Notice of publication

Regulation to amend Regulation 51-102 respecting Continuous Disclosure Obligations*, including Form 51-102F6, *Statement of Executive Compensation

Consequential Amendments

Introduction

We, the Canadian Securities Administrators (CSA), are adopting amendments to Form 51-102F6 *Statement of Executive Compensation* (the Form 51-102F6 Amendments) of *Regulation 51-102 respecting Continuous Disclosure Obligations*.

The Form 51-102F6 Amendments will amend the previous version of Form 51-102F6 *Statement of Executive Compensation (in respect of financial years ending on or after December 31, 2008)* (Form 51-102F6), which came into effect in all CSA jurisdictions on December 31, 2008.

Concurrently with the Notice, we are publishing the *Regulation to amend Regulation 51-102 respecting Continuous Disclosure Obligations*, which includes the Form 51-102F6 Amendments, and the Consequential Amendments (as defined below). These documents are also available on the websites of CSA members, including the following:

- www.bcsc.bc.ca
- www.albertasecurities.com
- www.osc.gov.on.ca
- www.lautorite.qc.ca
- www.nbsc-cvmnb.ca
- www.gov.ns.ca/nssc

In some jurisdictions, Ministerial approvals are required for these changes. Subject to obtaining all necessary approvals, the Form 51-102F6 Amendments and Consequential Amendments (as defined below) will come into force on **October 31, 2011**.

Transition

The Form 51-102F6 Amendments will apply in respect of financial years ending on or after October 31, 2011. The Form 51-102F6 Amendments will also form part of *Regulation 51-102 respecting Continuous Disclosure Obligations* (Regulation 51-102), which sets out the obligations of reporting issuers, other than investment funds, for financial statements, management's discussion and analysis, annual information forms, information circulars and other continuous disclosure-related matters.

Regulation 51-102 refers and relies on references to Canadian generally accepted accounting principles (Canadian GAAP), which are established by the Canadian Accounting Standards Board (AcSB). The AcSB has incorporated International Financial Reporting Standards (IFRS), as adopted by the International Accounting Standards Board (IASB), into the Handbook of the Canadian Institute of Chartered Accountants (the Handbook) for most Canadian publicly accountable enterprises for financial years beginning on or after January 1, 2011. As result, the Handbook contains two sets of standards for public companies:

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

- Part V of the Handbook – Canadian GAAP for public enterprises that is the pre-changeover accounting standards (2010 Canadian GAAP).

After the IFRS changeover date on January 1, 2011, non-calendar year-end issuers will continue to prepare financial statements in accordance with 2010 Canadian GAAP until the start of their new financial year.

To further assist issuers and their advisors and increase transparency, during the transition period, certain jurisdictions will post two different unofficial consolidations of Regulation 51-102 that will include the Form 51-102F6 Amendments on their websites:

- the version of Regulation 51-102 that contains 2010 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 version of Regulation 51-102 that contains 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.

Substance and Purpose of the Form 51-102F6 Amendments

On September 18, 2008, we announced the adoption of Form 51-102F6, which became effective across all CSA jurisdictions on December 31, 2008. In adopting Form 51-102F6, the CSA's stated intention was to create a document that would continue to provide a suitable framework for disclosure as compensation practices change over time.

On November 20, 2009, CSA Staff Notice 51-331 *Report on Staff's Review of Executive Compensation Disclosure* (the Staff Notice) was issued and reported the findings of a targeted compliance review of executive compensation disclosure. 70 reporting issuers were selected for this review. Staff of the British Columbia Securities Commission, the Alberta Securities Commission, the Ontario Securities Commission and the Autorité des marchés financiers participated in the targeted compliance reviews.

The focus of the reviews was to:

(i) assess compliance with Form 51-102F6,

(ii) use the review results to educate companies about the new requirements, and

(iii) identify any requirements that need clarification or further explanation to assist companies in fulfilling their disclosure obligations.

We asked most of the companies reviewed to improve their disclosure in future filings in respect of the disclosure issues that were identified in the targeted reviews and discussed in the Staff Notice.

In addition, we have seen a number of recent international developments in the area of executive compensation. In particular, on December 16, 2009, the Securities and Exchange Commission (SEC) adopted rules amending compensation and corporate governance disclosure requirements for U.S. companies in the 2010 proxy season (the 2010 SEC Amendments). In addition, on July 15, 2010, the United States Congress passed a final version of the *Dodd-Frank Wall Street Reform and Consumer Protection Act* (the Dodd-Frank Act), which came in force for the 2011 proxy disclosures.

We reviewed the issues discussed in the Staff Notice and the amendments in the 2010 SEC Amendments and the Dodd-Frank Act that we thought are also relevant to Canadian reporting issuers. As a result, we developed proposed amendments to Form

51-102F6 to improve the information companies provide investors about key risks, governance and compensation matters. The Form 51-102F6 Amendments were published for a 90-day comment period on November 19, 2010 (the November 2010 Materials).

The Form 51-102F6 Amendments, which range from drafting changes to clarify existing disclosure requirements to new substantive requirements, reflects our further consideration of these proposed amendments in light of the comments we received. We think the Form 51-102F6 Amendments will help investors make more informed voting and investment decisions and will enhance the quality of information provided to investors and assist companies in fulfilling their executive compensation disclosure obligations.

Written Comments

The comment period expired on February 17, 2011. During the comment period we received submissions from 28 commenters. We have considered these comments and we thank all the commenters. A list of the 28 commenters and a summary of their comments, together with our responses, are contained in Appendices B and C.

Summary of Changes to the November 2010 Materials

We have made some revisions to the November 2010 Materials, including drafting changes made only for the purposes of clarification or in response to comments received. Appendix A describes the key changes made to the November 2010 Materials. As the changes are not material, we are not republishing the Form 51-102F6 Amendments for a further comment period.

Consequential Amendments

We are also adopting related consequential amendments to *Regulation 58-101 respecting Disclosure of Corporate Governance Practices*, specifically Form 58-101F1 *Corporate Governance Disclosure* and Form 58-101F2 *Corporate Governance Disclosure (Venture Issuers)* (the Consequential Amendments).

Local Notices

Certain jurisdictions are publishing other information required by local securities legislation as an appendix to this Notice.

Questions

If you have any questions, please refer them to any of the following:

Autorité des marchés financiers

Lucie J. Roy
Senior Policy Advisor
Service de la réglementation
Phone: 514-395-0337, ext 4464
E-mail: lucie.roy@lautorite.qc.ca

Pasquale Di Biasio
Analyst
Service de l'information continue
Phone: 514-395-0337, ext 4385
E-mail: pasquale.dibiasio@lautorite.qc.ca

British Columbia Securities Commission

Jody-Ann Edman
Senior Securities Analyst, Corporate Finance
Phone: 604-899-6698
E-mail: jedman@bcsc.bc.ca

Alberta Securities Commission

Cheryl McGillivray
Manager, Corporate Finance
Phone: 403-297-3307

Anne Marie Landry
Securities Analyst
Phone: 403-297-7907

E-mail: cheryl.mcgillivray@asc.ca

E-mail: annemarie.landry@asc.ca

Ontario Securities Commission
Sonny Randhawa
Assistant Manager, Corporate Finance
Phone: 416-204-4959
E-mail: srandhawa@osc.gov.on.ca

Christine Krikorian
Accountant, Corporate Finance
Phone: 416-593-2313
E-mail: ckrikorian@osc.gov.on.ca

Frédéric Duguay
Legal Counsel, Corporate Finance
Phone: 416-593-3677
Email: fduguay@osc.gov.on.ca

New Brunswick Securities Commission
Pierre Thibodeau
Senior Securities Analyst
Phone: 506-643-7751
E-mail: pierre.thibodeau@nbsc-cvmnb.ca

Nova Scotia Securities Commission
Junjie (Jack) Jiang
Securities Analyst, Corporate Finance
Phone: 902-424-7059
E-mail: jiangjj@gov.ns.ca

July 22, 2011

Appendix A

Summary of Key Changes to the November 2010 Materials

Form 51-120F6 Amendments

Item 1 – General Provisions

Subsection 1.3(9) – Currencies

- We amended subsection 1.3(9) to provide flexibility if the company's performance goals and similar conditions disclosed in the Compensation Discussion and Analysis are in a currency different than the currency presented in the prescribed tables, which may be for purposes of consistency with financial reporting obligations. As a result, a company must use the same currency in the tables prescribed in sections 3.1, 4.1, 4.2, 5.1, 5.2 and 7.1 of the form.

