

POLICY STATEMENT 51-102 TO REGULATION 51-102

CONTINUOUS DISCLOSURE OBLIGATIONS

PART 1 – INTRODUCTION AND DEFINITIONS

1.1 Introduction and Purpose

- (1) Regulation 51-102 *Continuous Disclosure Obligations* (the “Regulation”) 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 (the “Policy”) is to help you understand how the provincial and territorial regulatory authorities interpret or apply certain provisions of the Regulation. This Policy includes explanations, discussion and examples of various parts of the Regulation.

1.2 Filing Obligations

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

1.3 Corporate Law Requirements

Reporting issuers are reminded that they may be subject to requirements of corporate law that address matters similar to those addressed by the Regulation, and which may impose additional or more onerous requirements. For example, applicable corporate law may require the delivery of annual financial statements to shareholders.

1.4 Definitions

- (1) **General** – Many of the terms for which the Regulation or Forms prescribed by the Regulation provide definitions are defined somewhat differently in the applicable securities legislation of several local jurisdictions. A term used in the Regulation 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.

For instance, the terms “form of proxy”, “proxy”, “recognized quotation and trade reporting system”, “solicit”, “equity security”, “published market” and “material change” are defined in local securities legislation of most jurisdictions. The provincial and territorial regulatory authorities consider the meanings given to these terms in securities legislation to be substantially similar to the definitions set out in the Regulation.

- (2) **Asset-backed security** – Section 1.7 of Policy Statement 44-101 provides guidance for the definitions of “asset-backed securities” and “principal obligor”. In addition, section

8.1 of Policy 44-101 outlines the views of provincial and territorial regulatory authorities with respect to disclosure items in the AIF for issuers of asset-backed securities.

- (3) **Directors and Executive Officers** – Where the Regulation or any of the Forms use the term “directors” or “executive 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 the Regulation and the Forms.
- (4) **Reverse Takeover** – The definition of reverse takeover is based upon the definition in the Handbook. The Handbook adds further clarification that, although legally the enterprise that issued the securities is regarded as the parent or continuing enterprise, the enterprise whose former securityholders now control the combined enterprise is treated as the acquirer for accounting purposes. As a result, for accounting purposes, the issuing enterprise is deemed to be a continuation of the acquirer and the acquirer is deemed to have acquired control of the assets and business of the issuing enterprise in consideration for the issue of capital.

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 by the Regulation to sign or certify documents filed under the Regulation. 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 AND INVESTMENT FUNDS

2.1 Foreign Issuers

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

2.2 Investment Funds

Section 2.1 of the Regulation states that the Regulation does not apply to investment funds. Investment funds should look to securities legislation of the local jurisdiction including, when implemented, Regulation 81-106 *Investment Fund Continuous Disclosure* to find the continuous disclosure requirements applicable to them.

PART 3 - FINANCIAL STATEMENTS

3.1 Annual Financial Statements

For the purposes of the Regulation, unless otherwise expressly provided, references to a financial year apply irrespective of the length of that year and the first financial year of a reporting issuer commences on the date of its incorporation or organization and ends at the close of that year.

3.2 Filing Deadline for Annual Financial Statements and Auditor's Report

Section 4.2 of the Regulation sets out filing deadlines for annual financial statements. While section 4.2 of the Regulation 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 4.6 of the Regulation are not tied to the filing of the financial statements.

3.3 Auditor Involvement with Interim Financial Statements

- (1) 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.
- (2) Subsection 4.3(3) and section 6.5 of the Regulation require a reporting issuer to disclose if an auditor has not performed a review of the interim financial statements or has performed a review and expressed a qualified or adverse communication or denied any assurance. No positive statement is required when an auditor has performed a review and provided an unqualified communication.
- (3) Where a reporting issuer's annual financial statements are audited in accordance with Canadian GAAS, the terms "review" and "written review report" used in subsection 4.3(3) and section 6.5 of the Regulation refer to the auditor's review of and report on interim financial statements using standards for a review of interim financial statements by the auditor as set out in the Handbook. Where the reporting issuer's financial statements are audited in accordance with other than Canadian GAAS, the corresponding review standards should be used.

