

**POLICY STATEMENT TO REGULATION 51-102 RESPECTING  
CONTINUOUS DISCLOSURE OBLIGATIONS**

**PART 1 INTRODUCTION AND DEFINITIONS**

**1.1 Introduction and Purpose**

- (1) *Regulation 51-102 respecting Continuous Disclosure Obligations* (the “Regulation 51-102”) sets out disclosure requirements for all issuers, other than investment funds, that are reporting issuers in one or more Canadian jurisdictions.
- (2) The purpose of this Policy Statement (“this Policy”) is to help you understand how the Canadian securities regulatory authorities interpret or apply certain provisions of Regulation 51-102. This Policy includes explanations, discussion and examples of various parts of Regulation 51-102.

**1.2 Filing Obligations**

Reporting issuers must file continuous disclosure documents under Regulation 51-102 only in the local jurisdictions in which they are a reporting issuer.

**1.3 Corporate Law Requirements**

Reporting issuers are reminded that corporate law requirements may apply to certain matters which are addressed by Regulation 51-102. For example, applicable corporate law may require the delivery of annual financial statements to shareholders and may not allow a reporting issuer to prepare its financial statements in accordance with US GAAP. Regulation 51-102 does not override corporate law requirements.

**1.4 Definitions**

- (1) **General** – Many of the terms for which Regulation 51-102 or forms prescribed by Regulation 51-102 provide definitions are defined somewhat differently in the applicable securities legislation of several local jurisdictions. For instance, the terms “form of proxy”, “proxy”, “recognized quotation and trade reporting system”, “solicit”, “equity security”, “published market”, “material change” and “insider” are defined in local securities legislation of most jurisdictions. The Canadian securities regulatory authorities consider the meanings given to these terms in securities legislation to be substantially similar to the definitions set out in Regulation 51-102.

As stated in section 1.1(1) of Regulation 51-102, a term used in Regulation 51-102 and defined in the securities statute of a local jurisdiction has the meaning given to it in the statute unless (a) the definition in that statute is restricted to a specific portion of the statute that does not govern continuous disclosure; or (b) the context otherwise requires. This means, for example, that the definitions of “insider” and “material change” found in section 1.1(2) of Regulation 51-102 only apply in jurisdictions that do not have definitions of these terms in either the general definitions section of their securities statutes or in portions of their securities statutes governing continuous disclosure.

- (2) **Aggregate market value** – For the purposes of calculating the aggregate market value, the market value of instalment receipts should not be included in calculating the market value of a reporting issuer’s outstanding equity securities. Instalment receipts that evidence the beneficial ownership of outstanding equity securities (subject to an encumbrance to secure the obligation of the instalment receipt holder to pay future instalments) and other similar receipts that evidence beneficial ownership of outstanding equity securities are not, themselves, equity securities. The market value of the equity securities evidenced by the receipt will, however, be included.
- (3) **Asset-backed security** – Section 1.7 of Companion Policy 44-101CP provides guidance for the definitions of “asset-backed securities” and “principal obligor”. In addition, Section 8.1 of Companion Policy 44-101CP outlines the views of Canadian securities regulatory authorities with respect to disclosure items in the AIF for issuers of asset-backed securities.
- (4) **Development Stage Issuer** – The definition of development stage issuer in Regulation 51-102 is consistent with the concept of an enterprise in the development stage as discussed in Accounting Guideline ACG-11.
- (5) **Directors and Officers** – Where Regulation 51-102 or any of the Forms use the term “directors” or “officers”, a reporting issuer that is not a corporation, must refer to the definitions in securities legislation of “director” and “officer”. The definition of “officer” may include any individual acting in a capacity similar to that of an officer of a company. Similarly, the definition of “director” typically includes a person acting in a capacity similar to that of a director of a company. Therefore, non-corporate issuers must determine in light of the particular circumstances which individuals or persons are acting in such capacities for the purposes of complying with Regulation 51-102 and the Forms.

## 1.5 Plain Language Principles

We believe that plain language will help investors understand your disclosure so that they can make informed investment decisions. You can achieve this by:

- using short sentences
- using definite everyday language
- using the active voice
- avoiding superfluous words
- organizing the document in clear, concise sections, paragraphs and sentences
- avoiding jargon
- using personal pronouns to speak directly to the reader
- avoiding reliance on glossaries and defined terms unless it facilitates understanding of the disclosure
- not relying on boilerplate wording
- avoiding abstract terms by using more concrete terms or examples

- avoiding multiple negatives
- using technical terms only when necessary and explaining those terms
- using charts, tables and examples where it makes disclosure easier to understand.

## **1.6 Signature and Certificates**

Reporting issuers are not required to sign or certify documents filed under Regulation 51-102. Whether or not a document is signed or certified, it is an offence under securities legislation to make a false or misleading statement in any required document.

## **PART 2 FOREIGN ISSUERS**

### **2.1 Foreign Issuers**

*Regulation 71-102 respecting Continuous Disclosure and Other Exemptions Relating to Foreign Issuers* provides relief for eligible foreign issuers from certain continuous disclosure and other obligations, including those contained in Regulation 51-102.

