Reporting Standards (IFRS).”

In addition, as noted in the section outlining the CDR Program relating to companies, *CICA Handbook* Section 3862 was amended in June 2009. The amendments, applicable to fiscal years ended after September 30, 2009, are intended to enhance disclosure about fair market measurements, including the relative reliability of the inputs used in those measurements and about the liquidity risk of financial instruments. Under the proposed amendments, fair value measurements must be categorized based on the following three-level hierarchy that reflects the importance of the inputs used in those measurements:

- › quoted prices in active markets for identical assets or liabilities (Level 1);
- › inputs other than quoted prices included in Level 1 that are observable for the asset or liability, either directly or indirectly (Level 2); and
- › inputs for the asset or liability that are not based on observable market data (Level 3).

The application of these new disclosure requirements will be given specific coverage under the CDR Program.

Managers, directors and securities advisers are undoubtedly aware of their disclosure responsibilities regarding their funds. However, the results of our reviews show that improvements can be made, particularly in the following areas:

- › disclosure of risks and sensitivity analyses related to financial instruments in the notes to the financial statements;
- › disclosure of accounting policies regarding the valuation of securities in the notes to the financial statements;
- › description of securities valuation methods for calculating net asset value in the annual information form; and
- › IRC report disclosures.



Changeover to International Financial Reporting Standards (IFRS)

In February 2008, further to a rigorous process begun in 2004, the Accounting Standards Board of Canada (AcSB) confirmed January 1, 2011 as the date for the replacement of Canadian standards and interpretations currently in effect by IFRS as issued by the *International Accounting Standards Board* (IASB) for publicly accountable enterprises. The ACSB reconfirmed this date in May 2009.¹⁴

ALL REPORTING ISSUERS ARE CONCERNED

Publicly accountable enterprises include companies and investment funds. Therefore, all reporting issuers who file financial information established in accordance with Canadian generally accepted accounting principles (GAAP) are concerned by the changeover to IFRS.

The AcSB is an independent body with the authority to develop and establish standards and guidance governing financial accounting and reporting in Canada; however, it does not have the authority to impose use of standards it determines for the preparation of financial statements in Canada. The authority to determine acceptable accounting standards for the preparation of financial statements to be filed pursuant to securities laws and regulations is exercised by the AMF and the CSA.

1 The deadline looms!

For issuers with a December 31 year-end, their last financial statements prepared in accordance with current Canadian GAAP that they may file with the AMF will be their annual financial statements as at December 31, 2010. As regards their interim financial statements, for the three-month period ending March 31, 2011, the statements must comply with International Accounting Standard 34, *Interim Financial Reporting*, which requires the preparation of comparative financial information as at March 31, 2010 based on IFRS standards. Furthermore, these interim financial statements must include an opening balance sheet as at January 1, 2010 in accordance with the expectations set out by the CSA. Therefore, as at the date of publication of this report, these issuers have only a few financial statements to be filed in accordance with existing Canadian GAAP prior to the changeover to IFRS.

Moreover, the changeover to IFRS will very likely have a major impact on issuers' information systems and, consequently, on internal control over financial reporting ("ICFR") and disclosure procedures and controls. Companies should take into account the application of *Regulation 52-109 respecting Certification of Disclosure in Issuers' Annual and Interim Filings*. Under this regulation, any change in ICFR must be disclosed in the MD&A.

2 A lengthy and thorough exercise

The changeover to IFRS is a large-scale project and may turn out to be highly complex. Although existing Canadian GAAP are in large part comparable to IFRSs and both share a similar conceptual framework, major differences exist and must therefore be considered carefully. Each issuer impacted by the IFRS changeover must take the time and invest the necessary efforts and resources to change over to IFRS. The challenge is significant: As of the mandatory changeover date (January 1, 2011 for issuers with a December 31 year-end), only IFRS-compliant financial information may be filed with the AMF. Issuers who do not satisfy this requirement may be placed on default lists, thereby exposing themselves to a cease trade order or other measure under the Act and the regulations.

3 A unique opportunity to enhance disclosure quality

At the same time, the changeover to IFRS offers issuers a unique opportunity to thoroughly review the quality of their financial reporting. The application of IFRS 1, *First-time Adoption of International Financial Reporting Standards* is intended to encourage the implementation of IFRS-based accounting to provide users with high-quality transparent information. The objective of IFRS 1 is in line with the mission and fundamental objectives of the CDR Program. Issuers should therefore establish their accounting bases in accordance with IFRS, and consider using the exemptions permitted under IFRS 1, in compliance with these objectives.

