Corporate Finance Disclosure Report

2010 Report

Alberta Securities Commission
December 2010

ASC
Alberta Securities Commission

Introduction

The Alberta Securities Commission (ASC) is pleased to provide market participants with its annual report (Report) which contains our observations on the public disclosure provided by Alberta reporting issuers (RIs). This is the 20th year of distributing the Report with the continuing goal of maintaining and improving the level of public disclosure by RIs. In past Reports, we've focused mainly on RI continuous disclosure (CD). This Report highlights amendments to securities legislation arising from the changeover to International Financial Reporting Standards (IFRS). The Report also covers other areas including prospectus disclosure.

We also discuss our review findings and identify areas where RIs could improve disclosure. To help RIs put our comments and suggestions for improvement into context, we have provided examples of deficient disclosure as well as disclosure that met our requirements. We have also included practice tips on how RIs could further enhance disclosure to provide more meaningful information. The implementation of IFRS will be a significant undertaking for RIs in 2011. In anticipation of this, we have also highlighted some differences between Canadian GAAP and IFRS for recurring deficiencies noted in financial statement filings, and discussed other issues that we feel are relevant to the transition.

Throughout this Report we use the terms reporting issuer (RI) and issuer. Sections 1 (cc) and (ccc) of the Securities Act (*Alberta*) provides the definition of issuer and reporting issuer respectively. Although most of this Report is geared to our Alberta RIs, certain securities legislation addressed in this Report apply to both RIs and issuers, such as National Instrument 41-101 *General Prospectus Requirements* (NI 41-101) and National Instrument 52-107 *Acceptable Accounting Principles* (NI 52-107). In these instances, issuer has specific meaning in application and reference. The Report refers to RI unless use of the term issuer is necessary to make the distinction.

The ASC recognizes the challenges in complying with complex and changing disclosure and accounting standards. With this in mind, ASC staff have had a long-standing practice of making ourselves available for consultations with management of RIs and their advisers. To facilitate a thorough discussion of the issues, we expect that the inquirer will have undertaken an appropriate level of research on the matter prior to contacting us.

We are generally satisfied with the results of our CD reviews. With the increasing complexity of the business environment and further uncertainties brought on by volatility in commodity prices and the capital markets, it is critical that RIs find ways to help the reader to understand their business. We are encouraged that management of RIs and their advisers take their disclosure obligations and our comments seriously. It is the ASC's view that our mandate to protect investors and the integrity of Alberta's capital market is supported by the community, the vast majority of whom understand these obligations and who are not interested in sharing the market with those that provide misleading disclosure. As such, our review of RI disclosure will remain as one of our key priorities.

We welcome comments and feedback on the Report. The ASC will continue to review the scope of the Report to consider other areas that could be incorporated to provide practical and relevant guidance for RIs and their advisers that will in turn benefit the Alberta capital markets.

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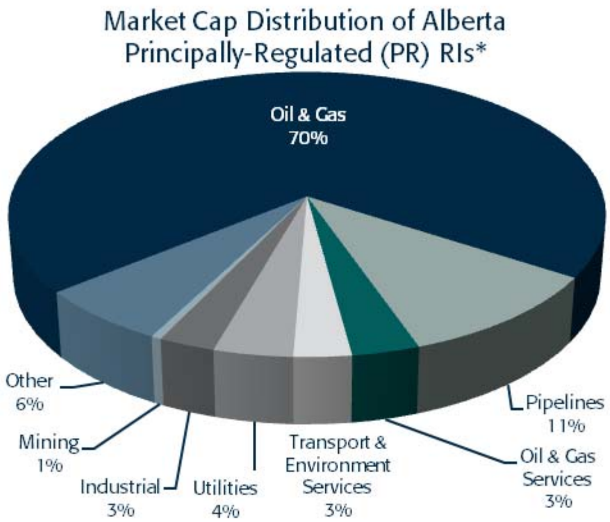
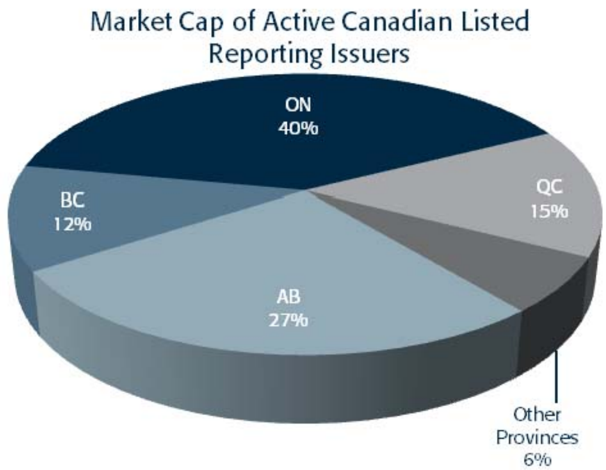
1. The Alberta Capital Market

Industry and Market Capitalization of ASC's Active RIs





*Represents RIs listed on the TSX or TSX Venture Exchange[1]

Alberta is the second largest capital market in Canada, representing 27 per cent of the publicly listed issuers on the TSX and TSX Venture market. The ASC regulates a diverse market comprised of 793 reporting issuers. Our largest industry is oil and gas representing 70 per cent of the Alberta capital market followed by pipelines at 11 per cent with the remaining market made up of a diverse group. We have a team of professionals made up of accountants, financial analysts, lawyers, engineers and geologists, who work together in order to provide oversight of our RIs in all the industry sectors. In particular, our team has specialized knowledge of the oil and gas industry allowing us to better understand the business, address unique and emerging issues and better serve the Alberta capital market.

The ASC publishes a report on the Alberta capital market annually. For further information about the Alberta capital market and publications please see the ASC website: www.albertasecurities.com.

[1] Bloomberg, SEDAR, September 30, 2010.

2. CD Review Results

Type of review	Year ended November 30, 2010	Year ended November 30, 2009[2]
Full CD reviews	159	127
Issue-oriented reviews	104	99
Total number of files reviewed[3]	263	226

Outcomes by file[4]	Year ended November 30, 2010		Year ended November 30, 2009	
Refiling requested	40	14%	56	20%
Prospective change requested	172	59%	173	61%
Placed in default	4	1%	11	4%
Referred to Enforcement	2	1%	4	1%
No action required	73	25%	39	14%
Total outcomes	291		283	

Nature of refilings	Year ended November 30, 2010	Year ended November 30, 2009
Financial statements	17%	12%
MD&A[5]	20%	27%
Certification	45%	49%
Other	18%	12%

Overall this year's results show an increase of 37 total files reviewed. This increase reflects our continued focus of CD reviews. As noted by the CD review results there has been an overall general improvement in the quality of disclosure. However, there remain areas where RIs can make improvements.