## **PART 3 FINANCIAL STATEMENTS**

### **3.1 Filing Deadline for Annual Financial Statements and Auditor's Report**

Section 4.2 of Regulation 51-102 sets out filing deadlines for annual financial statements. While section 4.2 of Regulation 51-102 does not address the auditor's report date, reporting issuers are encouraged to file their annual financial statements as soon as practicable after the date of the auditor's report. The delivery obligations set out in section 4.12 of Regulation 51-102 are not tied to the filing of the financial statements.

### **3.2 GAAP Reconciliation**

Subsection 4.7(3)(b) of Regulation 51-102 specifies that where a reconciliation from US GAAP to Canadian GAAP is required, it must include quantification of the effect of material differences between Canadian GAAP and US GAAP that relate to measurement in the issuer's financial statements, including a tabular reconciliation between net income reported in the issuer's financial statements and net income computed in accordance with Canadian GAAP. While the differences impacting net income must be presented in a tabular format, differences relating to assets, liabilities, retained earnings, and other aspects of the issuer's financial statements may be presented in a tabular format or some other format.

### **3.3 Presentation of Comparatives After Change From Canadian GAAP to US GAAP**

Subsections 4.7(4) and 4.7(5) of Regulation 51-102 require that for the first year after a change from Canadian GAAP to US GAAP, financial information for the comparative periods must be provided both as previously reported under Canadian GAAP and restated under US GAAP. For annual financial statements, both comparatives must be presented on the face of the financial statements; for interim financial statements, the comparatives as previously reported under Canadian GAAP, may be presented either on the face of the financial statements or in the notes. Examples of the format for presentation of the comparatives for both annual and interim financial statements may be found in Appendix A to this Policy.

### **3.4 Balance Sheet Line Items**

The balance sheet line item requirements in section 4.9 of Regulation 51-102 establish a minimum level of balance sheet disclosure for interim and annual financial statements that may be in addition to the requirements under the accounting principles used to prepare the financial statements. Regulation 51-102 does not prescribe an order in which the items must be presented. A reporting issuer should consider its industry sector, stage of development and transactions to determine whether additional items should be separately presented in the balance sheet or the notes to the financial statements to facilitate an investor's overall understanding of the reporting issuer's financial position.

### **3.5 Additional Information for Development Stage Issuers**

Section 4.10 of Regulation 51-102 requires development stage issuers to provide, as a schedule or note to their interim and annual financial statements, a breakdown of material components of expenses and additions to deferred expenditures. A component of a class of expenses or additions to deferred costs is generally considered to be a material component if it exceeds:

- (a) 20% of the total amount of the class; and
- (b) \$25,000

While Regulation 51-102 requires breakdowns only for expenses and additions to deferred expenditures recorded for each period covered by the income statement or the cash flow statement, reporting issuers are encouraged to provide information about operating results, cash flow, and deferred expenditures on a cumulative from inception basis.

### **3.6 Canadian GAAS**

Sections 4.8 and 8.8 of Regulation 51-102 refer to auditor's reports prepared in accordance with Canadian GAAS. NI 14-101 states that "Canadian GAAS means generally accepted auditing standards as determined with reference to the Handbook." Section 5100 of the Handbook sets out the general standard of Canadian GAAS and includes reference to an auditor's "objective state of mind." This standard, when read together with the objectivity standard for auditors contained in the Standards of Professional Conduct applicable to Canadian auditors in each jurisdiction, emphasizes the importance of the independence of the auditor. In the view of the Canadian securities regulatory authorities, auditor independence is an essential element of Canadian GAAS.

### **3.7 Reservation of Opinion in an Auditor's Report**

An auditor's report required by section 4.1 of Regulation 51-102 that accompanies a reporting issuer's annual financial statements may not contain a reservation of opinion unless exemptive relief is granted under section 13.1. We are of the view that such exemptive relief will not be granted where the reservation is:

- (a) due to a departure from GAAP acceptable under Regulation 51-102; or
- (b) due to a limitation in the scope of the auditor's examination that:
  - (i) results in the auditor being unable to form an opinion on the financial statements as a whole because of a limitation in the scope of the audit;

- (ii) is imposed or could reasonably be eliminated by management; or
- (iii) could reasonably be expected to be recurring.

### **3.8 Auditor Involvement with Interim Financial Statements**

The board of directors of a reporting issuer, in discharging its responsibilities for ensuring the reliability of interim financial statements, should consider engaging an external auditor to carry out a review of such financial statements.

### **3.9 Change in Ending Date of Financial Year**

Where a reporting issuer changes the ending date of its financial year, the reporting issuer should refer to National Policy 51 for guidance concerning reporting periods, filing deadlines and notification procedures. Among other things, National Policy 51 contemplates that an interim period may be other than a period commencing with the beginning of a financial year and ending nine, six or three months before the end of the financial year.

### **3.10 Change of Auditor**

Subsection 4.14(4) of Regulation 51-102 requires a reporting issuer, upon a termination or resignation of its auditor, to prepare a change of auditor notice, have the audit committee or board of directors confirm their review of the notice, deliver the reporting package to the applicable regulator or securities regulatory authority, and if there are any reportable events, issue and file a news release describing the information in the reporting package. Subsection 4.14(5) of Regulation 51-102 requires the reporting issuer to perform these same procedures upon an appointment of a successor auditor. Where a termination or resignation of a former auditor and appointment of a successor auditor occur within a short period of time, it may be possible for a reporting issuer to perform the procedures described above required by both 4.14(4) and 4.14(5) concurrently and meet the timing requirements set out in those sections. In other words, the reporting issuer would prepare only one comprehensive notice and reporting package.