3.4 Comparative Interim Financial Information After Becoming a Reporting Issuer

Section 4.7(4) of the Regulation provides that a reporting issuer does not have to provide comparative financial information when it first becomes a reporting issuer if it complies with specific requirements. This exemption is meant to apply to an issuer that was, before becoming a reporting issuer, a private entity and that is unable to prepare the comparative financial information because it is impracticable to do so.

3.5 Change in Year-End

Appendix A to this Policy is a chart outlining the financial statement filing requirements under section 4.8 of the Regulation if a reporting issuer changes its financial year-end.

3.6 Change in Corporate Structure

Section 4.9 of the Regulation requires a reporting issuer to deliver a notice if the issuer has been party to certain restructuring transactions. That notice should be delivered to the securities regulatory authority or regulator in the applicable jurisdictions at the addresses set out in section 12.1 of this Policy.

3.7 Change of Auditor

The term "disagreement" defined in subsection 4.11(1) should be interpreted broadly. A disagreement may not involve an argument, but rather, a mere difference of opinion. Also, where a difference of opinion occurs that meets the criteria in item (b) of the definition of "disagreement", and the issuer reluctantly accepts the auditor's position in order to obtain an unqualified report, a reportable disagreement may still exist. The subsequent rendering of an unqualified report does not, by itself, remove the necessity for reporting a disagreement.

Subsection 4.11(5) of the Regulation 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 approve the notice, file the reporting package with the applicable regulator or securities regulatory authority in each jurisdiction where it is a reporting issuer, and if there are any reportable events, issue and file a news release describing the information in the reporting package. Subsection 4.11(6) of the Regulation requires the reporting issuer to perform these 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 4.11(5) and 4.11(6) concurrently and meet the timing requirements set out in those subsections. In other words, the reporting issuer would prepare only one comprehensive notice and reporting package.

3.8 Acceptable Accounting Principles, Auditing Standards and Reporting Currency

Any financial statements required to be filed under the Regulation must comply with Regulation 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency*.

3.9 Delivery of Financial Statements

Section 4.6 of the Regulation requires reporting issuers to send a request form to the registered holders and beneficial owners of their securities. The registered holders and beneficial owners may use the request form to request a copy of the reporting issuer's annual financial statements and related MD&A, interim financial statements and related MD&A, or both. Reporting issuers are only required to deliver financial statements and MD&A to the registered holders and beneficial owners that request them. The Regulation does not prescribe when the request form must be sent, or how it must be returned to the reporting issuer.

The method that a reporting issuer chooses for the return of the request form should not result in beneficial owners that are "objecting beneficial owners" under Regulation 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer* being required to disclose their ownership information. For example, objecting beneficial owners should be permitted to return the request form to the reporting issuer through their intermediaries.

PART 4 – DISCLOSURE OF FINANCIAL INFORMATION

4.1 Disclosure of Financial Results

Section 4.5 of the Regulation requires that annual and interim financial statements be reviewed by a company's audit committee (if any) and approved by the board of directors before filing. We believe that extracting information from financial statements that have not been approved by the board 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*.

4.2 Non-GAAP Earnings Measures

Reporting issuers that intend to publish earnings measures other than those prescribed by GAAP should refer to CSA Staff Notice 52-303 *Non-GAAP Earnings Measures* for a discussion of staff expectations concerning the use of non-GAAP measures.

PART 5 – AIF

5.1 Additional and Supporting Documentation

Any material incorporated by reference in an AIF is required under section 5.3 of the Regulation 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 6 – MD&A

6.1 Additional Information for Venture Issuers Without Significant Revenue

Section 6.3 of the Regulation requires certain venture issuers to provide in their annual or interim MD&A or MD&A supplement (unless the information is included in their interim and annual financial statements), a breakdown of material components of expenses and additions to deferred expenditures. A component of expenses or additions to deferred expenditures is generally considered to be a material component if it exceeds the greater of:

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

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

6.2 Disclosure of Outstanding Share Data

Section 6.4 of the Regulation requires disclosure of information relating to the outstanding shares of the reporting issuer as of the latest practicable date. The “latest practicable date” should be current, as close as possible, to the date of filing of the MD&A. Disclosing the number of shares outstanding at the period end is generally not sufficient to meet this requirement.

