

**REGULATION 52-109
CERTIFICATION OF DISCLOSURE IN COMPANIES'
ANNUAL AND INTERIM FILINGS**

Part 1 Definitions, Application and Transition

1.1 Definitions¹ - In this Regulation,

“annual certificate” means the certificate required to be filed pursuant to Part 2 of this Regulation;

“annual filings” means the issuer’s annual information form, and annual financial statements and annual MD&A, that have been most recently filed under provincial and territorial securities legislation, including for greater certainty all documents and information that are incorporated by reference in the annual information form;

“annual financial statements” means the annual financial statements required to be filed under Regulation 51-102 *Continuous Disclosure Obligation*²;

“annual information form” means the AIF as defined under Regulation 51-102 *Continuous Disclosure Obligations*³;

“filings” means annual filings and interim filings;

“interim certificate” means the certificate required to be filed pursuant to Part 3 of this Regulation;

“interim filings” means the issuer’s interim financial statements and interim MD&A, that have been most recently filed under provincial and territorial securities legislation;

“interim financial statements” means the interim financial statements required to be filed under Regulation 51-102 *Continuous Disclosure Obligations*⁴;

¹ Regulation 14-101 *Definitions* defines certain terms that are used in more than one regulation.

² Section 4.1 of Regulation 51-102 states:

4.1 Annual Financial Statements and Auditor’s Report

- (1) Subject to subsection 4.8(6), a reporting issuer must file annual financial statements that include:
 - (a) an income statement, a statement of retained earnings, and a cash flow statement for:
 - (i) the most recently completed financial year; and
 - (ii) the period covered by the financial year immediately preceding the most recently completed financial year, if any;
 - (b) a balance sheet as at the end of each of the periods referred to in paragraph (a); and
 - (c) notes to the financial statements.
- (2) Comparative annual financial statements filed under subsection (1) must be accompanied by an auditor’s report.

³ In Regulation 51-102, “AIF” means a completed Form 51-102F1 *Annual Information Form* or, in the case of an SEC issuer, either a completed Form 51-102F1 or an annual report or transition report under the 1934 Act on Form 10-K, Form 10-KSB or on Form 20-F

⁴ Regulation 51-102 states:

4.3 Interim Financial Statements

- (1) A reporting issuer must file:

“interim period” has the meaning ascribed to it in the definition of interim period under Regulation 51-102 *Continuous Disclosure Obligations*⁵;

“investment fund”⁶ means a mutual fund, a non-redeemable investment fund or a scholarship plan;

“MD&A” has the meaning ascribed to it in the definition of MD&A under Regulation 51-102 *Continuous Disclosure Obligations*⁷;

“non-redeemable investment fund”⁸ means an issuer:

- (a) whose primary purpose is to invest money provided by its securityholders;
- (b) that does not invest for the purpose of exercising effective control, seeking to exercise effective control, or being actively involved in the management of the issuers in which it invests, other than other mutual funds or non-redeemable investment funds; and
- (c) that is not a mutual fund;

“Sarbanes-Oxley Act” means the Sarbanes-Oxley Act of 2002, Pub.L. 107-204, 116 Stat. 745 (2002); and

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- (a) if it has not completed its first financial year, interim financial statements for the interim periods of the reporting issuer’s current financial year other than a period that is less than three months in length; or
 - (b) if it has completed its first financial year, interim financial statements for the interim periods of the reporting issuer’s current financial year.
- (2) Subject to subsections 4.7(4), 4.8(7) and (8), the interim financial statements required to be filed under subsection (1) must include:
- (a) a balance sheet as at the end of the interim period and a balance sheet as at the end of the immediately preceding financial year, if any;
 - (b) an income statement, a statement of retained earnings and a cash flow statement, all for the year-to-date interim period and comparative financial information for the corresponding interim period in the immediately preceding financial year, if any;
 - (c) for interim periods other than the first interim period in a reporting issuer’s financial year, an income statement and cash flow statement for the three month period ending on the last day of the interim period and comparative financial information for the corresponding period in the preceding financial year, if any; and
 - (d) notes to the financial statements.

