

Notice of publication

Regulation to amend Regulation 51-102 respecting Continuous Disclosure Obligations

Amendments to Policy Statement to Regulation 51-102 respecting Continuous Disclosure Obligations

Regulation to amend Regulation 71-102 respecting Continuous Disclosure and Other Exemptions Relating to Foreign Issuers

Amendments to Policy Statement to Regulation 71-102 respecting Continuous Disclosure and Other Exemptions Relating to Foreign Issuers

Introduction

We, the Canadian Securities Administrators (the CSA or we), are implementing amendments to:

- *Regulation 51-102 respecting Continuous Disclosure Obligations* (Regulation 51-102),
- *Policy Statement to Regulation 51-102 respecting Continuous Disclosure Obligations* (Policy Statement 51-102),
- *Regulation 71-102 respecting Continuous Disclosure and Other Exemptions Relating to Foreign Issuers* (Regulation 71-102) and
- *Policy Statement to Regulation 71-102 respecting Continuous Disclosure and Other Exemptions Relating to Foreign Issuers* (Policy Statement 71-102).

This notice forms part of a series of notices which address changes to securities legislation arising from the upcoming changeover to International Financial Reporting Standards (IFRS).

Background

Regulation 51-102 sets out the obligations of reporting issuers, other than investment funds, for financial statements, management's discussion and analysis, annual information forms, business acquisition reports, material change reports, information circulars, proxies and proxy solicitation, restricted share disclosure and certain other continuous disclosure-related matters. Regulation 71-102 provides exemptions from most continuous disclosure requirements and certain other requirements for certain foreign issuers (Regulation 51-102 and Regulation 71-102 are collectively referred to in this notice as the "continuous disclosure rules").

The continuous disclosure rules refer to and rely on references to Canadian generally accepted accounting principles (Canadian GAAP), which are established by the Canadian Accounting Standards Board (AcSB). In February 2006, the AcSB published a strategic plan to transition, over a period of five years, Canadian GAAP for public enterprises to IFRS, as adopted by the International Accounting Standards Board (IASB). In March 2008, the timing of the transition was confirmed. IFRS will apply to most Canadian publicly accountable enterprises for financial years beginning on or after January 1, 2011.

The AcSB has incorporated IFRS into the Handbook of the Canadian Institute of Chartered Accountants (the Handbook) as Canadian GAAP for most publicly accountable enterprises. As a result, the Handbook contains two sets of standards for public companies:

- Part I of the Handbook – Canadian GAAP for publicly accountable enterprises that apply for financial years beginning on or after January 1, 2011, and

- Part V of the Handbook – Canadian GAAP for public enterprises that are the pre-changeover accounting standards (current Canadian GAAP).

The continuous disclosure rules also refer to and rely on references to current Canadian generally accepted auditing standards (Canadian GAAS), which are established by the Canadian Auditing and Assurance Standards Board (AASB). The AASB published their strategic plan to adopt International Standards on Auditing as Canadian Auditing Standards in February 2007. These standards will continue to be known as Canadian GAAS in the Handbook. Canadian Auditing Standards are effective for audits of financial statements for periods ending on or after December 14, 2010.

Consistent with these changes, the CSA is repealing and replacing *Regulation 52-107 respecting Acceptable Accounting Principles, Auditing Standards and Reporting Currency* (to be renamed *Acceptable Accounting Principles and Auditing Standards*) (Regulation 52-107). The new version of Regulation 52-107 will require domestic issuers to comply with IFRS for financial years beginning on or after January 1, 2011 and will set out the accounting principles and auditing standards that apply to financial statements filed in a jurisdiction. The implementation of the new version of Regulation 52-107 is described in a separate notice (the Regulation 52-107 Notice).

The amendments do not reflect the impact of exposure drafts or discussion papers from the IASB prior to their adoption into IFRS. The CSA is implementing amendments to *Regulation 14-101 respecting Definitions* to include a definition of IFRS that incorporates amendments made to IFRS from time to time.