### **3.11 Disclosure of Financial Results**

Section 4.3 of Regulation 51-102 requires that annual financial statements be reviewed by a company's audit committee (if any) and approved by the board of directors before filing. Section 4.6 of Regulation 51-102 requires the board of directors to review interim financial statements before they are filed and this can be delegated to an audit committee. We believe that extracting information from financial statements that have not been reviewed by the board or audit committee and releasing that information to the marketplace in a news release is inconsistent with the prior review requirement. Also see National Policy 51-201, *Disclosure Standards*.

## **PART 4 AIF**

### **4.1 Additional / Supporting Documentation**

Any material incorporated by reference in an AIF is required under section 5.3 of Regulation 51-102 to be filed with the AIF unless the material has been previously filed. When a reporting issuer using SEDAR files a previously unfiled document with its AIF, the reporting issuer should ensure that the document is filed under the appropriate SEDAR filing type and document type specifically applicable to the document, rather than generic type "Documents Incorporated by Reference". For example, a reporting issuer

that has incorporated by reference an information circular in its AIF and has not previously filed the circular should file the circular under the “Management Proxy Materials” filing subtype and the “Management proxy/information circular” document type.

## **PART 5 ELECTRONIC DELIVERY OF DOCUMENTS**

### **5.1 Electronic Delivery of Documents**

Any documents required to be sent under this Regulation may be sent through electronic delivery, as long as such delivery is conducted in compliance with the provisions of Québec Staff Notice, *The Delivery of Documents by Electronic Means*, in Québec, and National Policy 11-201, *Delivery of Documents by Electronic Means*, in the rest of Canada.

## **PART 6 BUSINESS ACQUISITION REPORT AND FINANCIAL STATEMENTS FOR SIGNIFICANT DISPOSITIONS**

### **6.1 Obligations to File a Business Acquisition Report**

- (1) **Financial Statement Disclosure of Significant Acquisitions** – Appendix B to this Policy is a chart outlining the key obligations for financial statement disclosure of significant acquisitions in a business acquisition report.
- (2) **Acquisition of a Business** – A reporting issuer that has made a significant acquisition must include in its business acquisition report certain financial statements of each business acquired. The term “business” should be evaluated in light of the facts and circumstances involved. We generally consider that a separate entity, a subsidiary or a division is a business and that in certain circumstances a smaller component of a company may also be a business, whether or not the business previously prepared financial statements. In determining whether an acquisition constitutes the acquisition of a business, a reporting issuer should consider the continuity of business operations, including the following factors:
  - (a) whether the nature of the revenue producing acquisition or potential revenue producing activity will remain generally the same after the acquisition; and
  - (b) whether any of the physical facilities, employees, marketing systems, sales forces, customers, operating rights, production techniques or trade names are acquired by the reporting issuer instead of remaining with the vendor after the acquisition.

### **6.2 Determination of Significance**

- (1) **Business uses Accounting Principles other than those used by the Reporting Issuer** – Subsection 8.2(6) of Regulation 51-102 provides that where the financial statements of the business or related businesses are prepared in accordance with accounting principles other than those used in reporting issuer’s financial statements, for purposes of applying the significance tests, the relevant financial statements for the business or related businesses must be reconciled. It is unnecessary for the reconciliation to be audited for the purpose of the test.

If the acquisition of the business or related businesses is determined to be significant, then a reconciliation must be included in the most recent annual and interim financial statements as required by subsection 8.6(4).

- (2) **Acquisition of a Previously Unaudited Business** – Subsection 8.2(1) of Regulation 51-102 requires the significance of an acquisition to be determined using the most recent audited financial statements of the reporting issuer and the business acquired. However, if the financial statements of the business or related businesses for the most recently completed financial year were not audited, subsection 8.2(9) of Regulation 51-102 permits use of the unaudited financial statements for the purpose of applying the significance tests. If the acquisition is determined to be significant, then the annual financial statements required by subsection 8.4(1) of Regulation 51-102 must be audited.
- (3) **Application of Investment Test for Significance of an Acquisition** – One of the significance tests set out in subsection 8.2(1) of Regulation 51-102 is whether the reporting issuer's consolidated investments in and advances to the business or related businesses exceeds 20 percent of the consolidated assets of the reporting issuer as at the last day of the most recently completed financial year of the reporting issuer that ended before the date of the acquisition. In applying this test, the "investments in" the business should be determined using the total cost of the purchase, as determined by generally accepted accounting principles, including consideration paid or payable and the costs of the acquisition. If the acquisition agreement includes a provision for contingent consideration, for the purpose of applying the test, the contingent consideration should be included in the total cost of the purchase unless the likelihood of payment is considered remote at the date of the acquisition. In addition, any payments made in connection with the acquisition which would not constitute purchase consideration but which would not have been paid unless the acquisition had occurred, should be considered part of investments in and advances to the business for the purpose of applying the significance tests. Examples of such payments include loans, royalty agreements, lease agreements and agreements to provide a pre-determined amount of future services.