⁵ In Regulation 51-102, “interim period” means:

- (a) a period commencing on the first day of a financial year and ending nine, six or three months before the end of a financial year, or
- (b) in the case of a reporting issuer’s transition year, a period commencing on the first day of the transition year and ending either:
 - (i) three, six, nine or twelve months, if applicable, after the end of its old financial year, or
 - (ii) twelve, nine, six or three months, if applicable, before the end of the transition year, and in the case of (b)(ii), the first interim period must not exceed four months

⁶ This definition is taken from subsection 1.1 of proposed Regulation 81-106 *Investment Fund Continuous Disclosure*.

⁷ In Regulation 51-102, “MD&A” means a completed Form 51-102F2 *Management’s Discussion & Analysis* or, in the case of an SEC issuer, either a completed Form 51-102F2 or management’s discussion and analysis prepared in accordance with Item 303 of Regulation S-K or item 303 of Regulation S-B under the 1934 Act

⁸ This definition is taken from Regulation 51-102.

"SEDAR" means the computer system for the transmission, receipt, acceptance, review and dissemination of documents filed in electronic format known as the System for Electronic Document Analysis and Retrieval.

1.2 Application – This Regulation applies to all reporting issuers other than investment funds.

1.3 Transition Period – Notwithstanding Parts 2 and 3 of this Regulation, issuers may exclude paragraphs 4, 5 and 6 from any annual and interim certificates required to be filed prior to **[January 1, 2005]**.

Part 2 Certification of Annual Filings

2.1 Every issuer must file a separate annual certificate, in the form specified in Form 52-109F1, in respect of and personally signed by each of the following persons:

1. each chief executive officer;
2. each chief financial officer; and
3. in the case of an issuer that does not have a chief executive officer or chief financial officer, each person who performs similar functions to a chief executive officer or a chief financial officer, as the case may be.

2.2 The annual certificate must be filed by the issuer at the same time as it files the last of the following annual filings:

1. its annual information form; and
2. its annual financial statements and annual MD&A.

Part 3 Certification of Interim Filings

3.1 Every issuer must file a separate interim certificate, in the form specified in Form 52-109F2, in respect of and personally signed by each of the following persons:

1. each chief executive officer;
2. each chief financial officer; and
3. in the case of an issuer that does not have a chief executive officer or chief financial officer, each person who performs similar functions to a chief executive officer or a chief financial officer, as the case may be.

3.2 The interim certificate must be filed by the issuer at the same time as it files its interim filings.

Part 4 Exemptions

4.1 Exemption for Issuers that comply with U.S. laws –

- (1) Subject to subsection (4), an issuer is exempt from Part 2 of this Regulation with respect to the relevant period if:

- (a) the issuer is in compliance with U.S. federal securities laws⁹ implementing the annual report certification requirements in section 302(a) of the Sarbanes-Oxley Act; and
 - (b) the issuer's most recent annual report and signed certificates are filed on SEDAR as soon as reasonably practicable after they are filed with the SEC.
- (2) Subject to subsection (5), an issuer is exempt from Part 3 of this Regulation with respect to the relevant interim period if:
- (a) the issuer is in compliance with U.S. federal securities laws implementing the quarterly report certification requirements in section 302(a) of the Sarbanes-Oxley Act; and
 - (b) the issuer's most recent quarterly report and signed certificates are filed on SEDAR as soon as reasonably practicable after they are filed with the SEC.
- (3) An issuer is exempt from Part 3 of this Regulation with respect to the relevant interim period if:
- (a) the issuer furnishes to the SEC a current report on Form 6-K containing the issuer's quarterly financial statements and MD&A;
 - (b) the Form 6-K is accompanied by signed certificates that are furnished to the SEC in the same form required by U.S. federal securities laws implementing the quarterly report certification requirements in section 302(a) of the Sarbanes-Oxley Act; and
 - (c) the Form 6-K and signed certificates are filed on SEDAR as soon as reasonably practicable after they are furnished to the SEC.
- (4) Notwithstanding subsection 4.1(1), Part 2 of this Regulation applies to an issuer with respect to the relevant period if the issuer files annual financial statements prepared in accordance with Canadian generally accepted accounting principles, unless the issuer files those statements with the SEC in compliance with U.S. federal securities laws implementing the annual report certification requirements in section 302(a) of the Sarbanes-Oxley Act.
- (5) Notwithstanding subsection 4.1(2), Part 3 of this Regulation applies to an issuer with respect to the relevant interim period if the issuer files interim financial statements prepared in accordance with Canadian generally accepted accounting principles, unless the issuer files those statements with the SEC in compliance with U.S. federal securities laws implementing the quarterly report certification requirements in section 302(a) of the Sarbanes-Oxley Act.