Item 2 – Compensation Discussion and Analysis (CD&A)

Subsection 2.1(5) – Risks associated with the company's compensation policies and practices

- We amended subsection 2.1(5) to include the words "or a committee of the board" in order to recognize that compensation-related duties may be delegated to a committee of the board.

Commentary

- We revised the commentary to clarify that, if the company used any benchmarking in determining compensation or any element of compensation, the company should include the benchmark and describe why the benchmark group and selection criteria are considered by the company to be relevant.

- We added commentary to the examples of situations that could potentially encourage an executive officer to expose the company to inappropriate or excessive risks by including the example of incentive plan awards that do not provide a maximum benefit or payout limit to executive officers.

- We also added commentary to clarify that the examples of situations that could potentially encourage an executive officer to expose the company to inappropriate or excessive risks are not exhaustive and the situations to consider will vary depending upon the nature of the company's business and the company's compensation policies and practices.

Section 2.4 – Compensation Governance

- We amended paragraph 2.4(2)(a) to read:

  - Disclose the name of each committee member and, in respect of each member, state whether or not the member is independent or not independent.

- In paragraph 2.4(2)(c), we removed the words "that are consistent with a reasonable assessment of the company's risk profile" because we concluded that the words were unnecessary and confusing.

- We amended paragraph 2.4(3)(c) to read:

  - If the consultant or advisor has provided any services to the company, or to its affiliated or subsidiary entities, or to any of its directors or members of management, other than or in addition to compensation services provided for any of the company's directors or executive officers,

(i) state this fact and briefly describe the nature of the work,

(ii) disclose whether the board of directors or compensation committee must pre-approve other services the consultant or advisor, or any of its affiliates, provides to the company at the request of management.

- In subparagraphs 2.4(3)(d)(i) and (ii), we added the word "each" to clarify that the company must disclose aggregate fees paid on a "per consultant" basis.

Item 4 – Incentive Plan Awards

Section 4.1 – Outstanding share-based awards and option-based awards

- We amended subsection 4.1(3) to clarify that if the company has granted options in a different currency than that reported in the table, the company must include a footnote describing the currency and the exercise or base price. This amendment is also made in response to the requirement in subsection 1.3(9) that the company must use the same currency in the prescribed tables of the form.

Item 5 – Pension Plan Benefits

Section 5.1 – Defined benefit plans table

- We amended paragraph 5.1(4)(a) to include the requirement that, for purposes of calculating the annual lifetime benefit payable at the end of the most recently completed financial year in column (c1), the company must assume that the NEO is eligible to receive payments or benefits at year end.

- We added commentary to clarify that the company may calculate the annual lifetime benefit payable in accordance with the formula included as commentary or in accordance with another formula if the company reasonably believes that the other formula produces a more meaningful calculation of the annual lifetime benefit payable at year end.

Section 5.2 – Defined contribution plans table

- In response to questions 6 and 7 published in the notice to the November 2010 Materials and comments received, we removed the requirement in subsection 5.2(3) to disclose the non-compensatory amount, including employee contributions and regular investment earnings on employer and employee contributions.

Appendix B

List of Commenters

We received 28 comment letters in response to the request for comment. We thank the commenters for their comments.

1. Astral Media Inc.
2. BC Investment Management Corporation
3. Blake, Cassels & Graydon LLP
4. Bombardier Inc.
5. Canadian Bankers Association
6. Canadian Coalition for Good Governance
7. Canadian Society of Corporate Secretaries
8. CGI Group Inc.
9. Chris Reed (Investor)
10. Edwin A. Simmons (Investor)
11. H. Garfield Emerson
12. Hugessen Consulting Inc.
13. Institutional Shareholder Services
14. Loblaw Companies Limited
15. Mercer (Canada) Limited
16. Metro Inc.
17. Mouvement d'éducation et de défense des actionnaires
18. NEI Investments
19. Ogilvy Renault LLP
20. Ontario Teachers' Pension Plan
21. Pension Investment Association of Canada
22. Praemis Consulting
23. Regroupement Independent des Conseillers de l'Industrie Financière du Québec
24. Robert Gatto (Investor)
25. Shareholder Association for Research & Education
26. Social Investment Organization
27. Towers Watson Canada Inc.
28. WestJet Airlines Ltd.

The comment letters are available at www.osc.gov.on.ca.

In the following summary, we refer to the authors of a comment letter as "the commenter" regardless of the number of authors.

Appendix C

Summary of Comments And CSA Responses

ITEM	COMMENTS	CSA RESPONSES
GENERAL COMMENTS		
0.1	Generally, 17 commenters supported the proposed amendments and believed they will improve the quality of executive compensation disclosure and help investors make more informed voting and investment decisions.	We thank the commenters for their support.
0.2	Three commenters did not believe that the proposed amendments were needed at this time, given that the new executive compensation disclosure requirements have only been in place for two years, and questioned whether further changes were appropriate at this time.	As part of the rulemaking process, we closely monitor new rules in the first year after implementation to ensure that they are working as intended and we may consider additional communication or additional amendments to address any issues that arise as a result of this monitoring process. As stated in the Notice, the November 2010 Materials were published after reviewing, among others, the issues discussed in CSA Staff Notice 51-331 *Report on Staff's Review of Executive Compensation Disclosure* (CSA Staff Notice 51-331), published on November 20, 2009.
0.3	One commenter noted that, since most investors now participate in the capital markets indirectly through managed funds of one type or another, securities regulators should focus on how compensation structures function for fund managers, and particularly whether their compensation aligns their interests with those of the investors for whom they act, namely whether their compensation is appropriately linked to their performance in creating value for investors.	We thank the commenter for the comment. Reviewing the compensation policies and practices for investment fund managers is beyond the scope of this initiative. We have forwarded this comment to the CSA committee responsible for *Regulation 81-106 respecting Investment Fund Continuous Disclosure*.
0.4	Commenters support the CSA efforts to harmonize, where possible, the proposed amendments with the executive compensation disclosure requirements in the United States, given the number of companies in Canada that are also listed on U.S. stock exchanges.	We thank the commenters for their support. Our goal is to develop effective executive compensation disclosure rules in Canada. Though we have reviewed the provisions of the *Dodd-Frank Wall Street Reform and Consumer Protection Act* and the latest amendments made by Securities and Exchange Commission that we think are also relevant to Canadian reporting issuers, we have made some departures that we think are appropriate for our Canadian markets.
ITEM 1 – GENERAL PROVISIONS		
1.1	**Section 1.1 – Objective** Commenters asked that we clarify why the language in the objective section (and the corresponding commentary following	We have not amended the Form in response to these comments. Subsection 3.1(3) and (4) of the Form requires companies to disclose

	subsection 3.1(5)) has been revised. In addition, five commenters suggest that the proposed amendment should not be made. In particular, the commenters do not support the amendments made to the requirements in section 3.1 relating to the board's intended annual compensation for option-based awards, because they find the current wording to be more in line with the board's decisions and they think that the proposed amendment will be detrimental to appropriate and meaningful disclosure.	the fair value of the award on the grant date for share-based awards and option-based awards in the appropriate columns in the Summary Compensation Table (SCT). Under these requirements, the fair value of the award on the grant date for these types of awards must be reported in the SCT in the year of grant irrespective of whether part or all of the award relates to multiple financial years and payout is subject to performance goals and similar conditions, including vesting, to be applied in future financial years. We also clarified this requirement in CSA Staff Notice 51-331.
1.2	**Section 1.2 – definition "named executive officer" (NEO)** Six commenters suggest the words "including any of its subsidiaries" should be revised to clarify that only executive officers that have policy-making functions at the issuer level should be considered as NEOs of the issuer. The commenters believe that executive officers of subsidiaries should not be considered NEOs of the parent company unless they perform a policy-making function with respect to the parent company. One commenter suggests that we amend the definition of "executive officer" in section 1.1 of *Regulation 51-102 respecting Continuous Disclosure Obligations* (Regulation 51-102). In particular the reference to "vice president in charge" should be amended to "executive" in charge to capture presidents of principal business units or subsidiaries. One commenter suggests that, given the prevalence of reporting issuers which are in turn subsidiaries of other reporting issuers, there should be an exemption, in either the definition of NEO, or in the Form disclosure requirements, for disclosure of executive officers of subsidiaries which themselves are reporting issuers. The commenter argues that, in such circumstances, the CD&A of the parent company would only provide a reference to the disclosure of the public subsidiary and would provide "double counting" of the same disclosure.	 We agree and we do not think that an amendment to the definition of "NEO" is necessary to address this comment. Under the paragraph (c) of the definition of "executive officer" in section 1.1 Regulation 51-102, a director, an officer, or another employee of a subsidiary of a company is an executive officer of the company if that individual performs a policy-making function in respect of the company. Such an individual would also be an NEO for the purposes of the Form if the individual otherwise satisfies the criteria set out in the definition of "NEO". We acknowledge the comment and we do not propose to amend the definition of "executive officer" to address this comment. We have forwarded this comment to the CSA committee responsible for Regulation 51-102 for further consideration. We have not made the suggested change. The Form requires disclosure for each CEO and CFO, regardless of their compensation and each of three most highly compensated executive officers whose total compensation is greater than $150,000. Under this definition, an executive officer who otherwise satisfies the definition of "NEO" for the parent company will be an NEO, even if the same individual is also an NEO for the subsidiary. We do not agree that this requirement would result in "double counting" of the same disclosure. The CD&A requires a discussion and analysis of the executive compensation provided to NEOs of the company. In certain circumstances, companies will be required to disclose information about how their compensation