[2] Previously reported in the 2009 CD Report.

[3] These numbers do not reflect the reviews we carried out on oil and gas disclosures under National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities*.

[4] There is not a one-to-one correlation between the number of files reviewed and the number of outcomes. That is, one file can generate a number of outcomes, such as a request to make prospective changes for some items and a refiling for other items.

[5] Throughout this Report Management's Discussion & Analysis is referred to as MD&A.

Since IFRS will significantly impact our RIs, we have focused a large part of our Report on this topic. While RIs continue to devote substantial resources to their IFRS transition, many will soon be preparing their annual filings. We remind RIs not to lose sight of the importance of complete and accurate filings.

As in past years' Reports we have highlighted CD review deficiencies and provided practice tips as well as examples of disclosure that met our requirements. For this Report we have also highlighted where there are Canadian GAAP and IFRS differences for areas of deficiencies, so that RIs can improve their annual filings and future filings under IFRS.

3. IFRS Transition Year

As a result of the changeover to IFRS, there were several amendments made to securities legislation. To assist our RIs and their advisers in the transition, and in understanding the changes to securities legislation, the ASC's Office of the Chief Accountant has held several external information sessions. To provide further guidance, we focus this section on some key changes.

3.1 Amendments to Securities Legislation

A. Amendments to National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards* (NI 52-107)

NI 52-107 sets out acceptable accounting principles and auditing standards to be applied by issuers and registrants for financial statements filed or delivered to securities regulatory authorities or securities regulators. NI 52-107 will be repealed and replaced effective January 1, 2011 to address changes to securities legislation arising from the upcoming changeover in Canada to IFRS for financial years beginning on or after January 1, 2011 and the adoption of International Standards on Auditing (ISA) for audits of financial statements for periods ending on or after December 14, 2010. The key changes from the current rules are summarized by heading below.

Acquisition Statements

During financial years beginning on or after January 1, 2011, acquisition statements for private entities who have not prepared financial statements in accordance with one of the other acceptable GAAPs are permitted to be prepared in accordance with Canadian GAAP applicable to private enterprises subject to specified conditions[6]. Non-venture issuers will be required to reconcile these financial statements to the issuer's GAAP for all financial years presented and for the most recently completed interim period. The NI 52-107 Companion Policy provides guidance on the preparation of this reconciliation. Venture issuers will not be required to provide a reconciliation. Both venture and non-venture issuers must prepare pro forma financial statements using accounting policies permitted by the issuer's GAAP that are the same as those used in issuer's financial statements.

Rate Regulated Entities

NI 52-107 includes a provision to permit rate regulated entities to defer the transition to IFRS for one year. This provision is consistent with the deferral provided by the Canadian Accounting Standards Board.

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[6] The specified conditions for preparing the acquisition statements using Canadian GAAP applicable to private enterprises are found in section 3.11(f) of NI 52-107. The acquisition statements must consolidate any subsidiaries and account for significantly influenced investees and joint ventures using the equity method.

Investment Funds

The rules for investment funds are covered under National Instrument 81-106 *Investment Fund Continuous Disclosure* (NI 81-106). Investment funds are required to adopt IFRS for annual periods beginning on or after January 1, 2012. If an investment fund wants to use IFRS for interim and annual financial statements for annual periods beginning prior to January 1, 2012, they must apply for exemptive relief.

Other

Other features or changes that we believe may be of particular interest, and will apply to financial years beginning on or after January 1, 2011:

- Interim financial reports must contain an unreserved statement of compliance with International Auditing Standards (IAS) 34[7];
- Annual financial statements must contain an unreserved statement of compliance with IFRS;
- The "same core subject matter" exemption due to global conversions to IFRS and the infrequent use of the exemption has been removed;
- NI 52-107 maintains the existing exemption allowing a domestic issuer that is also an SEC registrant to use U.S. GAAP, but the requirement to reconcile from U.S. GAAP to Canadian GAAP for periods beginning on or after January 1, 2011 has been removed; and
- NI 52-107 includes a new provision to permit RIs with 52/53 week financial years to adopt IFRS if the immediately preceding financial year ends no earlier than December 21, 2010. This permits issuers that have a financial year that ends close to, but not on, December 31, 2010 the option to transition to IFRS when their new financial year begins.

B. Amendments to National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102)

NI 51-102 sets out the obligations of RIs, other than investment funds, for financial statements, MD&A, annual information forms, business acquisition reports, material change reports, information circulars, proxies and proxy solicitation, restricted share disclosure and certain other continuous disclosure-related matters. NI 51-102 has been amended recently to reflect the transition to IFRS and will apply to financial years beginning on or after January 1, 2011. The areas of particular interest are:

- First interim financial report, in the year of adopting IFRS, may be filed up to 30 days later. For example, a venture issuer may file its first interim financial report up to 90 days after the end of the interim period; [8] and

[7] Section 3.2 of NI 52-107.

[8] Section 14.3 of NI 51-102.

- An opening IFRS statement of financial position as at the date of transition to IFRS and reconciliations required by IFRS 1 must be included in the first interim financial report and the first annual financial statements in the year of adoption.[9]

3.2 Our Expectations for the First IFRS Interim Financial Report

In assessing the effects of the transition, readers will want to understand the impact of any elections that were made as well as identify the effects of reclassifications and any other changes that result in significant differences in reporting. While IFRS 1 requires the effects of transition to be quantified, we expect issuers to supplement this information with a comprehensive discussion on their reported financial position and financial performance.