DISCLOSURE REQUIREMENTS PENDING CHANGEOVER TO IFRS

It is in the interest of issuers and investors to commit firmly to the changeover to IFRS. As at the date of this report, all issuers concerned should normally have begun the changeover to IFRS, and in particular, have developed an IFRS adoption plan. As stipulated in CSA Staff Notice 52-320, *Disclosure of Expected Changes in Accounting Policies Relating to Changeover to International Financial Reporting Standards*, three years prior to the changeover date, issuers should discuss in the MD&A the key elements and timing of their changeover plans.

This notice also indicates that interim and annual MD&As for two years prior to the IFRS changeover should update progress on their IFRS changeover plans. Specifically, the annual MD&A should describe major identified differences between the issuer's current accounting policies and those the issuer is required or expects to apply in preparing IFRS financial statements. This information should enable investors to understand the key elements of the issuer's financial statements that will be affected by the changeover to IFRS.

As part of the CDR Program, the AMF pays special attention to information on the changeover to IFRS that is disclosed in the MD&A and management report on fund performance or in the financial statement notes of investment funds. Although it does not have the authority to impose the nature or timeframe of the work to be completed in anticipation of the changeover to IFRS, the AMF is entitled to require a level of transparency it deems acceptable so that investors are adequately informed of the consequences of the changeover to IFRS. Accordingly, the AMF has implemented a monitoring procedure to enable it to quickly identify disclosure deficiencies and to intervene, as needed, with issuers concerned. This procedure will remain in place until IFRSs are fully adopted in Canada.

Moreover, the AMF is aware of the challenges presented by the changeover to IFRS and is contemplating measures to support issuers with the changeover. During fall 2009, the AMF, in co-operation with the CSA, plans to issue proposed amendments to securities regulations and other texts to adapt them to the new accounting context arising from the adoption of IFRS in Canada. Further developments to follow!

KEY DATES

- ▶ The date for changeover to IFRS is January 1, 2011. The AcSB has confirmed this date, and no postponement is expected.
- ▶ The application of IFRS 1 requires the preparation of an opening IFRS balance sheet. For issuers with a December 31 year-end, the opening balance sheet must be as at January 1, 2010. This opening balance sheet will be part of the annual financial statements for the year ending December 31, 2011, and will therefore be covered by the external auditor's report. To avoid unpleasant surprises, issuers should discuss their IFRS changeover plans with their auditors.
- ▶ Financial statements to be filed for accounting periods included in years beginning on or after January 1, 2011 should be established in accordance with Canadian GAAP (namely, IFRSs integrated into the *CICA Handbook*). They should also contain an explicit unqualified report of compliance with IFRSs (with International Accounting Standards 34, *Interim Financial Reporting* in the case of interim financial statements).
- ▶ Several sources of information on IFRS are available on the Internet. In addition to the CICA¹⁵ and IASB¹⁶ websites, the major accounting firms regularly publish news bulletins, which are also available on their respective websites. Issuers should regularly consult these sources of information.
- ▶ From now until the mandatory IFRS changeover date, issuers considering early adoption of IFRS must request an exemption from the AMF. However, early adoption by financial institutions is not permitted.¹⁷

¹⁵ <http://www.cica.ca/ifrs/index.aspx>.

¹⁶ www.iasb.org/Home.htm.

¹⁷ Refer to the notice published in section 5.1 of AMF Bulletin dated August 29, 2008 (in French only).

CSA Publications

To date, the CSA have published the following notices regarding the changeover to IFRS by reporting issuers. These notices are available on the AMF website, under “Laws and Regulations.”

- › CSA Staff Notice 52-320, *Disclosure of Expected Changes in Accounting Policies Relating to Changeover to International Financial Reporting Standards.*
- › CSA Staff Notice 52-321, *Early adoption of International Financial Reporting Standards, use of US GAAP and reference to IFRS-IASB.*
- › CSA Staff Notice 52-324, *Issues relating to changeover to International Financial Reporting Standards.*

IFRSs in French!