PART 7 – ELECTRONIC DELIVERY OF DOCUMENTS

7.1 Electronic Delivery of Documents

Any documents required to be sent under the Regulation may be sent by electronic delivery, as long as such delivery is made in compliance with 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 8 - BUSINESS ACQUISITION REPORTS

8.1 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. Reporting issuers are reminded that Regulation 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency* prescribes the accounting principles, auditing standards and reporting currency that must be used to prepare and audit the financial statements required by Part 8 of the Regulation.
- (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 activity 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.

8.2 Significance Tests

- (1) **Nature of Significance Tests** – Subsection 8.2(2) of the Regulation sets out the required significance tests for determining whether an acquisition of a business by a reporting issuer is a “significant acquisition”. The first test measures the assets of the acquired business against the assets of the reporting issuer. The second test measures the reporting issuer’s investments in and advances to the acquired business against the assets of the reporting issuer. The third test measures the income from continuing operations of

the acquired business against the income from continuing operations of the reporting issuer. If any one of these three tests is satisfied at the prescribed level, the acquisition is considered “significant” to the reporting issuer. The test must be applied as at the time of the acquisition using the most recent annual audited financial statements of the reporting issuer and the business. These tests are similar to requirements of the SEC and provide issuers with certainty that if an acquisition is not significant at the time of the acquisition, then no business acquisition or report will be required to be filed.

- (2) **Business uses Accounting Principles other than those used by the Reporting Issuer** – Subsection 8.2(13) of the Regulation 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.
- (3) **Acquisition of a Previously Unaudited Business** – Section 8.2 of the Regulation 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(14) of the Regulation 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 8.3(1) of the Regulation must be audited.
- (4) **Application of Investment Test for Significance of an Acquisition** – One of the significance tests set out in subsections 8.2(2) and (4) of the Regulation is whether the reporting issuer’s consolidated investments in and advances to the business or related businesses exceed a specified percentage of the consolidated assets of the reporting issuer. 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.
- (5) **Application of the Significance Tests When the Financial Year Ends are Non-Coterminous** – Subsection 8.2(2) of the Regulation requires the significance of a business acquisition to be determined using the most recent audited financial statements of both the reporting issuer and the acquired business. For the purpose of applying the tests under this subsection, the year-ends of the reporting issuer and the acquired

business need not be coterminous. Accordingly, neither the audited financial statements of the reporting issuer nor those of the business should be adjusted for the purposes of applying the significance tests. However, if the acquisition of a business is determined to be significant and *pro forma* income statements are required by subsection 8.3(3) of the Regulation and, if the business' year-end is more than 93 days before the reporting issuer's year-end, the business' reporting period required under clause 8.3(3)(b)(iii) of the Regulation should be adjusted to reduce the gap to 93 days or less. Refer to subsection 8.7(3) of this Policy for further guidance.