### **6.3 Financial Statements of Related Businesses**

Subsection 8.4(4) of Regulation 51-102 requires that if a reporting issuer includes in its business acquisition report financial statements for more than one related businesses, separate financial statements must be presented for each business except for the periods during which the businesses were under common control or management, in which case the reporting issuer may present the financial statements on a combined basis. Although one or more of the related businesses may be insignificant relative to the others, separate financial statements of each business for the same number of periods required must be presented. Relief from the requirement to include financial statements of the least significant related business or businesses may be granted depending on the facts and circumstances.

### **6.4 Preparation of Divisional and Carve-out Financial Statements**

- (1) **Interpretations** – In this section of this Policy, unless otherwise stated, the following interpretations apply:
  - (a) A reference to "a business" means a division or some lesser component of another business acquired by a reporting issuer that constitutes a significant acquisition, as that term is used in subsection 8.2(1) of Regulation 51-102.

- (b) The term “parent” refers to the vendor from whom the reporting issuer purchased a business.
- (2) **Acquisition of a Division** - As discussed in subsection 6.1(2) of this Policy, the acquisition of a division of a business and in certain circumstances, a lesser component of a person or company may constitute a business for purposes of Regulation 51-102, whether or not the subject of the acquisition previously prepared financial statements. In order to determine the significance of the acquisition and comply with the requirements for financial statements in a business acquisition report under Part 8 of Regulation 51-102, financial statements for the business must be prepared. This section provides guidance on preparing the financial statements.
- (3) **Divisional and Carve-Out Financial Statements** – The terms “divisional” and “carve-out” financial statements are often used interchangeably although a distinction is possible. Some companies maintain separate financial records and financial statements for a business activity or unit that is operated as a division. Financial statements prepared from these financial records are often referred to as “divisional” financial statements. In other circumstances, no separate financial records for a business activity are maintained; they are simply consolidated with the parent’s records. In these cases, if the parent’s financial records are sufficiently detailed, it is possible to extract or “carve-out” the information specific to the business activity in order to prepare separate financial statements of that business. Financial statements prepared in this manner are commonly referred to as “carve-out” financial statements. The guidance in this section applies to the preparation of both divisional and carve-out financial statements unless otherwise stated.
- (4) **Preparation of Divisional and Carve-Out Financial Statements**
  - (a) When complete financial records of the business acquired have been maintained, those records should be used for preparing and auditing the financial statements of the business. For the purposes of this section, it is presumed that the parent maintains separate financial records for its divisions.
  - (b) When complete financial records of the business acquired do not exist, carve-out financial statements should generally be prepared in accordance with the following guidelines:
    - (i) *Allocation of Assets and Liabilities* – A balance sheet should include all assets and liabilities directly attributable to the business.
    - (ii) *Allocation of Revenues and Expenses* – Income statements should include all revenues and expenses directly attributable to the business. Some fundamental expenditures may be shared by the business and its parent in which case the parent’s management must determine a reasonable basis for allocating a share of these common expenses to the business. Examples of such common expenses include salaries, rent, depreciation, professional fees, general and administration.

- (iii) *Calculation of Income and Capital Taxes* – Income and capital taxes should be calculated as if the entity had been a separate legal entity and filed a separate tax return for the period presented.
  - (iv) *Disclosure of Basis of Preparation* – The financial statements should include a note describing the basis of preparation. If expenses have been allocated as discussed in paragraph (b)(ii), the financial statements should include a note describing the method of allocation for each significant line item, at a minimum.
- (5) **Statements of Assets Acquired, Liabilities Assumed and Statements of Operations** – When it is impracticable to prepare carve-out financial statements of a business, a reporting issuer may be required to include in its business acquisition report an audited statement of assets acquired and liabilities assumed and a statement of operations of the business. The statement of operations should exclude only those indirect operating costs not directly attributable to the business, such as corporate overhead. If indirect operating costs were previously allocated to the business and there is a reasonable basis of allocation, they should not be excluded.

## 6.5 Preparation of Pro Forma Financial Statements Giving Effect to Significant Acquisitions

- (1) **Objective and Basis of Preparation** – The objective of pro forma statements is to illustrate the impact of a transaction on a reporting issuer's financial position and results of operations by adjusting the historical financial statements of the reporting issuer to give effect to the transaction. Accordingly, the pro forma financial statements should be prepared on the basis of the reporting issuer's financial statements as already filed. No adjustment should be made to eliminate extraordinary items or discontinued operations.
- (2) **Pro Forma Balance Sheet and Income Statements** – Subsection 8.4(3) of Regulation 51-102 does not require a pro forma balance sheet to be prepared to give effect to significant acquisitions that are reflected in the reporting issuer's most recent annual or interim balance sheet filed under Regulation 51-102.
- (3) **Non-coterminous Year-ends** - Where the financial year-end of a business differs from the reporting issuer's year-end by more than 93 days, subsection 8.4(3)(b)(iii) requires an income statement for the business to be constructed for a period of 12 consecutive months. For example, if the constructed reporting period is 12 months and ends on June 30, the 12 months should commence on July 1 of the immediately preceding year; it should not begin on March<sup>1<sup>st</sup></sup> of the immediately preceding year with three of the following 15 months omitted, such as the period from October 1 to December 31, since this would not be a consecutive 12 month period.
- (4) **Effective Date of Adjustments** - For the pro forma income statements included in a business acquisition report, the acquisition and most of the adjustments should be computed as if the acquisition had occurred at the beginning of the reporting issuer's most recently completed financial year and carried through the most recent interim period presented, if any. However, adjustments related to the allocation of the purchase price, including the amortization of fair value increments and intangibles, should be based on the purchase price allocation

arising from giving effect to the acquisition as if it occurred on the date of the reporting issuer's most recent balance sheet filed.