Substance and Purpose of the Amendments

The primary purpose of the changes to the continuous disclosure rules is to accommodate the transition to IFRS and the new version of Regulation 52-107. A small number of housekeeping changes are also being made. The amendments:

- replace current Canadian GAAP terms and phrases with IFRS terms and phrases;
- change disclosure requirements in instances where IFRS contemplates different financial statements than current Canadian GAAP;
- provide a 30 day extension to the deadline for filing the first interim financial report in the year of adopting IFRS in respect of an interim period beginning on or after January 1, 2011; and
- clarify the current provisions or, where part or all of a provision is no longer accurate or appropriate, amend or delete it.

The regulations to amend Regulation 51-102 and Regulation 71-102 as well as the amendments to Policy Statement 51-102 and Policy Statement 71-102 are published with this notice.

Transition

After the IFRS changeover date on January 1, 2011, non calendar year-end issuers will continue to prepare financial statements in accordance with current Canadian GAAP until the start of their new financial year. To accommodate for this, we have included transition provisions in the regulations to amend the continuous disclosure rules that provide that the amendments only apply to documents required to be prepared, filed, delivered or sent under the rules for periods relating to financial years beginning on or after January 1, 2011. Thus, during the transition period,

- issuers filing financial statements prepared in accordance with current Canadian GAAP will be required to comply with the versions of the continuous disclosure rules that contain current Canadian GAAP terms and phrases, and

- issuers filing financial statements that comply with IFRS will be required to comply with the versions of the continuous disclosure rules that contain IFRS terms and phrases.

After the transition period all issuers will be required to comply with the versions of the continuous disclosure rules that contain IFRS terms and phrases.

To further assist issuers and their advisors and to increase transparency, during the transition period certain jurisdictions will post two different unofficial consolidations of the continuous disclosure rules on their websites:

- the current versions of the continuous disclosure rules that contain current Canadian GAAP terms and phrases, which apply to reporting issuers in respect of documents required to be prepared, filed, delivered or sent under the rules for periods relating to financial years beginning before January 1, 2011; and

- the new versions of the continuous disclosure rules that contain IFRS terms and phrases, which apply to reporting issuers in respect of documents required to be prepared, filed, delivered or sent under the rules for periods relating to financial years beginning on or after January 1, 2011.

52/53 week financial years

Notwithstanding the above, the regulations to amend the continuous disclosure rules now include a transition provision which provides that the amendments may be applied by an issuer to all documents required to be prepared, filed, delivered or sent under the rule for periods relating to a financial year that begins before January 1, 2011 if the immediately preceding financial year ends no earlier than December 21, 2010 and if the issuer is relying on the exemption in section 5.3 of the new version of Regulation 52-107. That exemption in Regulation 52-107 permits issuers that have financial year ends close to, but not on December 31, 2010, the option to transition to IFRS when their new financial year begins.

Rate-regulated activities

Furthermore, subsection 1.4(9) of Policy Statement 51-102 provides that if a qualifying entity is relying on the exemption in paragraph 5.4(1)(a) of the new version of Regulation 52-107, then the qualifying entity may interpret any reference in Regulation 51-102 to a term or provision defined or used in Canadian GAAP applicable to publicly accountable enterprises as a reference to the corresponding term or provision in Part V of the Handbook.

Summary of Written Comments Received by the CSA

The CSA, except the Autorité des marchés financiers and the New Brunswick Securities Commission, published the amendments to the continuous disclosure rules for comment on September 25, 2009 (the September 2009 Materials). In this regard,

- We received submissions from 3 commenters who submitted comment letters on the September 2009 Materials. The names of the commenters and a summary of the comments on the September 2009 Materials, together with our responses, are in Appendix B to this notice.

- We also received submissions on the September 2009 Materials from commenters who submitted comment letters on the proposed changes to Regulation

52-107. The names of those commenters and a summary of their comments, together with our responses, are in Appendices A and B to the Regulation 52-107 Notice.