8.3 Optional Significance Tests

- (1) **Optional Significance Tests – Decrease in Significance** – The optional significance tests under subsection 8.2(3) and (4) of the Regulation have been included to recognize the possible growth of a reporting issuer between the date of its most recently completed year-end and the date of acquisition and the corresponding potential decline in significance of the acquisition to the reporting issuer. If the significance of an acquisition increases at the second date under subsection 8.2(4), only the financial statements required for the level of significance calculated by the required significance tests under subsection 8.2(2) of the Regulation must be included in the business acquisition report. Applying the optional significance tests at the second date is not intended to increase the level of significance of an acquisition and thereby the number of years of financial statements included in a business acquisition report.
- (2) **Availability of the Optional Significance Tests** – The optional significance tests at the second date are available to all reporting issuers. However, depending on how or when a reporting issuer integrates the acquired business into its existing operations and the nature of post-acquisition financial records it maintains for the acquired business, it may not be possible for a reporting issuer to apply the optional significance test at the second date.
- (3) **Optional Investment Test** – If an acquisition is determined under subsection 8.2(2) of the Regulation to be significant, a reporting issuer has the option under subsections 8.2(3) and (4) of the Regulation of applying optional significance tests using more recent financial statements than those used for the required significance tests in subsection 8.2(2). For the purpose of applying the optional investment test under paragraph 8.2(4)(b) of the Regulation, the reporting issuer's investments in and advances to the business should be as at the date of the acquisition and not as at the date of the reporting issuer's financial statements used to determine its consolidated assets for the optional investment test.

8.4 Financial Statements of Related Businesses

Subsection 8.3(4) of the Regulation requires that if a reporting issuer includes in its business acquisition report financial statements for more than one related business, 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.

8.5 Application of the Significance Tests for Step-By-Step Acquisitions

Subsection 8.2(11) of the Regulation explains how the significance test should be applied when the reporting issuer increases its investment in a business by way of a step-by-step acquisition as discussed in the Handbook. If the reporting issuer acquired an interest in the business in a previous year and that interest is reflected in the most recent audited financial statements of the reporting issuer filed, then the issuer should determine the significance of only the incremental investment in the business which is not reflected in the reporting issuer's most recent audited financial statements filed.

8.6 Preparation of Divisional and Carve-out Financial Statements

- (1) **Interpretations** – In this section of this Policy, unless otherwise stated:
 - (a) a reference to “a business” includes a division or some lesser component of another business acquired by a reporting issuer that constitutes a significant acquisition; and
 - (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 8.1(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 an acquisition of a business for purposes of the Regulation, whether or not the subject of the acquisition previously prepared financial statements. To determine the significance of the acquisition and comply with the requirements for financial statements in a business acquisition report under Part 8 of the Regulation, financial statements for the business must be prepared. This section provides guidance on preparing these 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.

8.7 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 8.3(3) of the Regulation 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 the Regulation.
- (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, clause 8.3(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 1st 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 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, one exception to the preceding is that 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.

8.8 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 8.9 of the Regulation if, during the 12 months preceding the date of the acquisition, the average daily production of the property is less than 20 percent of the total average daily 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 paragraph (b) have been obtained, and a statement that the results presented in the operating statement may have been materially different if the statement had been audited.

For the purpose of determining average daily production when production includes both oil and natural gas, production may be expressed in barrels of oil equivalent using the conversion ratio of 6000 cubic feet of gas to one barrel of oil.

8.9 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 the Regulation 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 the Regulation 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, or an audited statement of net operating income for a business.
- (3) **Exemption from Comparatives if Financial Statements Not Previously Prepared** – Section 8.8 of the Regulation provides that a reporting issuer does not have to provide comparative financial information for an acquired business in a business acquisition report if it complies with specific requirements. This exemption is meant to apply to an acquired business that was, before the acquisition, a private entity and that the reporting issuer is unable to prepare the comparative financial information for because it is impracticable to do so.
- (4) **Exemption from Including Two Years** – Relief may be granted from the requirement to include financial statements of an acquired business or related businesses for two 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.

8.10 Unaudited Comparatives in Annual Financial Statements of an Acquired Business

Where sections 8.3, 8.4(1)(a) and 8.4(2) of the Regulation require audited financial statements for the most recently completed financial year of the business, we would generally expect the financial statements to include comparatives which may be unaudited.

PART 9 – PROXY SOLICITATION AND INFORMATION CIRCULARS

9.1 Delivery to Beneficial Owners of Securities

Reporting issuers are reminded that Regulation 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer* prescribes certain procedures relating to the delivery of materials, including forms of proxy, to beneficial owners of securities and related matters.