- (5) **Acceptable Adjustments** – Pro forma adjustments should be limited to those that are directly attributable to the specific acquisition transaction for which there are firm commitments and for which the complete financial effects are objectively determinable.
- (6) **Multiple Acquisitions** – If the pro forma financial statements give effect to more than one acquisition, the pro forma adjustments may be grouped by line item on the face of the pro forma financial statements provided the details for each transaction are disclosed in the notes.

## 6.6 **Relief from the Requirement to Audit Operating Statements of an Oil and Gas Property**

The applicable securities regulatory authority or regulator may exempt a reporting issuer from the requirement to include the report of an auditor on the operating statements referred to in section 8.15 of Regulation 51-102 if during the 12 months preceding the date of the acquisition, the daily average production of the property on a barrel of oil equivalent basis (with gas converted to oil in the ratio of 6,000 cubic feet of gas to one barrel of oil), is less than 20% of the total daily average production of the vendor for the same or similar periods, and:

- (a) the reporting issuer provides written submissions prior to the deadline for filing the business acquisition report which establishes to the satisfaction of the appropriate regulator, that despite reasonable efforts during the purchase negotiations, the reporting issuer was prohibited from including in the purchase agreement the rights to obtain an audited operating statement of the property;
- (b) the purchase agreement includes representations and warranties by the vendor that the amounts presented in the operating statement agree to the vendor's books and records; and
- (c) the reporting issuer discloses in the business acquisition report its inability to obtain an audited operating statement, the reasons therefor, the fact that the representations and warranties referred to in clause (ii) have been obtained, and a statement that the results presented in the operating statements may have been materially different if the statements had been audited.

## 6.7 **GAAP Reconciliation**

Subsection 8.6(4) of Regulation 51-102 specifies that if financial statements for an acquired business or related businesses are prepared in accordance with accounting principles that are different than the accounting principles used to prepare the reporting issuer's financial statements, a reconciliation is required. Paragraph (b) of subsection 8.6(4) requires quantification of the effect of material differences that relate to measurement, including a tabular reconciliation for net income. As discussed in section 3.2 of this Policy, while the differences impacting net income must be presented in a tabular format, differences relating to assets, liabilities, retained earnings, and other aspects of the financial statements may be presented in a tabular format or some other format.

## **6.8 Auditor's Report Accompanying Financial Statements of an Acquired Business or Related Businesses**

An auditor's report required by subsection 8.4(1) that accompanies financial statements of an acquired business or related businesses may not contain a reservation of opinion except in the case of a reservation relating to inventory of a small business as set out in subsection 8.8(3)(b). The comments in section 3.4 of this Policy also apply.

## **6.9 Pro Forma Financial Statement Disclosure for Significant Dispositions**

- (1) **Business and Business Segments** – Section 8.17 of Regulation 51-102 requires that the notes to a reporting issuer's next filed financial statements include pro forma financial statements that give effect to significant dispositions that have been completed but are not reflected in the reporting issuer's financial statements. The disposition of a business segment, as defined in the Handbook, is excluded from the pro forma requirements because the financial statements presentation of a discontinued business segment is addressed by the Handbook.
- (2) **Acceptable Adjustments** – Pro forma adjustments should be limited to those that are directly attributable to a specific disposition transaction for which there are firm commitments and for which complete financial effects are objectively determinable.
- (3) **Multiple Dispositions** – If the pro forma financial statements give effect to more than one significant disposition, the pro forma adjustments may be grouped by line item on the face of the pro forma financial statements provided the details for each transaction are disclosed in the notes.

## **6.10 Exemptions From Requirement for Financial Statements in a Business Acquisition Report**

- (1) **Exemptions** – We are of the view that relief from the financial statement requirements of Part 8 of Regulation 51-102 should be granted only in unusual circumstances not related to cost or the time involved in preparing and auditing the financial statements. Reporting issuers seeking relief from the financial statement or audit requirements of Part 8 must apply for the relief before the filing deadline for the business acquisition report and before the closing date of the transaction, if applicable. Reporting issuers are reminded that many securities regulatory authorities and regulators do not have the power to grant retroactive relief.
- (2) **Conditions to Exemptions** – If relief is granted from the requirements of Part 8 of Regulation 51-102 to include audited financial statements of an acquired business or related businesses, conditions will likely be imposed, such as a requirement to include audited divisional or partial income statements or divisional statements of cash flow, financial statements accompanied by an auditor's report containing a reservation of opinion relating to inventory, or an audited statement of net operating income for a business.