		policies and decisions apply to an NEO who is also an NEO of a subsidiary or an NEO of the parent.
1.3	**Subsection 1.3(2) – Departures from format** Six commenters support the proposed requirement to clarify that a company may not alter the presentation of the SCT by adding columns or other information and agree that a common format for the SCT creates consistency in reporting. Conversely, four commenters did not support the proposed amendment and recommended that we remove the prohibition on altering the presentation of the SCT. One commenter suggests that the proposed requirement to not alter the format of the SCT should be extended to all prescribed tables under the Form. Two commenters suggest that we amend the proposed requirement to permit the addition of a "total direct compensation" column before the "pension benefits" column of the SCT.	We thank the commenters for their support. As explained in Staff Notice 51-331, the SCT provides a comprehensive overview of a company's executive compensation policies and practices in a consistent and meaningful way. We have amended subsection 1.3(2) to clarify that companies may choose to add another table and other information, so long as the additional information does not detract from the SCT prescribed in subsection 3.1(1). In light of our response above, we have not amended the Form in response to this comment. We have not amended the Form in response to this comment. We think that the SCT serves as the principal disclosure vehicle for executive compensation and applies to all companies. On the other hand, we think that the other prescribed tables in the Form will not necessarily apply to all companies. We have not amended the Form in response to this comment. We reiterate that subsection 1.3(2) allows a company to provide additional tables and information in the Form, as a supplement to the SCT, if necessary to achieve the objective of executive compensation disclosure in section 1.1 of the Form.
1.4	**Subsection 1.3(9) – Currencies** Two commenters believe the requirement to use a single currency throughout the Form may be too stringent and misleading to investors, as it may be interpreted as prohibiting issuers to disclose factual information in foreign currency in the CD&A where this information is necessary to understand the compensation decisions made by the board of directors. For example, stock options for which the exercise price is set in a different currency should not be converted to Canadian dollars. In addition, one commenter suggests that the requirement to use a single currency apply to all the tables prescribed by the Form, and to the quantification of termination and change of control payments and benefits, but companies be allowed to use the currency or currencies in the CD&A that they believe are the most appropriate to use when explaining	We have amended subsection 1.3(9) in response to these comments. We acknowledge that a company's performance goals and similar conditions disclosed in the CD&A may be in a currency different than the currency presented in the tables, which may be for purposes of consistency with financial reporting obligations. We have amended the first paragraph in subsection 1.3(9) of the Form to read: "A company must report amounts required by this form in Canadian dollars or in the same currency that the company uses for its financial statements. A company must use the same currency in the tables prescribed in

	their compensation decisions for the year to their investors. Two commenters ask that we clarify the preferred approach to report individual option-based awards disclosed in the outstanding share-based awards and option-based awards table that have been granted with an exercise price in a different currency than reported in the SCT.	sections 3.1, 4.1, 4.2, 5.1, 5.2 and 7.1 of this form." We have amended subsection 4.1(3) of the Form to read: "If the option was granted in a different currency than that reported in the table, include a footnote describing the currency and the exercise or base price."
1.5	**Subsection 1.3(10) – Plain Language** Five commenters believe that the requirement to explain "how specific NEO and director compensation relates to the overall stewardship and governance of the company" is unclear and confusing and that the words "overall stewardship and governance of the company" seem to tie compensation disclosure with board and NEO fiduciary duties. One commenter suggests that the requirement be amended to provide that companies should be disclosing how their executive compensation policies and procedures incentivize management to achieve their companies' stated objectives, overall strategy and risk management objectives.	We acknowledge the comment and disagree. We have not amended the Form as we think the words "how specific NEO and director compensation relates to the overall stewardship and governance of the company" are tied to the overall objective of executive compensation disclosure set out in section 1.1 of the Form. In light of our response above, we have not amended the Form in response to this comment.
ITEM 2 – COMPENSATION DISCUSSION & ANALYSIS (CD&A)		
2.1	**Section 2.1 – CD&A (materiality)** One commenter suggests that we amend subsection 2.1(1) by inserting the words "material aspect of" following the word "include" and preceding the words "the following" so that there is an element of materiality added to the requirements for CD&A disclosure.	We continue to think that companies must determine which of their compensation policies and practices are significant and disclose these policies and practices if necessary to satisfy the objective set out in section 1.1 of the Form.
2.2	**Section 2.1 – CD&A (additional commentary)** Five commenters did not support the additional commentary asking the company to consider whether the company will be making any significant changes to its compensation policies and practices in the next financial year and disclose the changes. They argued that this proposed disclosure requirement would force companies to speculate about whether any significant compensation changes may take place in the future.	We disagree. The additional commentary after section 2.1 of the Form is provided as an example of disclosure concerning compensation and is not intended to be a prescribed requirement. We note that a company would only be required to discuss whether the company will be making significant changes to its compensation policies and practices in circumstances where the company has committed to any such changes. The additional commentary is not asking companies to speculate about whether any compensation changes may take place in the future.
2.3	**Subsection 2.1(3) – Benchmarking** Five commenters suggest that we expand the benchmarking requirement to require	In CSA Staff Notice 51-331, we reported that a number of companies did not clearly

	companies to explain why the benchmark group and criteria chosen is considered by the company to be relevant or, if the company does not benchmark, explain the rationale for not using any benchmark peer group.	explain their benchmarking methodologies and did not fully explain how they used that information in decisions about executive compensation. We have included additional commentary to section 2.1 of the Form to read: "*3. If the company used any benchmarking in determining compensation or any element of compensation, include the benchmark group and describe why the benchmark group and selection criteria are considered by the company to be relevant.*" We have not amended the Form to require companies who do not benchmark to explain the rationale for not using any benchmark peer group. We think the Form does not require companies to disclose information relating to executive compensation practices that do not apply to a company's particular circumstances.
2.4	**Subsection 2.1(4) – Performance goals or similar conditions (serious prejudice exemption) – support** Ten commenters agree that a company should be required to explicitly state that it is relying on the serious prejudice exemption and explain why disclosing the relevant performance goals or similar conditions would seriously prejudice the company's interests. The commenters made the following additional comments in support of the proposed amendment: • Companies have previously relied on the serious prejudice exemption without sufficient justification, even when the relevant information was previously disclosed in other publicly filed documents. • The statement that the disclosure of broad corporate-level financial performance metrics will not in itself be considered by the CSA to result in 'serious prejudice' is a useful clarification to the disclosure requirements. • The proposed amendment will assist companies in formulating and articulating their use of the serious prejudice exemption. One commenter believes that a company should only be able to avail itself of the serious prejudice exemption if it has previously applied and received written	We thank the commenters for their comments. We have not amended the Form in response to this comment. We note that we have an