4.2 Exemption for Foreign Issuers – An issuer is exempt from the requirements in this Regulation so long as it qualifies for the relief contemplated by, and is in compliance with the requirements and conditions set out in, sections 5.4¹⁰ and 5.5¹¹ of Regulation 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers*.

⁹ "U.S. federal securities laws" is defined in Regulation 14-101 *Definitions*.

¹⁰ Regulation 71-102 states:

4.3 Exemption for Issuers of Exchangeable Securities – An issuer is exempt from the requirements in this Regulation so long as it qualifies for the relief contemplated by, and is in compliance with the requirements and conditions set out in, section 13.3¹² of Regulation 51-102 *Continuous Disclosure Obligations*.

4.4 Exemption for Issuers of Guaranteed Securities – An issuer is exempt, in a jurisdiction, from the requirements in this Regulation if:

- (a) it does not have any securities outstanding other than debt securities or preferred shares, and all payments to be made in respect of those securities are fully and unconditionally guaranteed by another issuer (the guarantor issuer); and
- (b) it has been granted an exemption in that jurisdiction (the exemption order) from filing its annual financial statements, annual MD&A, interim financial statements, and interim MD&A on the condition that, among other things, the equivalent annual and interim disclosure documents of the guarantor issuer be filed;

so long as at the time that the issuer would otherwise be required to comply with this Regulation the exemption order is in effect and the parties to the exemption order are in compliance with its requirements and conditions.

5.4 *Financial Statements*

A designated foreign issuer satisfies securities legislation requirements relating to the preparation, filing and delivery of its interim financial statements, annual financial statements and auditor's reports on annual financial statements if it:

- (a) complies with the foreign disclosure requirements relating to interim financial statements, annual financial statements and auditor's reports on annual financial statements;
- (b) files the interim financial statements, annual financial statements and auditor's reports on annual financial statements required to be filed with or furnished to the foreign regulatory authority;
- (c) sends each document filed under paragraph (b) to securityholders in the local jurisdiction, in the manner and at the time such documents are required to be sent to securityholders of the issuer by the foreign disclosure requirements; and
- (d) complies with Regulation 52-107 as it relates to financial statements of the issuer that are included in any documents specified in paragraph (b).

¹¹ Regulation 71-102 states:

5.5 *Annual Reports, AIFs, Business Acquisition Reports & MD&A*

A designated foreign issuer satisfies securities legislation requirements relating to the preparation, filing and delivery of annual reports, AIFs, business acquisition reports and MD&A if it:

- (a) complies with the foreign disclosure requirements relating to annual reports, quarterly reports, business acquisitions and management's discussion and analysis;
- (b) files each annual report, quarterly report, report in respect of a business acquisition and management's discussion and analysis required to be filed with the foreign regulatory authority;
- (c) sends each document filed under paragraph (b) to securityholders in the local jurisdiction, in the manner and at the time such documents are required to be sent to securityholders of the issuer by the foreign disclosure requirements; and
- (d) complies with Regulation 52-107 as it relates to financial statements of the issuer that are included in any documents specified in paragraph (b).

¹² Section 13.3 of Regulation 51-102 provides relief for certain exchangeable security issuers.

4.5 General Exemption

- (1) The regulator or securities regulatory authority may grant an exemption from this Regulation, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.
- (2) Despite subsection (1), in Ontario only the regulator may grant such an exemption.