The Autorité des marchés financiers and the New Brunswick Securities Commission published the amendments to the continuous disclosure rules for comment on March 12, 2010. No comments were received.

We thank the commenters for their comments.

Summary of Changes to the September 2009 Materials

Financial statement requirements for significant acquisitions

In Regulation 51-102, we made changes to Part 8 that are necessary to give effect to the harmonized approach adopted in Regulation 52-107 to the financial statement requirements for significant acquisitions (the harmonized approach for acquisition statements is described in the Regulation 52-107 Notice). In particular,

- for the purposes of calculating the significance tests in section 8.3(2) and (4), the financial statements for the business or related businesses are no longer required to be reconciled to the issuer's GAAP,
- for non-venture issuers, the amounts used for the business or related businesses must be based on the issuer's GAAP,
- for venture issuers, the amounts do not need to be based on the issuer's GAAP provided the financial statements for the business or related businesses are (i) prepared in accordance with Canadian GAAP applicable to private enterprises, and (ii) consolidate any subsidiaries and account for significantly influenced investees and joint ventures using the equity method, and none of the accounting principles described in paragraphs 3.11(1)(a) through (e) of Regulation 52-107 were used to prepare financial statements for the business or related businesses,
- subsection 8.4(7)(b) now requires a reporting issuer to include in the pro forma financial statements (i) adjustments attributable to each significant acquisition for which there are firm commitments and the complete financial effects are objectively determinable and (ii) adjustments to conform amounts for the business or related businesses to the issuer's accounting policies. Adjustment (i) noted above was previously included in subsection 8.7(5) of 51-102CP, and
- the provisions will apply in Ontario.

In 51-102CP,

- we provided further guidance related to acquisition statements in subsection 8.2(2), and
- we have also amended subsections 8.7(5) and 8.7(9) to clarify the types of pro forma adjustments that may be necessary if the financial statements for a business or related business are prepared in accordance with accounting principles that differ from the issuer's GAAP and the financial statements do not include a reconciliation to the issuer's GAAP.

Other changes

See Appendix A for a detailed summary of other changes made to the September 2009 Materials. The changes include terminology changes to maintain consistency with Regulation 52-107.

Implementation

In some jurisdictions, Ministerial approval is required for these changes. Provided all necessary approvals are obtained, the amendments will come into force on January 1, 2011.

Questions

Please refer your questions to any of:

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October 1, 2010

Appendix A

Summary of Changes to the September 2009 Materials

A. Terms and Phrases

We replaced or revised the following terms or phrases used in the September 2009 Materials. In most cases, the new term or phrase provides greater clarity or better reflects IFRS and the new Canadian Auditing Standards.

Previous Term or Phrase	New Term or Phrase
Canadian GAAP	Canadian GAAP applicable to publicly accountable enterprises “Publicly accountable enterprise” has been defined in section 1.1(1) of Regulation 51-102.
discloses that the audit opinion with respect to the financial statements referred to in subparagraph (i), or the financial information referred to in subparagraph (ii), was issued without a modified opinion	discloses that the auditor expressed an unmodified opinion with respect to the financial statements referred to in subparagraph (i), or the financial information referred to in subparagraph (ii)
former auditor	predecessor auditor
operating segments that are reportable segments	operating segments that are reportable segments as those terms are described in the issuer’s GAAP
reservation in the auditor’s interim review report	reservation of opinion in the auditor’s interim review report
revenue, expenses, gains and losses	income, expenses, gains and losses

B. Other Changes

We made the following additional changes.