	authorization from the securities regulatory authority following pre-established criteria. This exemptive relief application should also be disclosed in the CD&A.	ongoing commitment to conduct normal course continuous disclosure reviews. These reviews typically include consideration of a company's executive compensation disclosure, including the disclosure of performance goals or similar conditions and the company's reliance on the "serious prejudice" exemption. Though we do not generally disclose the results of individual reviews, we may publish additional guidance in the form of a staff notice if we find recurring deficiencies or themes in the disclosure that we believe will be of interest to other companies.
2.5	**Subsection 2.1(4) – Performance goals or similar conditions (serious prejudice exemption) – no support** Nine commenters did not support the proposed amendment limiting the use of the serious prejudice exemption and are concerned with the proposed language to the effect that a company's interests should not be considered to be seriously prejudiced solely by disclosing performance goals or similar conditions if those goals or conditions are based on broad corporate-level financial performance metrics, such as earnings per share, revenue growth and earnings before interest, taxes, depreciation and amortization (EBITDA). The commenters asked that we reconsider our approach and remove this proposed amendment. The commenters made the following additional comments: • Requiring companies to state the basis on which they are not providing certain disclosure is anomalous in securities legislation, as companies generally are not required to disclose when they are not disclosing something on the basis the requirements do not require disclosure. • There is a fundamental difference between disclosing general financial information and financial targets used for setting compensation. For example, financial targets used in making compensation decisions are frequently subject to exceptions and are not in accordance with Canadian GAAP or IFRS. • Performance goals or similar conditions used for compensation are often based on the results of an NEO's business unit, division or subsidiary. • Disclosure of this information could	 We disagree and we have not amended the Form in response to these comments. Subsection 2.1(1) of the Form requires a company to discuss how it determined compensation amounts for each significant element of executive compensation. This disclosure requirement includes any performance goals or similar conditions that are based on objective, identifiable measures, such as the company's share price or earnings per share. We do not think that we have narrowed the circumstances upon which a company may rely on the "serious prejudice" exemption in subsection 2.1(4) of the Form. In CSA Staff Notice 51-331, we stated that disclosing performance metrics based on broad corporate-level financial performance measures like EPS, revenue growth and EBITDA, would not seriously prejudice the company's interests. In addition, these measures are generally publicly available in other disclosure documents or can be easily derived and calculated from the company's public disclosure. Companies that do not disclose specific performance goals must also state what percentage of the NEO's total compensation relates to the undisclosed information and how difficult it would be for the NEO, or how likely it would be for the company, to achieve the undisclosed performance goal. We continue to think that this exemption strikes an appropriate balance between the interests of companies and investors. The "serious prejudice" exemption only applies to target levels concerning specific quantitative and qualitative performance related factors or criteria that would seriously prejudice the company's interests. Thus, even if the disclosure of a target level itself may seriously prejudice the company's interests in

	provide a company's competitors with insight into its confidential business plans and strategies by allowing competitors to compare performance goals or similar conditions against the company's publicly disclosed results and identify the factors and underlying assumptions that are reflected in the company's confidential business plans. • Disclosure of this information could provide valuable information to competitors seeking to solicit the company's executive officers and could result in upward pressure on companies to increase the compensation of their executive officers. • Aggressive performance goals (i.e. "stretch targets") designed to encourage executive performance are often very sensitive and subjective information. In most cases, they should not be disclosed, even on a historical basis. • Disclosure of forward-looking performance goals or similar conditions may inadvertently and indirectly provide future oriented financial information (FOFI).	a particular case, disclosure of the metric itself would typically not. We also note that this exemption does not apply if a performance target level or other factor or criteria has been publicly disclosed.
2.6	**Subsection 2.1(4) – Performance goals or similar conditions (additional disclosure requirements)** Two commenters suggest that subsection 2.1(4) should include a requirement for companies to specifically explain why certain performance metrics were chosen and how these metrics align with the company's strategic plan and long-term priorities. In addition, two commenters suggest that subsection 2.1(4) should include a requirement for companies to explain, in the absence of specific performance goals or similar conditions for NEOs, how the company has historically implemented a robust pay-for-performance structure in recently completed financial years and whether discretion is used by the board of directors with respect to payouts.	We thank the commenters for their comments. At this time, we do not think additional amendments to the Form are necessary. We note that such disclosure may be required to be included in the CD&A under subsection 2.1(1) of the Form where it is necessary to describe or explain the objectives of any compensation program or strategy, or how each element of compensation and the company's decisions about that element fit into the company's overall compensation objectives and affect decisions about other elements. In CSA Staff Notice 51-331, we also noted that companies who applied discretion to either increase or decrease compensation following the initial setting of performance goals or similar conditions must fully explain the discretionary process in their CD&A in order to satisfy the objective of executive compensation disclosure set out in section 1.1 of the Form.
2.7	**Subsection 2.1(4) – Performance goals and similar conditions (use of discretion by the board)** Four commenters recommend that the new commentary asking the company to consider whether the board of directors can exercise	We thank the commenters for their comments. At this time, we do not think that additional amendments to the Form are

	discretion to award compensation during the most recently completed financial year should be elevated as a disclosure requirement. These commenters believe investors should be provided with information with respect to the extent, if any, that the board of directors or the compensation committee exercises discretion to award compensation where performance goals have not been met, or waives or changes performance goals to payout, or increases compensation beyond previously approved levels.	necessary. We note that such disclosure may be required to be included in the CD&A under subsection 2.1(1) of the Form to describe or explain the significant elements of compensation, including how the company determines the amount (and, where applicable, the formula) for each element of compensation. We also noted in CSA Staff Notice 51-331 that companies who applied discretion to either increase or decrease compensation following the initial setting of objective performance goals should have clarified in the CD&A that the objective measures were only intended to be guidelines and explained the importance of board discretion in determining the actual bonus paid to each NEO.
2.8	**Subsection 2.1(5) – Disclosure of risks associated with compensation policies and practices (general)** Ten commenters agree that expanding the scope of the CD&A to require disclosure concerning a company's compensation policies and practices as it relates to risk will provide meaningful disclosure and help investors make more informed voting and investment decisions. One commenter further believes that the proposed requirement is preferable to the approach taken by the SEC, which requires disclosure only if risks arising from compensation policies and practices are "reasonably likely to have a material adverse effect" on the company. However, two commenters are concerned that the proposed risk disclosure requirement will not provide meaningful information to investors and could result in boilerplate disclosure that may give investors a false sense of comfort regarding the company's compensation policies and practices as they relate to risk and risk-taking or over-emphasize the importance of compensation-related risks in a document where there is no other risk-related disclosure. Five commenters think that the proposed risk disclosure requirement is not necessary and note that the current requirements relating to risk factor disclosure prescribed by Form 51-102F1 *Management Discussion & Analysis* (Form 51-102F1) and Form 51-102F2 *Annual Information Form* (Form 51-102F2) are broad enough to cover material risks, including those relating to	We thank the commenters for their support. We note that we have an ongoing commitment to conduct normal course continuous disclosure reviews. These reviews typically include consideration of a company's executive compensation disclosure, including the disclosure of risks related to compensation policies and practices. Though we do not generally disclose the results of individual reviews, we may publish additional guidance in the form of a staff notice if we find recurring deficiencies or themes in the disclosure that we believe will be of interest to other companies. We acknowledge the comments. While certain risk disclosures are already required by the other Instruments noted (such as Form 51-102F1 and Form 51-102F2), we think that the disclosure of any material risks related to compensation policies and practices will provide investors with clearer and more meaningful executive compensation disclosure. We acknowledge that there may

	compensation. As such, the compensation risks that are “reasonably likely to have a material effect on the company” should not be required to appear in the CD&A if they are not required to be listed in the Management Discussion & Analysis or the Annual Information Form.	be duplication in some situations, however the disclosure requirements in the Form go beyond those prescribed by the other Instruments as a company is also required to disclose: (i) the nature and extent of the board’s role in the risk oversight of compensation policies and practices; and (ii) any practices used to identify and mitigate compensation policies and practices that could encourage a named executive officer (NEO) or individual at a principal business unit or division to take inappropriate or excessive risks.
2.9	**Subsection 2.1(5) – Disclosure of risks associated with compensation policies and practices (independent risk report)** One commenter believes that the proposed disclosure requirement should be expanded to require the disclosure of a report from an independent risk management expert certifying the rigorousness of the practices used to identify and mitigate compensation policies and practices that could potentially encourage NEOs or individuals at a principal business unit or division to take inappropriate or excessive risks.	We have not amended the Form in response to this comment. When proposing rule amendments, we must consider the costs of new regulation imposed on companies and whether those costs are justified by the likely outcomes. We do not think that the benefits of disclosing a report from an independent risk management expert certifying the company’s risk management practices related to compensation policies and practices will outweigh the additional costs imposed to companies.
2.10	**Subsection 2.1(5) – Disclosure of risks associated with compensation policies and practices (scope of risk analysis)** One commenter recommends that the disclosure requirement be limited to NEOs to simplify the risk assessment and related disclosure obligation. One commenter believes that a meaningful discussion of risk in the context of compensation should include individuals other than NEOs given that they may participate in activities that could present significant risks to the company.	We have not amended the Form in response to this comment. We think there may be risks related to compensation policies and practices for individuals beyond NEOs, including at a principal business unit of the company, which could have a material adverse effect on the company. We agree with the commenter.
2.11	**Subsection 2.1(5) – Disclosure of risks associated with compensation policies and practices (drafting suggestion)** Five commenters suggest adding the words “or a committee of the board” in the first sentence after the words “disclose whether or not the board of directors” to recognize that compensation-related duties can be delegated.	We have amended subsection 2.1(5) to include the words “or a committee of the board”.
2.12	**Subsection 2.1(5) – Disclosure of risks associated with compensation policies and practices (environmental, social and**	