- (3) **Exemption from Including One or More Years** – Relief may be granted from the requirement to include financial statements of an acquired business or related businesses for one or more years in a business acquisition report in some situations that may include the following:
- (a) the business's historical accounting records have been destroyed and cannot be reconstructed. In this case, as a condition of granting the exemption, the reporting issuer may be requested by the securities regulatory authority or regulator to:
    - (i) represent in writing to the securities regulatory authority or regulator, no later than the time the business acquisition report is required to be filed, that the reporting issuer made every reasonable effort to obtain copies of, or reconstruct the historical accounting records necessary to prepare and audit the financial statements, but such efforts were unsuccessful; and
    - (ii) disclose in the business acquisition report the fact that the historical accounting records have been destroyed and cannot be reconstructed;
  - (b) the business has recently emerged from bankruptcy and current management of the business and the reporting issuer is denied access to the historical accounting records necessary to audit the financial statements. In this case, as a condition of granting the exemption, the reporting issuer may be requested by the securities regulatory authority or regulator to:
    - (i) represent in writing to the securities regulatory authority or regulator, no later than the time the business acquisition report is filed that the reporting issuer has made every reasonable effort to obtain access to, or copies of, the historical accounting records necessary to audit the financial statements but that such efforts were unsuccessful;
    - (ii) disclose in the business acquisition report the fact that the business has recently emerged from bankruptcy and current management of the business and the reporting issuer are denied access to the historical accounting records;
  - (c) the business has undergone a fundamental change in the nature of its business or operations affecting the majority of its operations and all, or substantially all, of the executive officers and directors of the company have changed. The evolution of a business or progression of a development cycle will not be considered to be a fundamental change in a reporting issuer's business or operations. Relief from the requirement to include audited financial statements of the business for the year in which the change in operations occurred, or for the most recently completed financial year if the change in operations occurred during the business's current financial year, generally will not be granted.
- (4) **Pro Forma Income Statement** – The pro forma income statement prepared to give effect to significant dispositions should only present items included in income from continuing operations.

- (5) **Constructed Financial Statements of the Business for the Purpose of Preparing *Pro Forma* Financial Statements** – An income statement of a disposed business that is constructed or otherwise carved out from the reporting issuer’s financial statements for the purpose of preparing a pro forma income statement does not need to be audited or provided as separate financial statements. Only a separate column in the pro forma income statements is required.

## **6.11 Foreign GAAS Substantially Equivalent to Canadian GAAS**

We are of the view that in order for auditing standards to be substantially equivalent to Canadian GAAS, they must require underlying audit work that is comparable in scope, nature and timing to the work required in connection with an audit in accordance with Canadian GAAS. For example, auditing standards of a foreign jurisdiction such as the United States are known to the Canadian securities regulatory authorities to be substantially equivalent to the standards of the CICA. Foreign issuers using auditors from foreign jurisdictions, with auditing standards and supervision that are less well known to securities regulatory authorities or regulators, are encouraged to consult with staff of securities regulatory authorities or regulators in advance of filing of financial statements to resolve uncertainty as to whether the securities regulatory authority or regulator will consider a particular auditor or auditing standards to be acceptable.

In making a determination of whether the foreign auditing standards applied are substantially equivalent to Canadian GAAS, auditors are referred, in particular, to the general standard of Canadian GAAS as set out in Section 5100 of the Handbook and its reference to an auditor’s “objective state of mind”. As discussed in Section 3.6 of this Policy, auditor independence is an essential element of Canadian GAAS and should be reflected, among other things, in the foreign GAAS applied in order for the foreign GAAS applied and Canadian GAAS to be considered substantially equivalent.

## **PART 7 ADDITIONAL FILING REQUIREMENTS**

### **7.1 Additional Filing Requirements**

Section 11.1 of Regulation 51-102 requires a document to be filed only if it contains information that has not been included in disclosure already filed by the reporting issuer. For example, if a reporting issuer has filed a material change report under Regulation 51-102 and the Form 6-K filed by the reporting issuer with the SEC discloses the same information, whether in the same or a different format, there is no requirement to file the Form 6-K under Regulation 51-102.

## **PART 8 EXEMPTIONS**

### **8.1 Review of Exemptions and Waivers**

Section 13.2 of Regulation 51-102 essentially allows a reporting issuer, in certain circumstances, to continue to rely upon an exemption or waiver from continuous disclosure obligations obtained prior to Regulation 51-102 coming into force if the exemption or waiver relates to a substantially similar provision in Regulation 51-102 and the reporting issuer provides written notice to the securities regulatory authority or regulator of its reliance on such exemption or waiver. Upon receipt of such notice, the Canadian securities regulatory authorities will review it to determine if the provision of Regulation 51-102 referred to in the notice is substantially similar to the provision from which the prior exemption, waiver or approval was granted.

**Appendix A**  
**Presentation of Comparatives after Change from Canadian GAAP**  
**To US GAAP for SEC Issuers**

As discussed in section 3.3 of this Policy, the following are examples of the format for presentation of comparative financial information for both annual and interim financial statements.