PRACTICE TIPS:	
	▪ Issuers might find it useful to inform readers whether the transition has any impact on the issuer's cash flows. ▪ We recommend an issuer separately distinguish each difference that arises on transition such as: IFRS 1 exemptions; changes in accounting policies selected by the issuer; and reclassification differences that do not affect net income. ▪ If an issuer becomes aware of errors made under previous GAAP, the reconciliations prepared upon transition should distinguish the correction of those errors from transition adjustments. ▪ A comprehensive discussion could include a concise summary setting out the impact on key items, the effect of the change, the reason for the change, its expected effect on future reporting if known, and key performance metrics. If this information is not included in an issuer's financial statements the disclosure could be included in an issuer's MD&A. ▪ Selected explanatory notes included in the issuer's first IFRS interim financial report should include, at a minimum, disclosure of the issuer's accounting policies that have substantially changed since the last financial year. This disclosure should be entity-specific and, if applicable, tailored to the industry within which the issuer operates. Some issuers may find it useful to their stakeholders to include all accounting policy notes in the first IFRS interim financial report.

[9] Sections 4.1 and 4.3 of NI 51-102.

3.3 IFRS Transition Disclosure for RIs

CSA Notice 52-326 *IFRS Transition Disclosure Review* (CSA Notice 52-326) outlines the results of a compliance review done to assess the extent and quality of IFRS transition disclosure made by RIs in their 2009 annual MD&A. CSA Notice 52-326 provides guidance to assist issuers in complying with the disclosure guidance provided in CSA Staff Notice 52-320 *Disclosure of Expected Changes in Accounting Policies Relating to Changeover to International Financial Reporting Standards*.

Given the short time remaining before the changeover date, an RI's changeover plan should be well advanced. We anticipate that disclosures - with regards to significant milestones and anticipated timelines, as well as differences between the accounting policies currently applied under Canadian GAAP and those policies required, or expected, to be applied under IFRS - will be more entity-specific in issuers' annual reporting filings ending prior to a RI's first interim financial report. In addition, where it is possible to estimate, we expect RIs' annual 2010 MD&A to provide sufficient information with respect to the IFRS transition in order that readers understand the quantitative impacts that they will begin to see in the RI's first IFRS interim financial report in 2011. RIs should therefore consider disclosing how significant asset and liability balances and earnings measures may change as a result of the changeover.

If RIs continue filing financial statements using Part V of the CICA Handbook after the changeover date, the RI's principal regulator may issue a cease-trade order that will prohibit trading in securities of the RI.

4. CD Reviews

In this section we report on the findings from our CD reviews and identify areas where disclosure can be improved. In some instances we provide examples[10] of deficient disclosure, as well as disclosure that meet our requirements to further explain what we expect. We include practice tips to provide practical guidance and suggestions on how to provide better information for the reader. In addition, we highlight areas where there are Canadian GAAP and IFRS differences when discussing recurring deficiencies noted in RIs' financial statement disclosures.

Readers of CD filings actively seek out more information to enhance their understanding of an RI's business, performance and operations and to identify areas where there is risk and uncertainty. The challenge for RIs is how best to provide such disclosure in a way that is clear and sufficient, focusing on information that is material to readers, while not exhaustive or overwhelming in detail.

4.1 MD&A Disclosure

A. Our Observations

MD&A continues to be a key area of focus and concern for ASC staff. MD&A communicates key information to readers and enhances overall financial disclosure by clearly explaining the financial statements and providing further insight and context to the numbers. We often find boilerplate rather than entity-specific disclosure that would enable a reader to assess the current financial condition and operating results of the RI and its future prospects. Disclosure often focuses on what changed, but not the underlying reasons for the change.

We see three critical areas where improvement is needed: results of operations; liquidity; and critical accounting estimates.

B. Results of Operations

An RI's MD&A should provide information about the quality and potential variability of an RI's earnings, cash flow and financial condition so that readers can assess the likelihood that past performance is indicative of future performance.

In our reviews we noted that many RIs simply repeated their significant account balances for the periods and/or financial years as required pursuant to section 1.3 (Selected Annual Information) and section 1.5 (Summary of Quarterly Results) of 51-102F1 and quantified the variances; however, little or no insight is provided in the analysis section of the MD&A into the nature and reasons for the variances.

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[10] The examples are based on actual disclosure observed in our CD reviews. While we include examples of disclosure that met our requirements for illustrative purposes, we express no conclusion on the overall quality of any particular RI's disclosure record. We have also changed names, locations, certain aspects of the qualitative content, percentages and amounts to preserve anonymity.

PRACTICE TIP:	MD&A should not be a repetition of financial statement amounts in a narrative form. MD&A should also include a thorough analysis of known material trends, events, demands, commitments and uncertainties, their intermediate effects and the reasons underlying those effects. For example, it may not be enough to say that lower revenues reflect a decline in volume of products sold; MD&A should analyze the reasons underlying the decline in sales volume if the reasons are material and determinable.

Example

Examples of boilerplate results of operations disclosures in an RI's MD&A:

Revenue Increase
Revenue for the year amounted to $10 million, compared to $7 million for last year, an increase of $3 million or 43 per cent. The overall increase in sales is largely attributable to the growth that the Entity experienced in Alberta.

Example

Example of results of operations disclosures that met our criteria:
(This is an excerpt of an RI's MD&A disclosures for its revenue variations in the nine months ended September 30, 2010)

Revenues
Crude oil revenue in the three and nine months ended September 30, 2010 was $11.7 million and $33.4 million compared to $7.9 million and $15.2 million during the three and nine months ended September 30, 2009. For the first nine months of 2010, oil revenues increased 120 per cent over the comparable 2009 period; as volumes increased 90 per cent and the average price increased 21 per cent.

During the three and nine months ended September 30, 2010, the Entity's sales averaged 1,667 boe/d and 1,651 boe/d, respectively. This is compared to average daily sales volumes of 1,208 boe/d and 867 boe/d for the three and nine months ended September 30, 2009. Crude oil sales for the nine months ended September 30, 2010 were from 89 wells primarily in Area A and Area B, compared to 51 wells during the nine months ended September 30, 2009.

During the three and nine months ended September 30, 2010, the Entity received an average oil price of $74.91 per bbl and $75.93 per bbl, respectively. This is compared to an average oil price of $70.69 per bbl and $62.87 per bbl for the three and nine months ended September 30, 2009. The Entity received an average crude oil price approximately the same as the Edmonton light reference price in the first nine months of both 2010 and 2009.