	governance risks) Six commenters suggest that the CD&A should be expanded to require disclosure concerning a company's compensation policies and practices as they relate to environmental, social and governance (ESG) risks. If a company does not have an ESG policy with regard to compensation, it should be mandated to disclose this. Moreover, if a company has a policy relating to ESG metrics to executive compensation, it should be required to disclose this policy.	We do not think that additional amendments to the commentary to section 2.1 of the Form are necessary to respond to these comments. The current commentary to section 2.1 of the Form includes the following example: • *compensation policies and practices that do not include effective risk management and regulatory compliance as part of the performance metrics used in determining compensation* We believe that the example described above would include ESG risks that may have a material adverse effect on the company and ESG policies designed to mitigate risks with respect to the company's compensation policies and practices. We note that a company seeking additional guidance on disclosure of environmental matters, including risks, should refer to CSA Staff Notice 51-333 *Environmental Reporting Guidance.* We also note that, if a company's executive compensation decisions are based on ESG metrics and/or risks, disclosure of NEO pay in relation to these ESG metrics and/or risks must be provided if necessary to satisfy the objective of executive compensation disclosure set out in section 1.1 of the Form. We also note that such disclosure may be required to be included in the CD&A under subsection 2.1(1) of the Form if necessary to describe or explain the objectives of any compensation program or strategy, or how each element of compensation and the company's decisions about that element fit into the company's overall compensation objectives and affect decisions about other elements.
2.13	**Subsection 2.1(5) – Disclosure of risks associated with compensation policies and practices (additional issues that a company may consider to discuss and analyze)** Two commenters suggest adding language to the commentary to include examples and clarify that the list of situations, provided as commentary, that a company may consider to discuss and analyze in determining whether executive officers could be encouraged to take inappropriate or excessive risks is not exhaustive.	We have amended the commentary to section 2.1 to clarify that examples of situations that could potentially encourage an executive officer to expose the company to inappropriate or excessive risks provided in the commentary are not exhaustive. We think that many of the examples suggested by the commenters are already included in the commentary to section 2.1.
	While most commenters agreed that the examples provided in the supporting commentary were useful, the commenters suggested that we expand the commentary to	We have, however, amended the commentary to section 2.1 of the Form to include some of the suggested examples that were not included in the proposed amendments for

	include additional examples of excessive risk taking through pay practices such as: • Incentive plans based on financial results that do not have a maximum benefit or "cap". • The use of discretion to adjust NEO compensation after it is determined under previously approved criteria. • Decision-making structures in which executive officers are determining their own compensation or conflicts of interest on the compensation involving directors who are also NEOs of other companies. • Large retention bonuses or guaranteed compensation set out in multi-year employment contracts without a performance linkage. • Excessive single trigger change in control and severance agreements that can result in excessive payouts to executive officers and directors for supporting a change in control. • Interest-free or low interest loans extended by a company to executive officers for the purpose of exercising options or acquiring equity awards. • The ability of executive officers to hedge downside risks related to variable compensation. • General omission of timely information necessary to understand the company's compensation policies and practices, including the omission of material contracts, agreements or other shareholder disclosure documents.	comment, including: • *incentive plan awards that do not provide a maximum benefit or payout limit to executive officers.*
	The commenters also suggest that we include commentary which includes examples of compensation policies and practices that the company has adopted to mitigate risks such as: • Undertaking scenario analysis to stress test the company's compensation policies and practices. • Compensation policies and practices (such as clawback or "malus" polices) that require repayment or forfeiture of compensation earned by taking excessive risks.	We have not amended the commentary to section 2.1 of the Form to include the suggested examples. We note that paragraph 2.1(5)(b) requires the company to disclose any practices the company uses to identify and mitigate compensation policies and practices that could encourage an NEO or individual at a principal business unit or division to take inappropriate or excessive risks.

	• Share ownership guidelines.	
2.14	**Paragraph 2.1(5)(c) – Disclosure of risks associated with compensation policies and practices (identified risks)** One commenter suggests that we amend paragraph 2.1(5)(c) to clarify that a discussion of risks that are reasonably likely to have a material adverse effect on the company should be included even if the board has not identified any compensation policies and practices that are reasonably likely to have a material adverse effect on the company.	We have not made the suggested change. By focusing the requirement to risks that are reasonably likely to have a material adverse effect on the company, we think that investors will have sufficient information to make more informed voting and investment decisions.
2.15	**Subsection 2.1(5) – Disclosure of risks associated with compensation policies and practices (continuous disclosure review)** Two commenters suggest that the CSA commit to conduct a review of the risk disclosures within two years and then refine these requirements to encourage more uniform and complete disclosure.	We note that we closely monitor new rules in the first year of implementation to ensure that they are working as intended. We also note that we have an ongoing commitment to conduct normal course continuous disclosure reviews. These reviews typically include consideration of a company's executive compensation disclosure. Though we do not generally disclose the result of individual reviews, we may publish additional guidance in the form of a staff notice if we find recurring deficiencies or themes in the disclosure that we believe will be of interest to other companies. If warranted, such a staff notice may provide additional guidance on the disclosure of risks associated with compensation policies and practices.
2.16	**Subsection 2.1(6) – Disclosure regarding NEO or director hedging (general)** Nine commenters support the proposed amendment to require companies to disclose whether the NEOs or directors are permitted to purchase financial instruments that are designed to hedge or offset a decrease in the market value of equity securities granted as compensation or held by the NEO or director. Two commenters also expect that this proposed requirement will cause companies to introduce explicit policies prohibiting hedging of equity-based compensation awards and securities held under share-ownership requirements. One commenter believes that any hedging transactions from NEOs or directors should be strictly prohibited.	We thank the commenters for their support. We have not made the suggested change. The objective of executive compensation disclosure is to communicate the compensation policies and practices of the company as opposed to endorsing or prohibiting particular compensation practices or policies.

	Four commenters did not think the proposed amendment would provide useful information to investors and were of the view that the insider reporting requirements on SEDI already require companies to disclose whether NEOs or directors engage in any hedging transactions. If the CSA decides to include this requirement in the CD&A, the commenters suggest that the proposed requirement should not focus on whether any NEO or director is permitted to engage in any hedging activities but whether or not any NEO or director has in fact done so during the previously completed financial year.	We acknowledge these comments. However, we think that the ability of a director or an NEO to engage in any hedging transactions is a potential risk that could have a material adverse effect on the company. We think that companies will have enough flexibility to provide the disclosure they deem necessary to satisfy the objective of executive compensation disclosure set out in section 1.1 of the Form.
2.17	**Subsection 2.1(6) – Disclosure regarding NEO or director hedging (additional disclosure)** Two commenters suggest that, in addition to the proposed disclosure requirement, companies should also be required to disclose in plain language whether any NEOs and directors, during the most recently completed financial year, engaged in any hedging activities, including a description of the actual hedging instruments. These commenters also argue that providing the names of NEOs or directors who have engaged in hedging activities will not impose additional costs to companies and will allow investors to perform a more targeted and efficient search in SEDI to determine whether a significant misalignment of interests has occurred.	We acknowledge these comments but do not propose to amend the Form to include this suggested change at this time. We note, however, companies may choose to disclose, whether any NEOs and directors, during the most recently completed financial year, engaged in any hedging activities, including a description of the actual hedging instruments, if necessary to satisfy the objective of executive compensation disclosure set out in section 1.1 of the Form.
2.18	**Section 2.2 – Performance graph** One commenter recommends that, in addition to the present requirement, companies should be required to compare the cumulative total shareholder return against a sector performance metric specific to the company and industry.	We have not made the suggested change. Section 2.2 does not require companies to use a single performance metric. Companies may use any performance metric they see fit to describe and justify their compensation policies and practices, provided that these performance metrics do not detract from the provision of meaningful and accessible disclosure of compensation information. We note that companies must disclose other pertinent performance metrics, if necessary to satisfy the objective of executive compensation disclosure set out in section 1.1 of the Form.

