

Notice of publication

Regulation to amend Regulation 52-109 respecting Certification of Disclosure in Issuers' Annual and Interim Filings

Amendments to Policy Statement to Regulation 52-109 respecting Certification of Disclosure in Issuers' Annual and Interim Filings

Introduction

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

- *Regulation 52-109 respecting Certification of Disclosure in Issuers' Annual and Interim Filings* (Regulation 52-109) and
- *Policy Statement to Regulation 52-109 respecting Certification of Disclosure in Issuers' Annual and Interim Filings* (Policy Statement 52-109).

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

Background

Regulation 52-109 sets out disclosure and filing requirements for all reporting issuers, other than investment funds. The objective of these requirements is to improve the quality, reliability and transparency of annual filings, interim filings and other materials that issuers file or submit under securities legislation.

Regulation 52-109 refers to and relies on references to Canadian generally accepted accounting principles (Canadian GAAP), which are established by the Canadian Accounting Standards Board (AcSB). In February 2006, the AcSB published a strategic plan to transition, over a period of five years, Canadian GAAP for public enterprises to IFRS, as adopted by the International Accounting Standards Board (IASB). In March 2008, the timing of the transition was confirmed. IFRS will apply to most Canadian publicly accountable enterprises for financial years beginning on or after January 1, 2011.

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

- Part I of the Handbook – Canadian GAAP for publicly accountable enterprises that 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 (current Canadian GAAP).

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

The amendments do not reflect the impact of exposure drafts or discussion papers from the IASB prior to their adoption into IFRS. The CSA is implementing amendments to

National Instrument 14-101 *Definitions* to include a definition of IFRS that incorporates amendments made to IFRS from time to time.

Substance and Purpose of the Amendments

The primary purpose of the Regulation to amend Regulation 52-109 and the amendments to Policy Statement 52-109 is to accommodate the transition to IFRS and the new version of Regulation 52-107. The amendments replace current Canadian GAAP terms and phrases with IFRS terms and phrases. The Regulation to amend Regulation 52-109 and the amendments to Policy Statement 52-109 are published with this notice.

Transition

After the IFRS changeover date on January 1, 2011, non calendar year-end issuers will continue to prepare financial statements in accordance with current Canadian GAAP until the start of their new financial year. To accommodate for this, we have included transition provisions in the amendment instrument that provide that the amendments only apply to annual filings and interim filings for periods relating to financial years beginning on or after January 1, 2011. Thus, during the transition period,

- issuers filing financial statements prepared in accordance with current Canadian GAAP will be required to comply with the version of Regulation 52-109 that contains current Canadian GAAP terms and phrases, and
- issuers filing financial statements that comply with IFRS will be required to comply with the version of Regulation 52-109 that contains IFRS terms and phrases.

After the transition period all issuers will be required to comply with the version of Regulation 52-109 that contains IFRS terms and phrases.

To further assist issuers and their advisors and to increase transparency, during the transition period certain jurisdictions will post two different unofficial consolidations of Regulation 52-109 on their websites:

- the current version of Regulation 52-109 that contains current Canadian GAAP terms and phrases, which applies to reporting issuers in respect of annual filings and interim filings for periods relating to financial years beginning before January 1, 2011; and
- the new version of Regulation 52-109 that contains IFRS terms and phrases, which applies to reporting issuers in respect of annual filings and interim filings for periods relating to financial years beginning on or after January 1, 2011.

52/53 week financial years

Notwithstanding the above, the amendment instrument for Regulation 52-109 now includes a transition provision which provides that the amendments may be applied by an issuer to annual filings and interim filings for periods relating to a financial year that begins before January 1, 2011 if the immediately preceding financial year ends no earlier than December 21, 2010 and if the issuer is relying on the exemption in section 5.3 of the new version of Regulation 52-107. That exemption in Regulation 52-107 permits issuers that have financial year ends close to, but not on December 31, 2010, the option to transition to IFRS when their new financial year begins.

Rate-regulated activities

Furthermore, section 1.7 of Policy Statement 52-109 provides that if a qualifying entity is relying on the exemption in paragraph 5.4(1)(a) of the new version of Regulation 52-107, then the qualifying entity may interpret any reference in Regulation 52-109 to a term or provision defined or used in Canadian GAAP applicable to publicly accountable enterprises as a reference to the corresponding term or provision in Part V of the Handbook.