In addition to financial measures, 51-102F1 suggests that companies identify and discuss factors that may be non-financial in nature that might include material business and operational data that management uses to manage the business. Such information may relate to external factors such as interest rates or economic growth rates, or matters specific to an RI or its industry, such as those based on units or volume, customer satisfaction, product development, service offerings, affiliations/joint undertakings and market demand. Management should review the external and internal economic factors used to manage the business and consider including these key indicators in their MD&A. This commentary will assist the users in understanding the RI's business as well as benchmarking it against others within the same industry.

Example

Disclosure example for industry factors affecting an RI's performance that met our criteria:

Revenue
For period ended Q3, 2010, drilling days decreased by 46 percent to 4,322 days from 7,971 in the 2009-year. In light of decreased activity in the industry, day rates softened moderately during 2010.

As an industry comparison, during Q3, 2010 the number of industry horizontal and directional drilling days decreased by 50 percent to 11,450 days from 22,891 days in the 2009 period.

RIs should evaluate whether information disclosed in documents other than in their filed documents (such as information in earnings releases, on corporate websites or annual reports) is material and would be required in, or would promote understanding of MD&A. RIs should ensure that the information disclosed is consistent with their other filed documents. In instances where ASC staff note inconsistencies, the issuer will be asked to clarify and in some instances will result in a refiling.

For instance, we noted an RI disclosed on their corporate website that Entity A was the subsidiary of the RI from the 2009 fiscal year onwards; however, the business acquisition note in the RI's Q2, 2010 interim financial statement disclosed that the acquisition of Entity A was closed in the Q2, 2010 reporting period.

C. Critical Accounting Estimates

Disclosure of critical accounting estimates may be appropriate where the impact of the estimates and assumptions on financial condition or operating performance is material. Disclosure becomes particularly important when the nature of the estimates or assumptions is potentially volatile, either due to the level of judgment necessary to account for highly uncertain estimates and assumptions, or when the estimates and assumptions are readily susceptible to change. Section 1.12 of 51-102F1 requires that an RI that is not a venture issuer provide an analysis of the RI's critical accounting estimates.

In our reviews we noted that many RIs limited their discussion of critical accounting estimates to a repetition of the accounting policy disclosures around measurement uncertainty found in the notes to the financial statements. It is important to ensure that the use of estimates and assumptions in the preparation of financial statements is adequately communicated to the users of the financial statements. Repetition of what was disclosed in the financial statements may not comply with section 1.12 in the MD&A. Specifically, section 1.12 of 51-102F1 requires the following disclosures:

- methodology used in determining the critical accounting estimate;
- any known trends, commitments, events or uncertainties that the RI reasonably believes will materially affect the methodology or the assumptions described;
- explanation of the significance of the accounting estimate to the RI's financial condition, changes in financial condition and results of operations, and identification of the financial statement line items affected by the accounting estimate; and
- identification of the segments of the RI's business that the accounting estimate affects and discussion of the accounting estimate on a segment basis, if the RI operates in more than one segment.

Because critical accounting estimates and assumptions are based on matters that are highly judgmental, RIs should consider discussing the sensitivity of such estimates or assumptions to change, providing a quantified sensitivity analysis when possible. Generally, we see few sensitivity analyses, and RIs should be aware that our guidance does recommend such disclosure when possible.

RIs should limit their discussion of critical accounting estimates to the most critical that might include for example: the valuation of long-lived assets (including the calculation of impairment charges); goodwill and other intangibles; pensions and other post employment benefits; liabilities and reserves; derivatives and financial instruments; revenue recognition; income taxes; and environmental costs. The above is not an all-inclusive list; the discussion of critical accounting estimates is specific to each RI.

Example

Example of boilerplate disclosure noted for critical accounting estimates:

Critical judgements and accounting estimates
The preparation of financial statements requires management to make certain judgements, accounting estimates and assumptions that affect the amounts reported for assets and liabilities as at the reporting date and the amounts reported for revenues and expenses during the year. The nature of estimation means that actual outcomes could differ from those estimates. Accordingly, the impact of these estimates, assumptions and judgments on the consolidated financial statements in future periods could be material.

Example

Example of an element of critical accounting estimates disclosure that met our criteria:

Recoverability of asset carrying values
The Entity assesses its property plant and equipment, including intangible exploration and evaluation assets, for possible impairment if there are events or changes in circumstances that indicate that carrying values of the assets may not be recoverable, or at least at every reporting date. Such indicators include changes in the Entity's business plans, changes in commodity prices, evidence of physical damage and, for oil and gas properties, significant downward revisions of estimated recoverable volumes or increases in estimated future development expenditure.

At the reporting date, an impairment test was carried out on the gas fields in accordance with the accounting policy stated in note 3. The recoverable amounts of the fields have been determined based on value in use calculations. These calculations require the use of estimates. The present value of future cash flows was computed on an pre-tax basis by applying forecast prices of gas reserves to estimated future production of proved and probable gas reserves, less estimated future expenditures to be incurred in developing and producing the proved and probable reserves. The present value of estimated future net revenues is computed using a discount factor of 10 per cent. The discount rate used is pre-tax and reflects the specific risks relating to the underlying cash generating unit.

The price estimates are a source of measurement uncertainty in the Entity's impairment test since there can be no assurance as to what price will be achieved.

If the forecast prices applied to the impairment test were to reduce by $0.10 per Mcf below the assumed price of $3.91 per Mcf, the excess of recoverable amount over the carrying value would be reduced by approximately $0.5 million for each $0.10 diminution of actual price realised.

D. Liquidity

Liquidity is an area of focus for users of financial statements. They want information in order to assess whether the RI has the ability to meet its financial objectives and fund current and future growth. Section 1.6 of 51-102F1 outlines the MD&A disclosure requirements that would allow a reader to understand and analyze an RI's liquidity.

We identified a number of recurring concerns about RIs' liquidity disclosures where RIs failed to provide meaningful analysis. Frequently the RIs' MD&A discussions are a repetition of the capital management disclosures required pursuant to CICA HB 1535 *Capital Disclosures*, and included in the interim or annual financial statements. Section 1.6 of 51-102F1 requires additional disclosures that are not specified in CICA HB 1535. The MD&A liquidity discussion could be improved by providing a more complete analysis and discussion of the required disclosures such as:

(1) Analysis of an RI's ability to generate sufficient amounts of cash and cash equivalents, in the short term and the long term, in order to maintain its capacity, meet its planned growth or fund development activities.