2.19	**Paragraph 2.4(2)(a) – Compensation committee (names of committee members)** One commenter suggests that paragraph 2.4(2)(a) be amended to provide the names of each compensation committee member and, in respect of each member, whether or not the member is independent or is not independent. The current provision only requires the company to disclose whether "the committee is composed entirely of independent directors", and does not require disclosure concerning the independence of each member of the compensation committee.	We have amended paragraph 2.4(2)(a) to read: "disclose the name of each committee member and, in respect of each member, state whether or not the member is independent or not independent."
	The same commenter further suggests that subsection 2.4(2) of the proposed amendments be amended to provide the following disclosures in respect of the members of the compensation committee, in addition to stating whether each member is independent or not independent: (i) A description of any relationship with the company or its affiliated or subsidiary entities, with a significant shareholder of the issuer or with any of the executive officers of the issuer that the board of directors considered in determining the director's independence; and (ii) If the director has a relationship referred to in paragraph (i), a discussion of why the board of directors considers the director to be independent.	We have not amended the Form to include this suggested change. The definition of director independence for audit committee composition and corporate governance purposes is found in *Regulation 52-110 respecting Audit Committees* (Regulation 52-110). Subject to the "bright-line" tests in subsection 1.4(3) of Regulation 52-110, a director is independent if he or she has no direct or indirect material relationship with the company. As noted in CSA Staff Notice 58-305 *Status Report on the Proposed Changes to the Corporate Governance Regime*, the CSA decided, based on the comments received, to not implement proposed changes to the corporate governance regime originally published on December 19, 2008.
2.20	**Paragraph 2.4(2)(c) – Compensation committee (skills and experience of committee members)** One commenter noted that the proposed paragraph (c) about compensation committee's skills and experience reflects the increasing importance shareholders are attaching to compensation matters, as well as an acknowledgement of the complexity of the issues considered by the compensation committee.	We thank the commenter for its support.
	One commenter is concerned that the disclosure required under paragraph (c) could increase the chances that a director will be singled out in civil litigation by virtue of having certain "skills" or qualifications.	We disagree. We note that the disclosure required under paragraph (c) does not impose any additional legal obligations or increase a director's fiduciary obligations and their responsibility to manage or supervise the management of the business and affairs of the company. We think this additional disclosure improves the quality of disclosure provided to investors and will satisfy the objective of executive compensation disclosure set out in section 1.1 of the Form to provide insight into executive compensation as a key aspect of the overall stewardship and governance of

		the company.
	One commenter believes that the proposed paragraph (c) appears to be an unduly narrow focus on the skills and experience that are relevant to a compensation committee member's duties and responsibilities. If such disclosure is required, the commenter questions whether all experience and expertise relevant to making decisions as to compensation policies and practices be appropriately disclosed.	We disagree. Please see our response immediately below.
	Five commenters believe that the appropriate requirement regarding skills and experience should focus on the composition of the board as a whole in order to ensure that the board has the right mix of skills and competencies. Four commenters suggest that we amend paragraph 2.4(2)(c) to read: "describe the skills and experience that enable the board of directors or a committee of the board to make decisions on the suitability of the company's compensation policies and practices;".	We have amended paragraph 2.4(2)(c) the Form by removing the words "that are consistent with a reasonable assessment of the company's risk profile" because we think that these words are unnecessary and confusing. We also think that these words detracted from the intent of paragraph 2.4(2)(c) to disclose the skills and experience relevant to making decisions about the company's compensation policies and practices. However, we have not amended the Form to extend the disclosure requirement to the board of directors. The requirements in subsection 2.4(2) of the Form apply to companies who have established a compensation committee. If the company has not established a compensation committee, we think that the company may describe the skills and experience that enable the board of directors to make decisions on the suitability of the company's compensation policies and practices as part of the requirements in subsection 2.4(1) of the Form.
	The commenters also suggest that we provide guidance on the expected disclosure similar to the guidance under Part 4 of the *Policy Statement to Regulation 52-110 respecting Audit Committees* with respect to financial literacy, financial education and experience. The commenters view that the proposed requirement seems to be more difficult to meet and less clear than what is required in Regulation 52-110. One commenter suggests that we amend the proposed requirement to encourage the disclosure of committee members' education and training in compensation matters.	We do not propose to include additional commentary to the Form in response to these comments. We think that it is more appropriate for the board of directors to determine the skills and experience that its directors have with respect to determining the suitability of the company's compensation policies and practices. We note, however, that though we have not provided additional commentary at this time, we closely monitor new requirements in the first year after implementation. We acknowledge these comments but do not propose to amend the Form to include this suggested change at this time.

2.21	**Paragraph 2.4(3)(c) – Compensation consultants or advisors** Two commenters suggest that paragraph 2.4(3)(c) be amended to clarify that disclosure is required if the consultant or advisor or any of its affiliates has provided any services for the company, any of its affiliated or subsidiary entities, or any of its directors or members of management other than or in addition to compensation services for any of the company's directors or executive officers.	We have amended paragraph 2.4(3)(c) of the Form to read: "If the consultant or advisor has provided any services to the company, or to its affiliated or subsidiary entities, or to any of its directors or members of management, other than or in addition to compensation services provided for any of the company's directors or executive officers, (i) state this fact and briefly describe the nature of the work, (ii) disclose whether the board of directors must pre-approve other services the consultant or advisor, or any of its affiliates, provides to the company at the request of management."
	One commenter suggests that, whether disclosing the fees paid by the company to the consultant for other services to the company will assist investors in assessing potential conflicts of interest, the proposed amendments should be revised to provide that companies are required to disclose all potential conflicts of interest relating to their compensation consultants. For example, if a compensation consultant is involved in determining the compensation for a member of the compensation committee of a company who is also an executive at another company, the commenter states that this would be a potential conflict of interest that should be disclosed, but would not be captured by the proposed amendment.	We have not amended the Form to include this suggested change. By focusing the requirement on other services performed to the company and a breakdown of all fees provided, we think that investors will have sufficient information to make more informed voting and investment decisions.
2.22	**Paragraph 2.4(3)(d) – Disclosure of fees paid to compensation consultants and advisors (generally)** Generally, eight commenters support the proposed requirement to disclose fees paid to compensation consultants and advisors for each service provided in all circumstances and think that the disclosure of the fees paid to compensation consultants or advisors is useful to assess the company's compensation policies and practices.	We thank the commenters for their support.
	Two commenters do not support the proposed requirement and are concerned that such disclosure will merely further drive upward the costs of compensation determination.	We disagree. We think the requirement to provide a breakdown of all fees paid to compensation consultants or advisors for each service provided will enhance the transparency of the company's compensation policies and practices and will provide

	Six commenters think that there should be no disclosure obligation to disclose the fees of compensation consultants and advisors who did not provide additional services to the company.	investors with clearer and more meaningful executive compensation disclosure. We have not amended the Form to include this suggested change. We believe that the disclosure of fees paid to compensation consultants provides meaningful information about the company's compensation policies and practices in all situations, regardless of whether the compensation consultant or advisor provided other services to the company.
2.23	**Paragraph 2.4(3)(d) – Disclosure of fees paid to compensation consultants and advisors (definition)** Two commenters request that we clarify whether "compensation consultant or advisor" would include legal, accounting, tax and other advisors.	We confirm that compensation consultant or advisor does not include legal, accounting and tax. We note that the previous requirement in Item 7(d) of Form 58-101F1 *Corporate Governance Disclosure* also included the words "compensation consultant or advisor". We do not think that an amendment to paragraph 2.4(3)(d) of the Form is necessary in response to these comments.
2.24	**Paragraph 2.4(3)(d) – Disclosure of fees paid to compensation consultants and advisors (materiality threshold)** Eight commenters agree that we should not impose a materiality threshold in disclosing the fees paid to compensation consultants or advisors. Five commenters believe that there should be a fee materiality threshold consistent with the approach adopted by the SEC (e.g. US$120,000). In addition, where fee disclosure is required because it exceeds the threshold, two commenters suggest that the total fees charged by the consultant for all services rendered should also be expressed in relation to the total revenues of the consulting firm so that the reader can have a sense of the materiality of fees. One commenter suggests that the following information should also be disclosed: • The number of company shares held by the compensation expert or his firm, and • Any business relationship between the compensation expert and a member of the board directors, a member of the compensation committee, or with companies with which board members have professional relationships.	We thank the commenters for their support. Consistent with the proposed amendment published for comment, paragraph 2.4(3)(d) of the Form does not include a materiality threshold. We thank the commenters for their comments. However, we do not propose to amend the Form to include the suggested changes at this time.