Summary of Written Comments Received by the CSA

The CSA, except the Autorité des marchés financiers and the New Brunswick Securities Commission, published the Regulation to amend Regulation 52-109 and the amendments to Policy Statement 52-109 for comment on September 25, 2009 (the September 2009 Materials). We only received submissions on the September 2009 Materials from commenters who submitted comment letters on the proposed changes to Regulation 52-107. The names of those commenters and a summary of their comments, together with our responses, are in Appendices A and B to the Regulation 52-107 Notice.

The Autorité des marchés financiers and the New Brunswick Securities Commission published the Regulation to amend Regulation 52-109 and the amendments to Policy Statement 52-109 for comment on March 12, 2010. No comments were received.

We thank the commenters for their comments.

Summary of Changes to the September 2009 Materials

See Appendix A for a detailed summary of the changes made to the September 2009 Materials.

Implementation

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

Questions

Please refer your questions to any of:

Sylvie Anctil-Bavas
 Chef comptable
 Autorité des marchés financiers
 514-395-0337, ext. 4291
sylvie.anctil-bavas@lautorite.qc.ca

Louis Auger
 Analyste en valeurs mobilières
 Autorité des marchés financiers
 514-395-0337, ext. 4383
louis.auger@lautorite.qc.ca

Carla-Marie Hait
 Chief Accountant, Corporate Finance
 British Columbia Securities Commission
 604-899-6726
chait@bcsc.bc.ca

Lara Gaede
 Chief Accountant
 Alberta Securities Commission
 403-297-4223
lara.gaede@asc.ca

Fred Snell
 Senior Advisor, Executive Director's Office
 Alberta Securities Commission
 403-297-6553

fred.snell@asc.ca

Bob Bouchard
Director, Corporate Finance
Manitoba Securities Commission
204-945-2555
bob.bouchard@gov.mb.ca

Marion Kirsh
Associate Chief Accountant, Chief Accountant's Office
Ontario Securities Commission
416-593-8282
mkirsh@osc.gov.on.ca

Sandra Heldman
Senior Accountant, Corporate Finance
Ontario Securities Commission
416-593-2355
sheldman@osc.gov.on.ca

Kevin Hoyt
Director, Regulatory Affairs and Chief Financial Officer
New Brunswick Securities Commission
506-643-7691
kevin.hoyt@nbsec-cvmnb.ca

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Appendix A

Summary of Changes to the September 2009 Materials

We made the following changes:

Policy Statement 52-109

Section	Matter	Explanation of Change
1.5, 1.6	Changed references to “Canadian GAAP” to “Canadian GAAP applicable to publicly accountable enterprises”.	The new wording provides greater clarity.
13.1	Amended subparagraph (e) to also identify that the investment was not accounted for by the proportionate consolidation method.	The inclusion of “proportionate consolidation” in subparagraph (e) further clarifies that the investment is not accounted for by a method identified earlier in subparagraphs (a) to (d).

Transition, Drafting and Housekeeping Changes

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

We decided not to proceed with the proposal to add a transition provision as section 9.3 of Regulation 52-109. We decided that this transition provision was not necessary since section 8 of the Regulation to amend Regulation 52-109 provides that the amendments only apply to annual filings and interim filings for periods relating to financial years beginning on or after January 1, 2011.

52/53 week financial years

The Regulation to amend Regulation 52-109 now includes a transition provision which provides that the amendments may be applied by an issuer to annual filings and interim filings for periods relating to a financial year that begins before January 1, 2011 if the immediately preceding financial year ends no earlier than December 21, 2010 and if the issuer is relying on the exemption in section 5.3 of the new version of Regulation 52-107. That exemption in Regulation 52-107 permits issuers that have financial year ends close to, but not on December 31, 2010, the option to transition to IFRS when their new financial year begins.

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Section 1.7 of Policy Statement 52-109 provides that if a qualifying entity is relying on the exemption in paragraph 5.4(1)(a) of the new version of Regulation 52-107, then the qualifying entity may interpret any reference in Regulation 52-109 to a term or provision defined or used in Canadian GAAP applicable to publicly accountable enterprises as a reference to the corresponding term or provision in Part V of the Handbook.