Regulation 51-102

Section	Term, Phrase or Matter	Explanation of Change
1.1(1)	“acquisition date”	The definition has been clarified so that it has “the same meaning as in the issuer’s GAAP”
1.1(1)	“private enterprise”	This term has now been defined to have the same meaning as in Part 3 of Regulation 52-107.
1.1(1)	“profit or loss attributable to owners	The term has now been defined to have the same meaning as in Canadian GAAP applicable to

Section	Term, Phrase or Matter	Explanation of Change
	of the parent"	publicly accountable enterprises.
1.1(1)	"profit or loss from continuing operations attributable to owners of the parent"	The term has now been defined to have the same meaning as in Canadian GAAP applicable to publicly accountable enterprises.
1.1(1)	"publicly accountable enterprise"	This term has now been defined to have the same meaning as in Part 3 of Regulation 52-107.
1.1(1)	"retrospective" and "retrospectively"	Those terms have now been defined to have "the same meaning as in Canadian GAAP applicable to publicly accountable enterprises"
1.1(1)	"reverse takeover"	The definition has been revised so that it will continue to apply to the same transactions that are currently subject to Regulation 51-102.
8.1(1)	"specified profit or loss"	<p>We changed the defined term from "acquisition test profit or loss" to "specified profit or loss" for the purposes of the significance test.</p> <p>We revised the definition of the term to mean "profit or loss from continuing operations attributable to owners of the parent, adjusted to exclude income taxes." This terminology is consistent with that used in IFRS. The change was made to capture the same level of financial information as currently required in Regulation 51-102.</p>
8.3(7)	Application of the Profit or Loss Test if a Loss Occurred	We clarified that the significance test should be applied using the absolute value of the loss "from continuing operations attributable to owners of the parent, adjusted to exclude income taxes" in situations where the business or the related businesses have incurred a loss. This change is consistent with the terminology used in IFRS. The change was made so that the significance test is applied using the same level of financial information as currently required in Regulation 51-102.
8.4(3.2) 8.12(1)	Application	We have removed these subsections as these sections will now apply in Ontario.
8.4(7)	Preparation of Pro Forma Financial Statements	We have amended this section to require issuers, when preparing pro forma financial statements, to include adjustments attributable to each significant acquisition for which there are firm commitments and the complete financial effects are objectively determinable and adjustments to conform amounts for the business or related businesses to the issuer's accounting policies.

Section	Term, Phrase or Matter	Explanation of Change
8.10(3)(e)	Operating statement for an oil and gas property	We have deleted the specific line items to be included in an operating statement for an oil and gas property and have made reference to subsection 3.11(5) of Regulation 52-107 where the specified requirements are noted.
13.4	Definition of “summary financial information”	The definition has been amended to require the disclosure of profit or loss from continuing operations and profit or loss, both “attributable to owners of the parent”. This change is intended to require the disclosure of the same financial information as currently required in Regulation 51-102.

Form 51-102F1

Section	Term, Phrase or Matter	Explanation of Change
1.3, 1.4 and 1.5	profit or loss from continuing operations attributable to owners of the parent	We replaced “profit or loss before discontinued operations” with “profit or loss from continuing operations attributable to owners of the parent”. The purpose of this revision is to achieve the same level of disclosure as previously required under Canadian GAAP in situations where non-controlling interests exist.
1.3, 1.5	Transition	We revised the instructions in Items 1.3 and 1.5 of Form 51-102F1 to indicate that any financial information presented and prepared in accordance with previous GAAP, be clearly labelled to indicate the accounting principles used. If the financial data presented was not prepared in accordance with the same accounting principles for all periods, the instructions now provide guidance to focus the discussion on the important trends and risks that have affected the business, as opposed to the changes in accounting principles.
1.3, 1.5, 1.6 and 2.2	profit or loss attributable to owners of the parent	We replaced “profit or loss” with “profit or loss attributable to owners of the parent.” This change was made to be consistent with the disclosure requirements under IFRS.
1.9	transactions between related parties	We replaced “transactions with related parties” with “transactions between related parties” to include transactions between related parties.