2.25	**Paragraph 2.4(3)(d) – Disclosure of fees paid to compensation consultants and advisors (materiality threshold)** One commenter requests that we clarify that companies must disclose the aggregate fees paid to each compensation consultant or advisor retained on a “per consultant basis” and may not aggregate the amounts paid to all consultants.	We confirm that companies must disclose aggregate fees paid on a “per consultant” basis. We have amended subparagraphs 2.4(3)(d)(i) and (ii) in response to this comment.
ITEM 3 – SUMMARY COMPENSATION TABLE (SCT)		
3.1	**Subsection 3.1(4) – Fair value of option-based awards** One commenter suggests that we amend the requirement for disclosure of the fair value of option-based awards granted to provide that, where option-based awards are performance-based, and the results of the formula are known when the disclosure is prepared, the amount to be included in the SCT should be the net value of the option-based awards that the NEO actually received on the achievement of the performance measures. The commenter also states that the current requirement permits companies to alter the layout of the SEC in order to disclose its total compensation more fully and accurately.	Please see our response to comment 1.3. Under subsection 1.3(2) of the Form, a company may not alter the presentation of the SCT by adding columns or other information. Subparagraph 1.3(2)(a)(ii) also clarifies that companies may choose to add another table, column or other information, so long as the additional information does not detract from the SCT prescribed in section 3.1 of the Form.
3.2	**Subsection 3.1(5) – Reconciliation to “accounting fair value”** Five commenters support the proposed amendment to require, in all circumstances, companies to disclose the methodology used to calculate grant date fair value of all equity-based awards, including key assumptions and estimates used for each calculation and why the company chose that methodology. Conversely, four commenters believe that companies should be allowed to cross-reference to their financial statements with respect to the methodology used to calculate grant date fair value of equity-based awards. One commenter believes that the requirement to describe the methodology and disclose the key assumptions used in calculating grant date fair value would not provide useful information to investors and would require significant time commitments for companies to prepare and for investors to interpret. The commenter said that companies often use different sets of assumptions to value grants made to different groups of employees and also note that when grants are made at various dates during the year, the assumptions will vary from one grant to another and disclosure of each would	We thank the commenters for their support. We disagree. We have not amended the Form to make the suggested change. We think that disclosing the methodology, including the key assumptions and estimates, used to calculate the accounting fair value reported in the company’s SCT provides useful information to investors in all circumstances.

	potentially result in an excessive amount of information.	
3.3	**Subsection 3.1(10) – All other compensation** One commenter suggests that we clarify that column (h) “all other compensation” should only be confined to perquisites that are not properly characterized as salary or bonus payments and that cash payments made in lieu of pension benefits that are essentially characterized as part of a salary or bonus should not be disclosed in column “h”.	We do not think that any further amendment to the Form is necessary. Subsection 3.1(13) of the Form provides that any compensation an NEO elects to exchange must be reported as compensation in the column appropriate for the form of compensation exchanged.
3.4	**Paragraph 3.1(10)(i) – Personal registered retirement savings plan** One commenter suggests that we replace the words “to a personal registered retirement savings plan” with “to a personal savings plan like a registered retirement savings plan”. Two commenters ask whether this change applies equally to “Group” RRSPs sponsored by the company as well as to individual RRSPs and ask that the word “personal” be deleted from the proposed wording.	We have amended paragraph 3.1(10)(i) of the Form to read: “any company contribution to a personal savings plan like a registered retirement savings plan made on behalf of the NEO”. This would include any registered retirement savings plan sponsored by the company.
ITEM 4 – INCENTIVE PLAN AWARDS		
4.1	**Subsection 4.1(7) – Market or payout value of share-based awards that have not vested** One commenter explains that many companies prefer to report their unvested share-based awards in the table at target, rather than at threshold or on some other basis, as they believe that this disclosure is more useful information to provide to investors. The commenter also explains that, in many share-based award plans with performance vesting requirements, the minimum payout is nil if the threshold performance requirements are not met.	We acknowledge the comment but have not amended the Form to make the suggested change. Companies should present this information in the clearest manner possible. Companies may report the market or payout value of unvested share-based awards at target if they believe the disclosure is necessary in order to satisfy the objective of executive compensation disclosure set out in section 1.1 of the Form.
4.2	**Subsection 4.1(8) – Disclosure of market value of vested share-based awards** Two commenters recommend that we remove the requirement to disclose the aggregate market value or payout value of vested share-based awards that have not been paid or distributed. The commenters felt that the proposed requirement may generate double-counting of the same compensation.	We have not amended the Form in response to these comments. The requirement to disclose the aggregate market value or payout value of vested share-based awards that have not paid out or distributed is different and serves a different purpose than the requirement in subsection 4.2(3) of the Form, since the table required by subsection 4.2(1) of the Form is intended to capture the value of all awards that were vested or earned during the most recently completed financial year.

	To address these concerns, one commenter suggests that we add an additional column entitled “Number of shares or units of shares that have vested and have not been paid out or distributed”.	We have not made the suggested change. Please see our response above.
4.3	**Section 4.2 – Value vested or earned during the year** One commenter recommends that we delete column (d) of this table for non-equity incentive plan compensation because the column merely reiterates the same amounts described in the SCT for the current year.	We have not made the suggested change. While we acknowledge that the value reported in column (d) of the “Value vested or earned during the year” table will be the same value, or the sum of the value reported for annual incentive plans and long-term incentive plans, that is disclosed in the SCT under subsection 3.1(8), we think that the table required by subsection 4.2(1) of Form serves a different purpose than the SCT and is intended to capture the value of all awards that were vested or earned during the most recently completed financial year.
ITEM 5 – PENSION PLAN BENEFITS		
5.1	**Subsection 5.1(4) – Commentary (calculation of annual benefits payable at year-end)** Two commenters disagree with the proposed formula for calculating the annual benefit payable at year end for the following reasons: • There is not necessarily one single “presumed retirement age” used to calculate the present value of the obligation. Rather, a company may be assuming probabilities of retirement at various ages. • Using the benefit payable at the presumed retirement age and multiplying it by the ratio of years of credited service at year end to years of credited service at presumed retirement age is different than current practice. • It is not appropriate to prorate over credited service at year end in all pension designs. Both commenters suggest that paragraph 5.1(4)(a) should prescribe a specific age, such as age 65, which will enable comparison of information from one reporting period to the next. In the alternative, one of the commenters suggests we should remove the proposed formula.	We have amended subsection 5.1(4) of the Form in response to these comments. Paragraph 5.1(4)(a) reads as follows: “In column (c), disclose (a) the annual lifetime benefit payable at the end of the most recently completed financial year in column (c1) based on years of credited service reported in column (b) and actual pensionable earnings as at the end of the most recently completed financial year. For purposes of this calculation, the company must assume that the NEO is eligible to receive payments or benefits at year end” We have also amended the commentary to subsection 5.1(4) to clarify that a company may calculate the annual lifetime benefit payable in accordance with the methodology included in the commentary or in accordance with another formula if the company reasonably believes that it produces a more meaningful calculation of the annual lifetime benefit payable at year end.
5.2	**Subsection 5.2(3) Non-compensatory amounts** Thirteen commenters do not object to the elimination of the requirement to disclose	We thank the commenters for their comments. In response to the comments, we