PART 10 – ADDITIONAL FILING REQUIREMENTS

10.1 Additional Filing Requirements

Section 11.1(1)(b) of the Regulation 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 the Regulation 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 the Regulation.

PART 11 – EXEMPTIONS

11.1 Prior Exemptions and Waivers

Section 13.2 of the Regulation essentially allows a reporting issuer, in certain circumstances, to continue to rely upon an exemption or waiver from continuous disclosure obligations obtained prior to the Regulation coming into force if the exemption or waiver relates to a substantially similar provision in the Regulation 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 securities regulatory authority or regulator, as the case may be, will review it to determine if the provision of the Regulation referred to in the notice is substantially similar to the provision from which the prior exemption or waiver was granted. The written notice should be sent to each jurisdiction where the prior exemption or waiver is relied upon. Contact addresses for these notices are:

Alberta Securities Commission

4th Floor
300 – 5th Avenue S.W.
Calgary, Alberta
T2P 3C4
Attention: Director, Capital Markets

British Columbia Securities Commission

P.O. Box 10142, Pacific Centre
701 West Georgia Street
Vancouver, British Columbia

V7Y 1L2
Attention: Financial Reporting

Manitoba Securities Commission
1130 – 405 Broadway
Winnipeg, Manitoba
R3C 3L6
Attention: Filings Department

Office of the Administrator, New Brunswick
P.O. Box 5001
133 Prince William Street, Suite 606
Saint John, NB
E2L 4Y9
Attention: Minister of Finance

Securities Commission of Newfoundland
P.O. Box 8700
2nd Floor, West Block
Confederation Building
75 O'Leary Avenue
St. John's, NFLD
A1B 4J6
Attention: Director of Securities

Department of Justice, Northwest Territories
Legal Registries
P.O. Box 1320
1st Floor, 5009-49th Street
Yellowknife, NWT X1A 2L9
Attention: Director, Legal Registries

Nova Scotia Securities Commission
2nd Floor, Joseph Howe Building
1690 Hollis Street
Halifax, Nova Scotia B3J 3J9
Attention: Corporate Finance

Department of Justice, Nunavut
Legal Registries Division

P.O. Box 1000 – Station 570
1st Floor, Brown Building
Iqaluit, NT X0A 0H0
Attention: Director, Legal Registries Division

Ontario Securities Commission

Suite 1903, Box 55
20 Queen Street West
Toronto, ON M5H 3S8
Attention: Manager, Continuous Disclosure, Corporate Finance

Registrar of Securities, Prince Edward Island

P.O. Box 2000
95 Rochford Street, 5th Floor,
Charlottetown, PEI
C1A 7N8
Attention: Registrar of Securities

Commission des valeurs mobilières du Québec

800 Square Victoria, 22nd Floor
P.O. Box 246, Tour de la Bourse
Montréal, Québec
H4Z 1G3
Attention: Directrice des marchés des capitaux

Saskatchewan Financial Services Commission – Securities Division

6th Floor,
1919 Saskatchewan Drive
Regina, SK S4P 3V7
Attention: Deputy Director, Corporate Finance

Registrar of Securities, Government of Yukon

Corporate Affairs J-9
P.O. Box 2703
Whitehorse, Yukon
Y1A 5H3
Attention: Registrar of Securities