**1. Annual Financial Statements**

**(a) First Year in US GAAP**

	<u>Current Year</u> (US GAAP)	<u>Prior Year Comparative Restated</u> (US GAAP)	<u>Prior Year Comparative as Previously Reported</u> (Canadian GAAP)
<b>Financial Statement Line Item</b>			

Note: The notes to the annual financial statements would set out the reconciliation information in the manner specified in Part 4.7(3) of Regulation 51-102 including:

- explanation of material differences between Canadian GAAP and US GAAP relating to measurement
- quantification of the differences
- disclosure consistent with Canadian GAAP where not already reflected in the financial statements

**2. Interim Financial Statements**

**(a) All Comparative Figures Presented on the Face of the Interim Financial Statements and note disclosure of reconciliation information**

**(i) Balance Sheet**

	<u>Current Year</u> (US GAAP)	<u>Prior Year Comparative Restated</u> (US GAAP)	<u>Prior Year Comparative as Previously Reported</u> (Canadian GAAP)
<b>F/S Line Item</b>			

**(ii) Statements of Income and Cash Flows**

	<u>Current Interim Period (3 months)</u> (US GAAP)	<u>Comparative Interim Period (3 months) Restated</u> (US GAAP)	<u>Comparative Interim Period (3 months) as Previously Reported</u> (Canadian GAAP)	<u>Current Year to Date Interim Period</u> (US GAAP)	<u>Comparative Year to Date Interim Period Restated</u> (US GAAP)	<u>Comparative Year to Date Interim Period as Previously Reported</u> (Canadian GAAP)
<b>F/S Line Item</b>						

**(iii) Notes to the Interim Financial Statements**

The notes to the interim financial statements would set out the reconciliation information in the manner specified in Part 4.7(3) of Regulation 51-102 including:

- explanation of material differences between Canadian GAAP and US GAAP relating to measurement
- quantification of the differences
- disclosure consistent with Canadian GAAP where not already reflected in the financial statements

**(b) Comparative Figures as Previously Reported in Canadian GAAP Presented as a Schedule or a Note to the Interim Financial Statements and Separate Note Presentation of Reconciliation**

**(i) Balance Sheet**

F/S Line Item	<u>Current Year</u> (US GAAP)	Prior Year Comparative <u>Restated</u> (US GAAP)
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**(ii) Statements of Income and Cash Flows**

F/S Line Item	Current Interim_Period (3 months) <u>Restated</u> (US GAAP)	Comparative Interim_Period (3 months) <u>Restated</u> (US GAAP)	Current Year to Date Interim Period <u>Restated</u> (US GAAP)	Comparative Year to Date Interim Period <u>Restated</u> (US GAAP)
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**(iii) Schedule or Note to the Interim Financial Statements - Disclosing the Comparatives as Previously Reported in Canadian GAAP and as Restated in US GAAP**

**(A) Schedule or Note to the Interim Financial Statements – Balance Sheet Comparatives**

F/S Line Item	Prior Year Comparative <u>Restated</u> (US GAAP)	Prior Year Comparative as <u>Previously Reported</u> (Canadian GAAP)
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**(B) Schedule or Note to the Interim Financial Statements – Statements of Income and Cash Flows Comparatives**

F/S Line Item	Comparative Interim_Period (3 months) <u>Restated</u> (US GAAP)	Comparative Interim_Period (3 months) as Previously <u>Reported</u> (Canadian GAAP)	Comparative Year to Date Interim Period <u>Restated</u> (US GAAP)	Comparative Year to Date Interim Period as Previously <u>Reported</u> (Canadian GAAP)
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**(iv) Notes to the Interim Financial Statements**

The notes to the interim financial statements would set out the reconciliation information in the manner specified in Part 4.7(3) of Regulation 51-102 including:

- explanation of material differences between Canadian GAAP and US GAAP relating to measurement
- quantification of the differences
- disclosure consistent with Canadian GAAP where not already reflected in the financial statements

**(c) Comparative Figures as Previously Reported in Canadian GAAP Presented as a Schedule or a Note to the Interim Financial Statements and Integrated with Reconciliation Information**

**(i) Balance Sheet**

	<u>Current Year</u> (US GAAP)	Prior Year Comparative <u>Restated</u> (US GAAP)
F/S Line Item		

**(ii) Statements of Income and Cash Flows**

	<u>Current Interim</u> <u>Period</u> <u>(3 months)</u> (US GAAP)	<u>Comparative</u> <u>Interim Period</u> <u>(3 months)</u> <u>Restated</u> (US GAAP)	<u>Current Year to</u> <u>Date Interim</u> <u>Period</u> (US GAAP)	<u>Comparative</u> <u>Year to Date</u> <u>Interim Period</u> <u>Restated</u> (US GAAP)
F/S Line Item				

**(iii) Schedule or Note to the Interim Financial Statements - Disclosing the Comparatives as Previously Reported in Canadian GAAP, Reconciling Adjustments, and Comparatives in US GAAP as Restated**

**(A) Schedule or Note to the Interim Financial Statements – Balance Sheet Comparatives**

	<u>Prior Year</u> <u>Comparatives as</u> <u>Previously Reported</u> (Canadian GAAP)	<u>Reconciling</u> <u>Adjustments</u>	<u>Prior Year</u> <u>Comparative</u> <u>Restated</u> (US GAAP)
F/S Line Item			