	employee contributions and regular investment earnings on employer and employee contributions. Four commenters believe that column (d) of the defined contribution plans table should be maintained since the non-compensatory amount would also include deemed investment earnings on the defined contribution accumulations to the extent they are not considered above-market or preferential earnings and would create a liability to the company.	have deleted subsection 5.2(3) of the Form. We note, however, that the other requirements in section 5.2 of the Form remain the same.
5.3	**Section 5.2 – Defined contribution plans table (accumulated value at start of year)** One commenter suggests deleting column (b) “accumulated value at start of year”, if column (d) “non-compensatory amount” is deleted, leaving the defined contribution plan table to simply show the compensatory amount (currently column (c)) and the accumulated value at year end (currently column (e)).	We have not amended the Form in response to this comment. We think that including the “accumulated value at start of year” column provides meaningful information to investors and will facilitate year-to-year comparisons of the accumulated value of defined contribution plans.
5.4	**Section 5.2 (Commentary)** One commenter suggests that the proposed wording to commentary number 2 should be revised to the following: “*Registered retirement savings plans can be excluded from the defined contribution plans tables, however, any contributions made by the company or a subsidiary of the company to a registered retirement savings plan on behalf of the NEO must still be disclosed in column (h) of the Summary Compensation Table, as required by paragraph 3.1(10)(i).*”	We have amended the commentary to section 5.2 of the Form to read: *“Any contributions made by the company or a subsidiary of the company to a personal savings plan like a registered retirement savings plan made on behalf of the NEO must still be disclosed in column (h) of the Summary Compensation Table, as required by paragraph 3.1(10)(i).”*
AMOUNT REALIZED UPON EXERCISE OF EQUITY AWARDS		
6.1	Six commenters do not support the CSA’s intention of not reintroducing the requirement to disclose the amount realized from the exercise of stock options. The commenters made the following additional comments in support of reintroducing the requirement: • The disclosure provided at the time of grant is an estimate of what the Board believes it was paying the NEO and does not provide information on what the NEO actually received. Six commenters support the CSA’s intention not to reintroduce this requirement and made the following additional comments against	We thank the commenters for their comments. We continue to think that the executive compensation disclosure rules should be focused on the board’s compensation-based decisions, rather than the executive officer’s investment decisions. While we not intend to reintroduce this requirement at this time, we note however that, as part of the rulemaking process, we intend to monitor these developments and may consider additional communication with stakeholders to address any issues that arise as a result of this monitoring process.

	reintroducing the requirement. • The current disclosure requirements with respect to grant date fair value already assume that the issuer takes into account the fair market value of equity grants. A requirement to disclose the amount realized upon exercise of equity awards is duplicative and misleads the reader to think that the executive has obtained a new benefit from the issuer, where the expected benefits were already disclosed at the time of grant. • Disclosing the amount realized from previous grants shifts the focus away from the compensation decisions made during the given year.	
CONSEQUENTIAL AMENDMENTS		
7.1	**Amendment regulation for Form 58-101F1 and Form 58-101F1** One commenter suggests that we substitute the word "may" with the word "must" in the instruction to Form 58-101F1 and Form 58-101F2.	We have not made the suggested drafting change.
OTHER ISSUES		
8.1	**Clawbacks** One commenter recommends that the commentary regarding executive clawback provisions be elevated into a disclosure requirement to advise investors whether the company has adopted executive clawback provisions, the material terms of any such policy and any proceedings initiated under the policy.	We have not amended the Form in response to this comment. Companies must determine whether disclosure of a policy or of the absence of a policy on clawbacks is necessary to satisfy the requirements in subsection 2.1(1) of the Form that the CD&A discusses all significant principles underlying the policies in place and decisions made in respect to compensation provided to NEOs for the most recently completed financial year. We also note that the adoption of a policy or the absence of a policy on clawbacks may be included in the consideration of risks associated with the company's compensation policies and practices.
8.2	**Certification of Compensation Discussion & Analysis (CD&A)** One commenter suggests that we require the members of the compensation committee to review and approve the CD&A in order to make it clear that the compensation committee is responsible for the preparation of the CD&A.	We have not made the suggested change. Form 52-109F1 *Certification of Annual Filings* of *Regulation 52-109 respecting Certification of Disclosure in Issuers' Annual and Interim Filings* requires that a non-venture issuer attest that it has designed disclosure controls and procedures over financial reporting and evaluated the effectiveness of controls procedures. These controls and procedures should cover the executive compensation disclosure.
8.3	**Form 51-102F5 – Information Circular**	

	(Indebteness of Directors and Executive Officers) One commenter suggests that we consider making consequential amendments to item 10 of Form 51-102F5, in particular: • restricting the disclosure to NEO's and directors, • in paragraph 10.3(c)(i), increasing the threshold from $50,000 to $250,000, to reflect a more relevant current threshold of materiality, • in paragraph 10.3(c)(ii), substituting "annual cash compensation" for salary, and • in paragraph 10.3(c)(iii), extending the exemption to employees and for loans under a specified amount (e.g. $250,000).	We have not made the suggested change. Revisiting the indebtedness requirements for directors and executive officers is beyond the scope of this initiative. We have forwarded this comment to the CSA committee responsible for Regulation 51-102.
8.4	**Minimum shareholding requirements** One commenter suggests that we adopt a requirement to disclose the company's minimum shareholding requirements and the attainment of shares against these levels by each NEO or at least specifically include a reference to it in commentary under subsection 2.1(1) of the Form.	We have not amended the Form in response to this comment. We note, however, that when a company's executive compensation decisions are based on aligning these interests, disclosure of equity ownership guidelines and levels must be provided if necessary to satisfy the objective of executive compensation disclosure set out in section 1.1 of the Form. We also note that such disclosure may be required to be included in the CD&A under subsection 2.1(1) of the Form if necessary to describe or explain the objectives of any compensation program or strategy, or how each element of compensation and the company's decisions about that element fit into the company's overall compensation objectives.
8.5	**Proposed rules regarding CEO-employee pay ratios** Two commenters recommend that companies should be required to produce "pay ratio" disclosure, which would set out the relative pay of three categories of company personnel: (i) the CEO; (ii) the NEOs; and (iii) the average pay of non-executive employees of the company and its subsidiaries. In addition, two commenters recommend that we propose an amendment requesting disclosure comparing the ratio of total compensation for a company's executive officers (including those below the NEO level) to the company's total earnings.	We have not amended the Form in response to these comments. We do not think that the benefits of disclosing a pay ratio between the CEO and the average pay of non-executive employees of the company would outweigh the additional costs imposed to companies in preparing this disclosure.
8.6	**Cost of management ratio (COMR) disclosure** In situations where compensation policies	We have not amended the Form in response

	and practices where the compensation expense to executive officers is a significant percentage of the company's revenue, one commenter recommends that the Form be amended to include a requirement for companies to provide COMR disclosure which is the ratio of total NEO pay to net income after tax. The commenter notes that COMR is a measure already used by some Canadian companies.	to this comment. We note, however, that when a company's executive compensation decisions are based on COMR, disclosure of NEO pay to net income after tax must be provided if necessary to satisfy the objective of executive compensation disclosure set out in section 1.1 of the Form. We also note that such disclosure may be required to be included in the CD&A under subsection 2.1(1) of the Form if necessary to describe or explain the objectives of any compensation program or strategy, or how each element of compensation and the company's decisions about that element fit into the company's overall compensation objectives and affect decisions about other elements.
8.7	**Additional "pay for performance" tables and CD&A disclosure** One commenter suggests that the CD&A requirements should be expanded to provide two prescribed tables along with narrative disclosure. The first table would disclose actual pay earned in the reporting year and the corresponding performance achieved, and the second table would disclose the estimated potential future pay from long-term incentives, compared with the performance required to earn the estimated amounts. In the absence of these two additional tables, companies should be encouraged to disclose in the CD&A how the size and terms of equity-based awards are determined with respect to performance and other factors, and whether grants reported in the SCT are relevant to a previous year's performance. If that is the case, the company should separately disclose the number and value of the stock and option awards made in the current year that are related to the service in the most recently completed financial year, for shareholders to consider when evaluating the pay for performance link. In addition, one commenter encourages the CSA to clarify that companies can provide additional narrative disclosure in the CD&A if it will assist investors in understanding the board's approach to compensation.	 We have not amended the Form in response to these comments. In order to satisfy the objective of executive compensation disclosure set out in section 1.1 of the Form, we encourage methods of presentation that are tailored to a particular company's circumstances if the additional disclosure will help investors understand how decisions about executive compensation are made.
8.8	**Executive compensation disclosure for special meetings** One commenter recommends that we amend Regulation 51-102 to provide that executive compensation disclosure in an information circular for a special meeting should be mandatory when shareholders are asked to approve a compensation plan. The commenter thinks that a reporting issuer	 We have not made the suggested change. Revisiting the disclosure requirements in respect of special meetings is beyond the scope of this initiative. We have forwarded this comment to the CSA committee responsible for Regulation 51-102.

	should not have the ability to use a special meeting to sidestep disclosing information necessary for shareholders to assess the compensation plans they are being asked to approve.	