APPENDIX A

EXAMPLES OF FILING REQUIREMENTS FOR CHANGES IN THE YEAR END

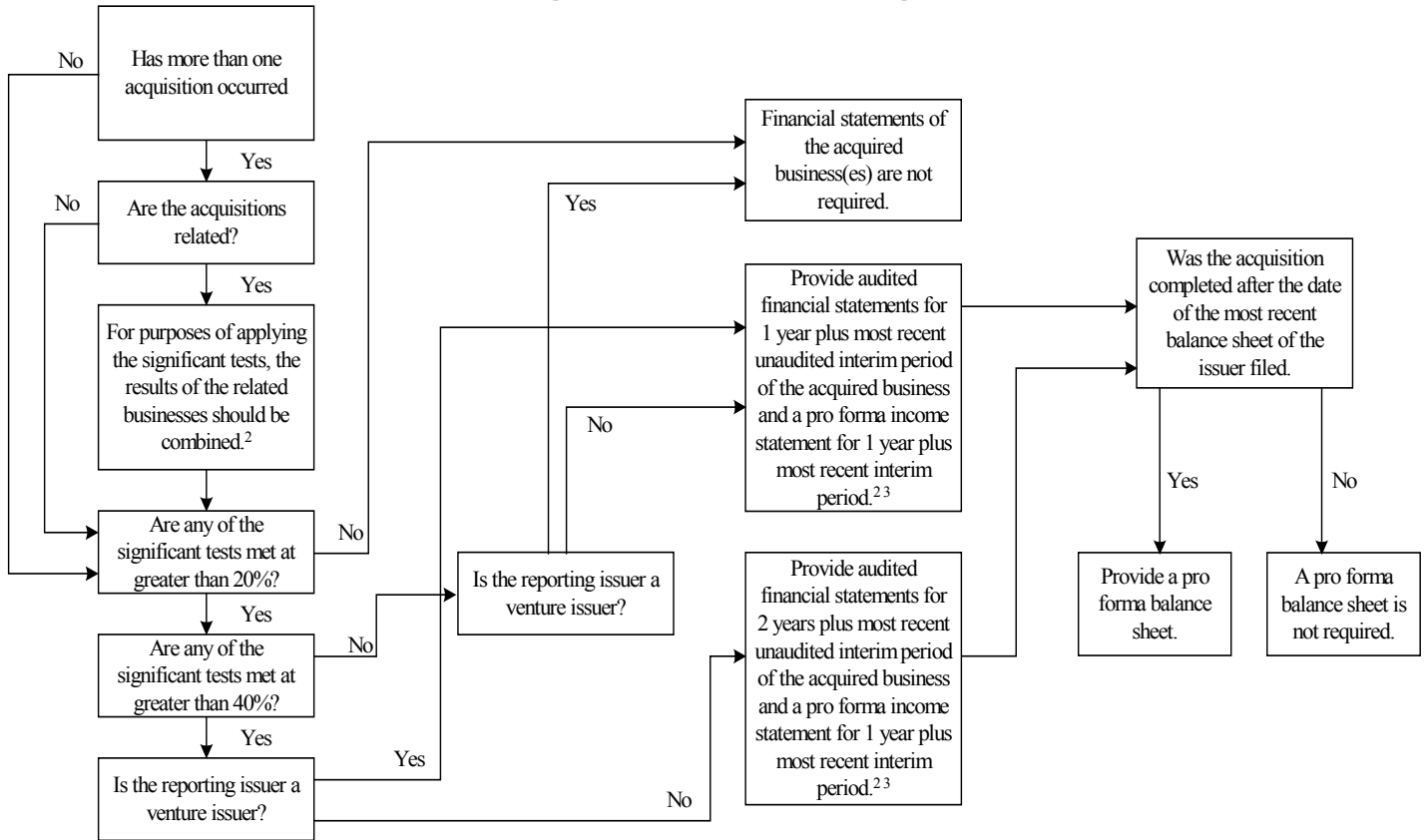
The following examples assume the old financial year ended on December 31, 20X0