In our reviews we noted a lack of meaningful analysis and disclosure about the RI's ability to generate sufficient amounts of cash and cash equivalents in order to meet its planned business activities and day-to-day operations. The MD&A should supplement the information that is presented in the cash flow statement, specifically with a focus on the drivers of the RI's cash flows, future cash requirements, and what sources management expects to be available to meet those requirements. If a shortfall of cash flows is expected then management should disclose how that shortfall will be funded.

If management anticipates that the funds will be internally generated, then clear disclosure of the underlying assumptions is critical to help a reader assess the RI's ability to sustain its operations and meet its expected business objectives.

Example
Illustration of how disclosure about generation of sufficient amounts of cash and cash equivalents could be improved to provide more meaningful information:
Entity A will require additional funding by the end of the third quarter of fiscal 2010. At December 31, 2009 the Entity held cash and cash equivalents of $0.5 million and had current liabilities, including the related party loans, of $1 million. Based on current budgeted expenditures of approximately $0.2 million to $0.7 million per month the Entity will require additional funding by the end of the third quarter of fiscal 2010. The Entity has historically relied upon private placement, public equity financings and loans to satisfy its capital requirements and will likely continue to depend upon these sources to finance its activities. There can be no assurances that the Entity will be successful in raising the desired level of financing on acceptable terms.
<u>Staff comments</u>: While the disclosure states that the RI will monitor capital requirements, improvements could be made by: i. providing more information to clarify the specific amount, timing and nature of the capital requirements; and ii. discussing the impact of cash flows from operating activities on funding requirements.

(2) Discussion of material trends or expected fluctuations in liquidity is important in understanding an RI's reported financial information and future results or financial condition. We noted minimal discussion of trends or uncertainties in the MD&A.

This discussion may be enhanced if it includes forward-looking information about the potential impact on future liquidity, capital resources and operating results in addition to the financial information for the reported period. If there is a reasonable likelihood that reported financial information is not indicative of an RI's future financial condition or future operating performance, appropriate disclosure in the MD&A may be required.

PRACTICE TIP:	Some items an RI could consider when assessing if there are any trends or uncertainties that are reasonably likely to have a material effect on an RI's liquidity, financial condition or results of operations: ▪ difficulties accessing debt or equity markets; ▪ changes in credit ratings; ▪ changes in the valuation of collateral; and ▪ counterparty risk.

(3) Discussion of an RI's working capital deficiency (or expected deficiency) and an RI's ability to meet obligations as they become due and how they expect to remedy the deficiency. This discussion should provide an analysis of the RI's ability to generate sufficient cash to allow readers to determine if adequate financial resources are available to meet operating needs.

In our reviews we found several RIs with a working capital deficiency that failed to discuss plans to remedy the deficiency. In addition, several RIs did not correctly compute their working capital deficiency. They excluded from current liabilities such items as the current portion of long-term debt, or a long-term credit facility reclassed to current liabilities in the current reporting period due to a debt covenant violation. In other instances they included receivables with a due date extending beyond one year in current assets.

(4) Discussion of defaults or arrears or risks thereof.

We identified instances where an RI simply stated that they were in default but did not provide any further information. When a liquidity issue is identified, we require disclosure on how the RI intends to remedy the situation and identification of the available internal and external sources of liquidity.

PRACTICE TIP:	In addition to providing basic information with respect to a default, disclosures of how the RI intends to cure the default or arrears or address the liquidity risk should be included in the RI's MD&A. If an RI does not have a plan to remedy the situation, this fact should also be disclosed.

Example

Example of disclosure about compliance with debt covenants that met our requirements:

The Entity's share capital is not subject to any external restrictions; however its credit facility is subject to periodic reviews. The credit facility also contains certain covenants, such that the Entity cannot, without prior approval of the bank, hedge or contract petroleum or natural gas volumes, on a fixed price basis, exceeding 50 per cent of production volumes, nor can it monetize or settle any fixed price financial hedge or contract. The credit facility also contains a financial covenant that requires the Entity to maintain a working capital ratio of at least 1:1, but for the purposes of the covenant, bank debt and the fair value of any commodity contracts are excluded and the unused portion of the credit facility may be added to current assets. As at June 30, 2010, this ratio was 3.3:1.

(5) Disclosure of contractual obligations table for non-venture issuers.

RIs should carefully consider what should be included in the contractual obligations disclosure. The tabular disclosure should be clear, understandable and accurately reflect the contractual obligations in order to improve transparency of short term and long term liquidity and capital resources needs. Some RIs did not include all of their long term obligations in the table.

Although venture issuers are not required to disclose the contractual obligations summary and table, they should consider providing this disclosure if the information would provide readers with a more complete picture of the RI's liquidity.

In addition an RI should discuss any off-balance sheet arrangements that have, or are reasonably likely to have, a current or future effect on the results of operations or financial condition. A clear and concise description of an RI's off-balance sheet arrangement(s) is important to present readers with a complete liquidity picture. The disclosure should address why the RI engaged in the off balance sheet arrangement, the magnitude and importance of the arrangement and the circumstances that would cause the RI to recognize material liabilities or losses related to the arrangement. ASC staff carefully review situations where an off- balance sheet financing has been used in lieu of more traditional debt or capital raising transactions that appeared to be available to the RI.

Example

Example of off-balance sheet MD&A disclosure that met our requirements:

Off-Balance Sheet Arrangements
The Entity did not have any significant off-balance sheet arrangements as at September 30, 2010 other than letters of credit in the amount of $7 million ($5.5 million at December 31, 2009), and the Entity's co-owner's share of the accounts payable and accrued liabilities of the joint venture project in the amount of $0.7 million ($1.1 million at December 31, 2009). By agreement with the co-owner, if the co-owner does not pay its share of accounts payable and accrued liabilities, the Entity may pay such amounts and recover them from the co-owner's share of production. As at September 30, 2010, the co-owner is not in default of its obligations to the joint venture project. Management of the Entity does not believe that they have any off-balance sheet arrangements that have, or are reasonably likely to have, a current or future material effect on the Entity's financial condition, results of operations, liquidity, capital expenditures or resources.