**(B) Schedule or Note to the Interim Financial Statements – Statements of Income and Cash Flows Comparatives**

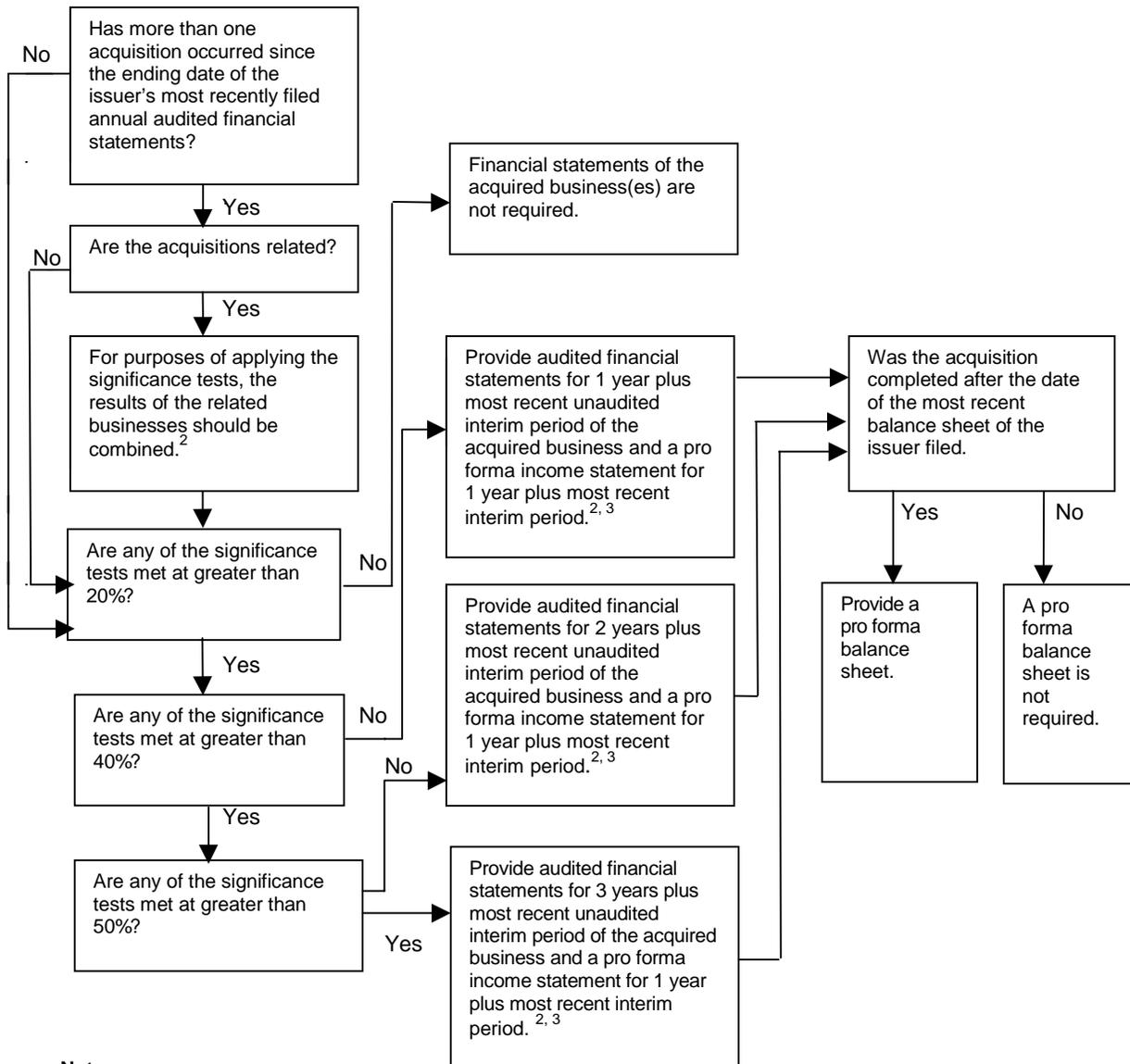
F/S Line Item	Comparative Interim Period (3 months) as Previously <u>Reported</u> (Canadian GAAP)	<u>Reconciling Adjustments</u>	Comparative Interim Period (3 months) <u>Restated</u> (US GAAP)	Comparative Year to Date Interim Period as Previously <u>Reported</u> (Canadian GAAP)	<u>Reconciling Adjustments</u>	Comparative Year to Date Interim Period <u>Restated</u> (US GAAP)
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**(iv) Notes to the Interim Financial Statements**

The notes to the interim financial statements would set out the reconciliation information in the manner specified in Part 4.7(3)(a) and (c) of Regulation 51-102 including:

- explanation of material differences between Canadian GAAP and US GAAP relating to measurement
- disclosure consistent with Canadian GAAP where not already reflected in the financial statements

**APPENDIX B**  
**BUSINESS ACQUISITIONS DECISION CHART FOR DETERMINING**  
**FINANCIAL STATEMENTS REQUIRED IN A BUSINESS ACQUISITION REPORT<sup>1</sup>**



**Notes**

<sup>1</sup> This decision chart provides general guidance and should be read in conjunction with Regulation 51-102 and Policy Statement 51-102.

<sup>2</sup> If an acquisition of related businesses constitutes a significant acquisition when the results of the related businesses are combined, the required financial statements shall be provided for each of the related businesses, except for the periods during which the businesses have been under common control or management, in which case the reporting issuer may present the financial statements of the businesses on a combined basis.

<sup>3</sup> As an alternative to the most recent interim period, financial statements for the acquired business may be provided for the period that started the day after the business' most recent annual balance sheet and ended on a day that is more recent than the ending date of the most recent interim period otherwise required and is not later than the date of acquisition.