Part 5 Effective Date

5.1 This Regulation comes into force on **[January 1, 2004]**.

Form 52-109F1
Certification of Annual Filings

I, *identify the certifying officer, the issuer, and his or her position at the issuer*, certify that:

1. I have reviewed the annual filings (as this term is defined in Regulation 52-109 *Certification of Disclosure in Companies' Annual and Interim Filings*) of *identify issuer* (the issuer) for the period ending *state the reporting period covered by the annual filings*;
2. Based on my knowledge, the annual filings do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make a statement not misleading in light of the circumstances under which it was made, with respect to the period covered by the annual filings;
3. Based on my knowledge, the annual financial statements together with the other financial information included in the annual filings fairly present in all material respects the financial condition, results of operations and cash flows of the issuer as of the date and for the periods presented in the annual filings;
4. The issuer's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures and internal controls for the issuer, and we have:
 - (a) designed those disclosure controls and procedures, or caused them to be designed under our supervision, and implemented those disclosure controls and procedures, to provide reasonable assurances that material information relating to the issuer, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which the annual filings are being prepared, and that such material information is disclosed within the time periods specified under applicable provincial and territorial securities legislation;
 - (b) designed those internal controls, or caused them to be designed under our supervision, and implemented those internal controls, to provide reasonable assurances that the issuer's financial statements are fairly presented in accordance with generally accepted accounting principles;
 - (c) evaluated the effectiveness of the issuer's disclosure controls and procedures and internal controls as of the end of the period covered by the annual filings; and
 - (d) disclosed in the annual MD&A our conclusions about the effectiveness of the disclosure controls and procedures and internal controls, in each case based on our evaluation as of the end of the period covered by the annual filings;
5. I have disclosed, based on my most recent evaluation, to the issuer's auditors and the audit committee of the issuer's board of directors or persons performing the equivalent function:
 - (a) all significant deficiencies and material weaknesses in the design or operation of internal controls that could adversely affect the issuer's ability to disclose information required to be disclosed by the issuer under applicable provincial and territorial securities legislation, within the time periods specified under applicable provincial and territorial securities legislation; and
 - (b) any fraud, whether or not material, that involves management or other employees who have a significant role in the issuer's internal controls; and

6. I have disclosed in the annual MD&A whether there were significant changes in the issuer's internal controls or in other factors that could significantly affect internal controls, made during the period covered by the annual filings, including any actions taken to correct significant deficiencies and material weaknesses in the issuer's internal controls.

Date:

[Signature]
[Title]

Form 52-109F2
Certification of Interim Filings

I *identify the certifying officer, the issuer, and his or her position at the issuer*, certify that:

1. I have reviewed the interim filings (as this term is defined in Regulation 52-109 *Certification of Disclosure in Companies' Annual and Interim Filings*) of *identify the issuer*, (the issuer) for the interim period ending *state the reporting period covered by the interim filings*;
2. Based on my knowledge, the interim filings do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make a statement not misleading in light of the circumstances under which it was made, with respect to the period covered by the interim filings;
3. Based on my knowledge, the interim financial statements together with the other financial information included in the interim filings fairly present in all material respects the financial condition, results of operations and cash flows of the issuer as of the date and for the periods presented in the interim filings;
4. The issuer's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures and internal controls for the issuer, and we have:
 - (a) designed those disclosure controls and procedures, or caused them to be designed under our supervision, and implemented those disclosure controls and procedures, to provide reasonable assurances that material information relating to the issuer, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which the interim filings are being prepared, and that such material information is disclosed within the time periods specified under applicable provincial and territorial securities legislation; and
 - (b) designed those internal controls, or caused them to be designed under our supervision, and implement those internal controls, to provide reasonable assurances that the issuer's financial statements are fairly presented in accordance with generally accepted accounting principles;
5. I have disclosed, based on my most recent evaluation, to the issuer's auditors and the audit committee of the issuer's board of directors or persons performing the equivalent function:
 - (a) all significant deficiencies and material weaknesses in the design or operation of internal controls that could adversely affect the issuer's ability to disclose information required to be disclosed by the issuer under applicable provincial and territorial securities legislation, within the time periods specified under applicable provincial and territorial securities legislation; and
 - (b) any fraud, whether or not material, that involves management or other employees who have a significant role in the issuer's internal controls; and

6. I have disclosed in the interim MD&A whether there were significant changes in the issuer's internal controls or in other factors that could significantly affect internal controls, made during the period covered by the interim filings, including any actions taken to correct significant deficiencies and material weaknesses in the issuer's internal controls.

Date:

[Signature]

[Title]