4.2 Financial Statement Presentation

A. Our Observations

With the continued global economic uncertainty, our CD reviews continue to focus on the impact of the economic climate on financial statement presentation and accounting matters. Despite there being relatively few changes in the CICA HB we continue to see recurring deficiencies in the application of certain sections of the CICA HB. These deficiencies include:

- going concern;
- capital disclosures;
- discontinued operations; and
- stock-based compensation.

B. Going Concern

The CICA HB Section 1400 requires complete disclosure regarding issues, events or circumstances that can cast a significant doubt upon the RI's ability to continue as a going concern. Such disclosures continue to be important to readers given the current economic climate.

In our CD reviews we continue to see indications of a going concern risk such as working capital deficiencies, cash outflows from operating activities, and recurring net losses but no going concern disclosures in the financial statements.

In one instance, the going concern note for an RI did not mention debt covenant violations, debt renegotiation, unpaid accrued interest on outstanding debt, and the halt of both principal and interest payments on a loan. In addition, in reviewing the financial statements for the interim periods just preceding the annual financial statements, we noted that these same conditions which cast significant doubt upon the RI's ability to continue as a going concern were present; however, these interim financial statements did not address the RI's going concern risk either. The going concern disclosures should provide readers with a complete picture of the RI's current financial situation and these disclosures should be made in a timely manner.

Some RIs with a going concern note did not update the going concern disclosure other than to update numeric information such as the working capital deficiency, and net loss. Specific information about the activities management has pursued should be provided in addition to assumptions supporting their assessment that the going concern assumption is still appropriate, especially if the RI's financial situation has worsened.

The large majority of RIs reviewed did not include disclosure of management's plans for dealing with the events and conditions giving rise to a going concern risk. We expect to see disclosure of management's evaluation of the significance of the issues and any mitigating factors, including the expected timing of resolution of the events or conditions and the possible effects of these issues if they are not resolved.

IFRS NOTE:	CICA HB Section 1400 is converged with IAS 1.

Example

Example of going concern disclosure that met our requirements:

Going Concern
These consolidated financial statements have been prepared on a going concern basis which assumes that the Entity will be able to realize its assets and discharge its liabilities in the normal course of business for the foreseeable future. As at December 31, 2009, the Entity has a working capital deficiency of $5 million, including bank debt of $3 million, and incurred a net loss for the year ended December 31, 2009 of $7 million. Cash flow from operating activities was $1 million. The Entity is faced with a number of significant uncertainties. The Entity is in default of its obligations regarding a working capital ratio covenant required to be maintained under the terms of the credit facility and had allowed liens to be registered against certain assets. January 2010, the Entity entered into an Agreement that, upon completion, will result in the Entity complying with the terms of its credit facility. This Agreement amends and extends the terms of the agreement dated November 30, 2009 to May 31, 2010. Note 17 provides disclosure of the terms of the Agreement. During the period from December 31, 2008 to December 31, 2009, the Entity reduced its bank debt by $1 million and reduced its working capital deficiency by $3 million.

The Entity has been working to complete a comprehensive plan of action (the "Plan") formulated in 2009 that will allow it to comply with the working capital covenant with the Lender (note 17) and result in all liens being removed by the end of the second quarter of 2010. The Plan has been substantially completed and involves several initiatives including the sale of $1 million of assets, the issuance of $1 million of net equity, and the extension of $2 million of debentures.

During 2009, the Entity has sold $0.5 million of assets and at December 31, 2009 the Entity has paid down its existing line of credit by $1 million from $4 million. As per the terms of the Agreement, the Entity will pay down the line of credit to $1 million by the end of the second quarter of 2010. The Entity is considering additional equity financing to be raised in 2010. The completion of the Plan and the proposed equity financing will bring the level of bank debt down to the Lender's required lending value, return its unsecured obligations to normal terms of payment and allow the Entity to commence work programs that have been deferred until the Entity's finances were in order.

The Entity's ability to continue as a going concern and to fully exploit and carry out its planned work program is contingent upon the return of favourable commodity prices, the maintenance of its existing reserve and production base, internally generated cash flow from operations, the availability of financing from a lending institution, the continued support of its creditors, realizing on proposed asset sales, raising additional equity and sale of debentures. The consolidated financial statements do not include any adjustments to the amounts and classifications of assets and liabilities that may be necessary should the Entity be unable to continue as a going concern and these adjustments and reclassifications may be material.

The information contained herein is current as of April 22, 2010.

C. Capital Disclosures

Capital disclosures provide readers with information about an RI's objectives, policies and processes for managing capital as well as quantitative data about what the RI regards as capital and the compliance with any capital requirements.

PRACTICE TIP:	These requirements apply to all entities, whether or not they are subject to external capital requirements.

ASC staff observations regarding capital disclosures are:

- Some RIs are still providing boilerplate capital disclosures. In several reviews we noted that the capital management disclosures were generic and did not provide disclosures of: (a) quantitative data about what the RI manages as capital; (b) disclosure and discussion of changes from the previous period for that data; and (c) discussion of how the RI is specifically meeting its objectives for managing capital.
- In some instances, there was insufficient disclosure of debt covenants. For instance, one RI disclosed a breach of a debt covenant; however, there was no disclosure of the impact on the RI's financial or liquidity situation. In addition, many RIs indicated that they are subject to external capital requirements; however, they provided little insight in terms of what these covenants were and how a covenant breach affected them.
- Some RIs provided quantitative data about their capital, but in some instances they added the amount of cash on hand or working capital to shareholders' equity and long-term debt in reporting a total capital amount. This overstates the amount of capital.

IFRS NOTE:	CICA HB 1535 is fully converged with the capital disclosure-related requirements in IAS 1.

D. Discontinued Operations

CICA HB 3475 establishes standards for the recording and presentation of discontinued operations. We identified deficiencies in the following area.

We identified an instance where the sales price of the assets held for sale was significantly below their carrying amount; however, the RI did not record an impairment or write-down. In addition, we noted that the RI amortized the long lived asset while it was classified as held for sale. CICA HB Section 3475.13 requires that a long-lived asset classified as held for sale be measured at the lower of its carrying amount or fair value less cost to sell. A long-lived asset should not be amortized while it is classified as held for sale. RIs should continue to accrue interest and other expenses attributable to the liabilities of a disposal group classified as held for sale.