Policy Statement 51-102

Section	Term, Phrase or Matter	Explanation of Change
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8.7(5)	Preparation of Pro Forma Financial Statements Giving Effect to Significant Acquisitions – Acceptable Adjustments	We have revised the guidance to reflect the changes to subsection 8.4(7) of Regulation 51-102.
8.7(9)	Pro Forma Financial Statements where Financial Statements of a Business or Related Businesses are Prepared using Accounting Principles that Differ from the Issuer's GAAP	We have added guidance to reflect the changes to Regulation 52-107 and Regulation 51-102.
8.9(2)	Exemptions From Requirement for Financial Statements in a Business Acquisition Report – Conditions to Exemptions	We replaced the reference to “statement of net operating income for a business” to “statement of operations” as this is the term generally used elsewhere in securities legislation.

C. Transition, Drafting and Housekeeping Changes

We also made certain drafting and housekeeping changes to various provisions.

We decided not to proceed with the proposal to add certain transition provisions as section 14.4 of Regulation 51-102 and section 7.2 of Regulation 71-102. We decided that these transition provisions were not necessary since section 34 of the Regulation to amend Regulation 51-102 and section 13 of the Regulation to amend Regulation 71-102 provide that the amendments only apply to documents required to be prepared, filed, delivered or sent under the rules for periods relating to financial years beginning on or after January 1, 2011.

52/53 week financial years

The regulations to amend the continuous disclosure rules now include a transition provision which provides that the amendments may be applied by an issuer to all documents required to be prepared, filed, delivered or sent under the rule for periods relating to a financial year that begins before January 1, 2011 if the immediately preceding financial year ends no earlier than December 21, 2010 and if the issuer is relying on the exemption in section 5.3 of the new version of Regulation 52-107. That exemption in Regulation 52-107 permits issuers that have financial year ends close to, but not on December 31, 2010, the option to transition to IFRS when their new financial year begins.

Rate-regulated activities

Subsection 1.4(9) of Policy Statement 51-102 provides that if a qualifying entity is relying on the exemption in paragraph 5.4(1)(a) of the new version of Regulation 52-107, then the qualifying entity may interpret any reference in Regulation 51-102 to a term or provision defined or used in Canadian GAAP applicable to publicly accountable enterprises as a reference to the corresponding term or provision in Part V of the Handbook.

Appendix B

List of Commenters and Summary of Comments and Responses

List of Commenters

Company or Organization	Name of Commenter
ATCO Ltd. and Canadian Utilities Limited	Brian R. Bale
TransAlta Corporation	Kevin Morris
Enerplus Resources Fund	Robert J. Waters

Summary of Comments and CSA Responses

#	Theme	Comments	Responses
	GENERAL COMMENTS		
1.	Filing Extension	<p>Three commenters expressed their support for the 30 day filing extension for first quarter filings.</p> <p>One commenter recommended the 30 day filing extension should be available for all quarters in the year of adoption due to the increased volume of disclosures required by IFRS.</p>	<p>We thank commenters for their support.</p> <p>Although we continue to believe that a 30 day filing extension for the first quarter filings is appropriate due to the additional time required to prepare and approve the first set of IFRS financial statements, we continue to believe that the filing deadlines for periods following the initial changeover to IFRS are reasonable and appropriate.</p>
2.	Selected Annual Information	<p>One commenter recommended that the selected annual information presented in the MD&A be only for 2 years as opposed to 3 years to recognize the transition to IFRS and stated that this would be consistent with the SEC's requirements.</p>	<p>We believe the three year trend discussion in the MD&A provides useful information. Consistent with the financial statement requirements in Regulation 52-107, the third year back does not need to be in IFRS.</p> <p>In Part 2 of Form 51-102F1 we have revised the instructions to Item 1.3 and the instructions to Item 1.5 to indicate that issuers should indicate the accounting principles that the financial data has been prepared in accordance with, and if the financial data provided was not prepared in accordance with the same accounting principles for all periods, the discussion should</p>

#	Theme	Comments	Responses
			focus on the important trends and risks that have affected the business.