According to the IASB, the official text of the standards, namely, IFRSs as published by the IASB, are in English only. The *International Accounting Standards Committee Foundation*, which oversees and funds the IASB, has issued the standards in all main languages, including French, to smooth the transition to the introduction and use of IFRSs. The AcSB will incorporate equivalent versions of IFRSs in English and French in the *CICA Handbook*. Use of IFRSs will enable issuers to report their compliance with IFRS as issued by the IASB. Securities laws and regulations will continue to make reference to Canadian GAAP that will become IFRSs effective January 1, 2011. As a result, Canadian issuers will continue to prepare financial statements in accordance with Canadian GAAP, which includes standards that are equivalent in French and English.

IFRSs, internationally developed standards

IFRSs are developed by the IASB, an independent standard-setting body based in London. The standard-setting process followed by the IASB is similar to that of the AcSB. All new standards or proposed amendments to existing standards are issued for consultation. Additional guidance on the consultation process and current and future projects are available on the IASB website.

As with existing Canadian GAAP, IFRSs are not static. They will need to be amended in part by 2011. Issuers must consider these amendments in their changeover plans.

Since IFRSs now have a direct impact on accounting by Canadian issuers, it is strongly recommended that issuers regularly check the status of IASB projects and comment directly to the IASB, if necessary.

Conclusion

One of the AMF's priorities is to ensure the efficient operation of securities markets, and the main building block of efficient market operation is continuous disclosure quality. Although the activities of the CDR Program are intended to oversee compliance of companies and investment funds with the Act and the regulations, the quality of disclosure remains the responsibility of officers, investment fund managers and their advisers.

Regular communication of our review results serves as an educational tool for remedying common deficiencies. The AMF urges companies and investment funds to take these results into account when preparing their continuous disclosure filings.

With regard to financial statements, the AMF encourages issuers to rigorously apply all GAAP and to pay special attention to new accounting requirements. During the year, deficiencies were noted with respect to disclosure regarding financial instruments. Over the coming years, the changeover to IFRS will represent a sizeable challenge for issuers.

MD&As and management reports on fund performance constitute a key source of communication with investors. Given the current economic situation, the AMF invites officers and managers to improve the information provided in these reports by presenting a full and balanced analysis of results of operations, financial condition and cash flows, in particular, liquidity requirements and sources of financing.

As well, the information disclosed in all public documents, whether they discuss governance practices or other topics related to continuous disclosure obligations, must always be transparent.

Finally, the AMF fulfills part of its mission in respect of monitoring securities markets through the CDR Program. It is hoped that its efforts will enable companies and investment funds to provide the marketplace with high-level continuous disclosure.

Appendix – Regulations¹⁸ and other texts

The following regulations and other texts contain the principal provisions of the continuous disclosure system applicable to companies and the continuous disclosure system applicable to investment funds. Other obligations may apply. All of the regulations and other texts can be consulted in the “Laws and Regulation” section¹⁹ of the AMF’s website.

- › *Regulation 43-101 respecting Standards of Disclosure for Mineral Projects.*
- › *Regulation 51-102 respecting Continuous Disclosure Obligations.*
- › *Policy Statement 51-201, Disclosure Standards.*
- › *Regulation 52-109 respecting Certification of Disclosure in Issuers’ Annual and Interim Filings.*
- › *Regulation 52-110 respecting Audit Committees.*
- › *CSA Notice 52-306 (Revised), Non-GAAP Financial Measures.*
- › *CSA Notice 52-320, Disclosure of Expected Changes in Accounting Policies Relating to Changeover to International Financial Reporting Standards.*
- › *CSA Notice 52-321, Early adoption of International Financial Reporting Standards, use of US GAAP and reference to IFRS-IASB.*
- › *CSA Notice 52-324, Issues relating to changeover to International Financial Reporting Standards.*
- › *Regulation 58-101 respecting Disclosure of Corporate Governance Practices.*
- › *Regulation 81-101 respecting Mutual Fund Prospectus Disclosure.*
- › *Regulation 81-102 respecting Mutual Funds.*
- › *Regulation 81-104 respecting Commodity Pools.*
- › *Regulation 81-105 respecting Mutual Fund Sales Practices.*
- › *Regulation 81-106 respecting Investment Fund Continuous Disclosure.*
- › *Regulation 81-107 respecting Independent Review Committee for Investment Funds.*
- › *Regulation respecting Development Capital Investment Fund Continuous Disclosure.*

¹⁸ Also refer to notices, policy statements and forms relating to regulations.

¹⁹ www.lautorite.qc.ca.

We welcome comments on the CDR Program from companies, investment funds, their advisers, and investors. Such comments contribute to the ongoing improvement of our review process so that it can effectively address the concerns of the market.

For more information or to provide us with your comments, please contact:

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