IFRS NOTE:	CICA HB Section 3475 is similar in concept and content with IFRS 5; however, there are differences that would warrant preparers closely reading IFRS 5.

E. Stock-Based Compensation

CICA HB 3870 establishes standards for the recognition, measurement and disclosure of stock-based compensation and other stock-based payments made in exchange for goods and services. We identified the following areas where RIs provided incomplete disclosure:

- An RI recorded significant option forfeitures during the period; however, the stock-based compensation accounting policy note did not disclose the RI's policy for accounting for stock option forfeitures. Canadian GAAP allows for a choice in the recognition of the effect of forfeitures, so disclosures regarding this policy are important.
- Disclosures of the measurement of stock-based transactions with non-employees were not included in an RI's financial statement note disclosures in several instances. CICA HB 3870 requires the use of the fair value-based method of accounting for all non-employee and employee stock-based transactions. CICA HB 3870.67 indicates that an RI that uses equity instruments to acquire goods or services other than employee services shall provide disclosures similar to those required by 3870.68-.71 to the extent that those disclosures are important in understanding the effects of those transactions on the financial statements.

<table>
<tr>
<td>IFRS NOTE:</td>
<td>Forfeitures
CICA HB Section 3870 allows for the choice of whether to estimate forfeitures at the grant date or to recognize the effect of forfeitures as they occur. Under IFRS 2, the RI is required to estimate forfeitures.

Transactions with Non-employees
For services received from non-employees, IFRS 2 requires that the fair value be based on goods and services received based on the rebuttable presumption that it can be reliably determined. If the fair value of the goods and services received cannot be reliably determined, then the fair value of the equity instruments granted can be used. Under CICA HB 3870 the RI is generally required to use the option that provides the most reliable measurement.

There are a number of additional differences around scope, measurement and other aspects of accounting for share-based payments. Preparers should ensure they familiarize themselves with the details of IFRS 2.</td>
</tr>
</table>

4.3 Other Reporting Requirements

A. Annual Information Form (AIF) and Information Circular (Circular)

We noted several instances of disclosure deficiencies that resulted in the refiling of the RI's continuous disclosure reports and/or placing the RI in default. The key deficiencies noted in our CD reviews are summarized below.

Cease Trade Orders and Bankruptcy Disclosures

The AIF and Circular have disclosure requirements pertaining to directors and executives. Section 10 of Form 51-102F2 *Annual Information Form* (51-102F2) and section 7 of Form 51-102F5 *Information Circular* (51-102F5) set out the requirements for disclosure pertaining to the directors and officers (in the AIF) and directors (in the Circular) in respect to cease trade orders, including management cease trade orders, bankruptcies, penalties and sanctions. Through our review of offering documents and CD reviews, we noted several instances where this information was known to the RI but was not disclosed in the AIF or Circular as required. In these instances, we required the RI to disseminate the information promptly. When the disclosure deficiency was in a Circular, we required an addendum to the Circular to be filed promptly.

Although venture issuers are not required to file an AIF, we remind venture issuers that when they file a voluntary AIF in order to be short form prospectus eligible, the disclosure set out in section 10 of 51-102F2 is required to be included in the AIF.

Corporate Governance Disclosure and Audit Committee Information

In several instances we noted that venture issuers failed to provide corporate governance disclosures as required by National Instrument 58-101 *Disclosure of Corporate Governance Practices* (NI 58-101) and National Instrument 52-110 *Audit Committee* (NI 52-110).

NI 58-101 sets out disclosure requirements for venture issuers in Form 58-101F2 (58-101F2) and non venture issuers in Form 58-101F1 (58-101F1) and NI 52-110 sets out disclosure requirements for venture issuers Form 52-110F2 (52-110F2) and non venture issuers in Form 52-110F1 (52-110F1). This disclosure is required to be included in the Circular for venture and non venture issuers. If a non venture issuer is not required to send out a Circular, the information must be included in the non venture issuer's AIF. If a venture issuer is not required to send out a Circular, the information must be included in the venture issuer's AIF or annual MD&A.

Where we noted deficiencies, the venture issuer had not sent out a Circular and had filed its annual MD&A without the disclosure. The RI was put into default and was required to refile its annual MD&A with the disclosure in order to remedy its deficiency.

Statement of Executive Compensation

RIs are required to provide the disclosure set out in Form 51-102F6 *Statement of Executive Compensation* (51-102F6) within 140 days after the end of the RI's most recently completed financial year. The 51-102F6 disclosure is required to be included in the Circular; if the RI is not required to send out a Circular, the information is to be provided in the AIF. For venture issuers that do not file an AIF, the 51-102F6 can be a separate filing. When the 51-102F6 is filed as a separate document, the filing of a CEO/CFO certificate pursuant to NI 52-109 is not required.

We noted instances where venture issuers had not filed a Circular within 140 days of its most recently completed financial year. The RI was placed into default and had to file the required 51-102F6 document in order to remedy its deficiency.

B. Non-GAAP Financial Measurements Reporting

Non-GAAP financial measures are widely used by preparers to provide readers with additional information concerning an issuer's financial performance. ASC staff are concerned that readers may be confused or misled by non-GAAP financial measures.

CSA Staff Notice 52-306 (Revised) *Non-GAAP Financial Measures and Additional GAAP Measures* (CSA Notice 52-306) was issued on November 9, 2010. CSA Notice 52-306 was updated to reflect the changeover to IFRS, but continues to apply to RIs who use other accounting principles. CSA Notice 52-306 provides guidance to RIs who disclose financial measures other than those permitted by the accounting principles the RI used to prepare its financial statements.

In our reviews, we noted some recurring problem areas which are summarized below.

RIs did not provide a clear quantitative reconciliation from the non-GAAP financial measure to the most directly comparable measure calculated in accordance with the RI's GAAP. Where a clear quantitative reconciliation was not performed, the RI generally did not identify the financial measure as being non-GAAP or provide an explanation as to why the non-GAAP financial measure provided useful information to readers or the additional purpose, if any, for which management used the non-GAAP financial measure.