| Transition Year | Comparative Annual Financial Statements to Transition Year | New Year End | Comparative Annual Financial Statements to New Financial Year | Interim Periods for Transition Year | Comparative Interim Periods to Transition Year | Interim Periods for New Financial Year | Comparative Interim Periods to New Financial Year |
|-------------------------|--|--------------|---|--|--|---|--|
| Up to 3 months | | | | | | | |
| 2 months ended 2/28/X1 | 12 months ended 12/31/X0 | 2/28/X2 | 2 months ended 2/28/X1 and 12 months ended 12/31/X0 * | Not applicable | Not applicable | 3 months ended 5/31/X1 6 months ended 8/31/X1 9 months ended 11/30/X1 | 3 months ended 6/30/X0 6 months ended 9/30/X0 9 months ended 12/31/X0 |
| Or | | | | | | | |
| 14 months ended 2/28/X2 | 12 months ended 12/31/X0 | 2/28/X3 | 14 months ended 2/28/X2 | 3 months ended 3/31/X1 6 months ended 6/30/X1 9 months ended 9/30/X1 12 months ended 12/31/X1 | 3 months ended 3/31/X0 6 months ended 6/30/X0 9 months ended 9/30/X0 12 months ended 12/31/X0 | 3 months ended 5/31/X2 6 months ended 8/31/X2 9 months ended 11/30/X2 | 3 months ended 6/30/X1 6 months ended 9/30/X1 9 months ended 12/31/X1 |
| or | | | | | | | |
| | | | | 2 months ended 2/28/X1 5 months ended 5/31/X1 8 months ended 8/31/X1 11 months ended 11/30/X1 | 3 months ended 3/31/X0 6 months ended 6/30/X0 9 months ended 9/30/X0 12 months ended 12/31/X0 | 3 months ended 5/31/X2 6 months ended 8/31/X2 9 months ended 11/30/X2 | 3 months ended 6/30/X1 6 months ended 9/30/X1 9 months ended 12/31/X1 |
| 4 to 6 months | | | | | | | |
| 6 months ended 6/30/X1 | 12 months ended 12/31/X0 | 6/30/X2 | 6 months ended 6/30/X1 and 12 months ended 12/31/X0 * | 3 months ended 3/31/X1 | 3 months ended 3/31/X0 | 3 months ended 9/30/X1 6 months ended 12/31/X1 9 months ended 3/31/X2 | 3 months ended 9/30/X0 6 months ended 12/31/X0 9 months ended 3/31/X1 |
| 7 or 8 months | | | | | | | |
| 7 months ended 7/31/X1 | 12 months ended 12/31/X0 | 7/31/X2 | 7 months ended 7/31/X1 and 12 months ended 12/31/X0 * | 3 months ended 3/31/X1 | 3 months ended 3/31/X0 | 3 months ended 10/31/X1 6 months ended 1/31/X2 9 months ended 4/30/X1 | 3 months ended 9/30/X0 6 months ended 12/31/X0 9 months ended 3/31/X1 |
| or | | | | | | | |
| | | | | 4 months ended 4/30/X1 | 3 months ended 3/31/X0 | 3 months ended 10/31/X1 6 months ended 1/31/X2 9 months ended 4/30/X1 | 3 months ended 9/30/X0 6 months ended 12/31/X0 10 months ended 4/30/X1 |

| 9 to 11 months | | | | | | | |
|--------------------------|--------------------------|----------|--------------------------|--|--|--|---|
| 10 months ended 10/31/X1 | 12 months ended 12/31/X0 | 10/31/X2 | 10 months ended 10/31/X1 | 3 months ended 3/31/X1 6 months ended 6/30/X1 | 3 months ended 3/31/X0 6 months ended 6/30/X0 | 3 months ended 1/31/X2 6 months ended 4/30/X2 9 months ended 7/31/X2 | 3 months ended 12/31/X0 6 months ended 3/31/X1 9 months ended 6/30/X1 |
| | | | | or | | | |
| | | | | 4 months ended 4/30/X1 7 months ended 7/31/X1 | 3 months ended 3/31/X0 6 months ended 6/30/X0 | 3 months ended 1/31/X2 6 months ended 4/30/X2 9 months ended 7/31/X2 | 3 months ended 12/31/X0 6 months ended 3/31/X1 9 months ended 6/30/X1 |

* Balance sheet required only at the transition year end date

**APPENDIX B
BUSINESS ACQUISITIONS DECISION CHART FOR DETERMINING
FINANCIAL STATEMENTS REQUIRED IN A BUSINESS ACQUISITION REPORT¹**



Notes:

- 1 This decision chart provides general guidance and should be read in conjunction with National Instrument 51-102 and Companion Policy 51-102CP.
- 2 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.
- 3 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.