Example

Example of a non-GAAP disclosure that met our expectations:

Adjusted EBITDA
Adjusted EBITDA is not a recognized performance measure under GAAP and does not have a standardized meaning prescribed by GAAP. The term EBITDA consists of net income (loss) and excludes interest, taxes, depreciation, and amortization. Adjusted EBITDA also excludes stock-based compensation, gain or loss on the disposal of property and equipment, and gain or loss on foreign currency translation. Management believes that such measurement provides a better assessment of the Entity's operations on a continuing basis by eliminating certain non-cash charges and charges that are nonrecurring. The most directly comparable measure to Adjusted EBITDA calculated in accordance with GAAP is net income (loss). The following is a reconciliation of the Entity's Adjusted EBITDA to net income (loss).

Adjusted EBITDA reconciliation
$ millions

	2010	2009	2008
Net loss	$ (25.8)	$ (13.9)	$ (8.9)
Depreciation of property and equipment	16.4	11.2	9.4
Amortization of intangible assets	0.4	0.4	0.4
Interest expense	0.2	0.3	0.1
Interest income	-	(1.0)	(2.3)
Income tax expense	0.1	0.1	(0.3)
Stock-based compensation	2.3	2.4	2.2
(Gain) loss on foreign currency translation	(0.4)	1.1	0.9
Gain on disposal of equipment	(0.1)	0.7	-
Adjusted EBITDA	$ (6.9)	$ 1.3	$ 1.5

Changes under IFRS and the impact on non-GAAP financial measures

IFRS mandates certain minimum line items for financial statements and requires additional disclosure if it is relevant to the understanding of those financial statements. IFRS also requires the notes to financial statements to provide information that is not present elsewhere in the financial statements, but is relevant to an understanding of any of them. IFRS requires information to be presented in a manner that provides relevant, reliable, comparable and understandable information. IAS 1.85 requires the presentation of "*additional line items, headings and subtotals in the statement of comprehensive income and the separate income statement (if presented), when such presentation is relevant to an understanding of the entity's financial performance*." In other words, if an RI determines that a financial measurement is a key performance measure and is determined to be a relevant measure in understanding an RI's performance, this financial measure should be included in the income statement pursuant to IAS 1, and would be considered a GAAP measure.

ASC staff believe it will be rare that measures such as "operating earnings", "cash earnings", "free cash flow", "distributable cash", "EBITDA", "adjusted earnings", and "earnings before non-recurring items" will be included in IFRS financial statements. Guidance for the inclusion of these measures in a disclosure document (including an RI's financial statements) is included in CSA Notice 52-306 in the "*Additional GAAP Measures Required by IFRS*" section.

For those measures that are non-GAAP financial measurements, RIs should follow the disclosure guidance in CSA Notice 52-306.

Disclosing an Additional GAAP Measure Before Filing Financial Statements

Disclosure in financial statements of additional line items, headings and subtotals beyond the prescribed minimum line items are referred to as "additional GAAP measures" in CSA Notice 52-306. If an additional GAAP measure is presented in a disclosure document prior to the issuance of the related financial statements (for example in an earnings release) then the measure could be potentially confusing without the context of the financial statements. CSA Notice 52-306 suggests the following disclosure in these situations:

- reconciling the additional GAAP measure to the most directly comparable minimum line item that will be presented in the financial statements (for example, profit or loss or cash flows from operating activities); or
- including a copy of the statement that contains the additional GAAP measure (for example, the statement of financial position or the statement of comprehensive income).

C. National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*

We conducted reviews of RIs' annual MD&A and their annual certificates to assess compliance with the provisions of National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (NI 52-109). Overall, the results of these reviews indicate moderate improvement in the level of RIs' compliance with NI 52-109 compared with prior years. However, in view of the high number of refilings, we think that RIs can further improve form compliance and related MD&A disclosure in future filings. We recommend that RIs and their certifying officers review the requirements outlined in NI 52-109 and the Companion Policy to NI 52-109 (52-109CP). They should also refer to the guidance in the CSA Staff Notice 52-327 *Certification Compliance Review* issued in October 2010 and in CSA Staff Notice 52-325 *Certification Compliance Review* issued in September 2009.

Recurring deficiencies noted in our review of NI 52-109 certificates include:

- Several RIs filed full certificates but did not disclose or fully disclose the certifying officers' conclusions about the effectiveness of internal control over financial reporting (ICFR) or disclosure controls and procedures (DC&P) in their annual MD&A.
- Several RIs that filed full certificates did not disclose or did not fully disclose the certifying officers' conclusions about the effectiveness of ICFR or DC&P in their annual MD&A or they qualified the conclusions. An example of a qualified conclusion would be one where DC&P and ICFR are stated to be effective to provide reasonable assurance regarding the reliability of financial reporting as at December 31, 2009. DC&P and ICFR are defined terms in NI 52-109. By concluding in this fashion, several elements of the definition of DC&P and ICFR have been excluded from the conclusion. The conclusion should simply state that the RI's DC&P and ICFR were effective as at December 31, 2009.
- Several RIs filed full certificates disclosing that their certifying officers concluded ICFR was "effective" despite the disclosure of a material weakness in the annual MD&A.
- Many venture issuers that filed basic certificates voluntarily discussed ICFR and DC&P in their annual MD&A but did not include cautionary language in their MD&A. If a venture issuer chooses to discuss the design or operation of one or more components of its DC&P and ICFR, section 15.3 of 52-109CP recommends disclosure to accompany the RI's discussion about DC&P or ICFR.
- RIs made amendments to the prescribed wording of the interim or annual certificates. We remind RIs that subsection 4.1(1) and 5.1(1) require RIs to file certificates in the exact wording prescribed by the required form.

5. Offering Documents

The return of a more accessible financing environment for Alberta issuers started in the last quarter of 2009, and continued in 2010. During the year ended November 30, 2010 there was a total of 246 offering documents filed by issuers where Alberta is the principal regulator, a 33 per cent increase from the prior year ended. Of the overall increase we saw the largest increase in IPOs and short form prospectuses.

Type of filing	Year ended November 30, 2010	Year ended November 30, 2009	Change
IPO	32	5	27
Long Form Prospectus	5	8	(3)
Short Form Prospectus	189	149	40
Rights Offering Circulars	5	12	(7)
CPC Prospectus	15	11	4
Total	246	185	61

In addition to our responsibility to review RIs' ongoing compliance with securities legislation, ASC staff is responsible for the review and clearance of offering documents[11] where Alberta is the principal regulator. During the year we received a number of inquiries and noted deficiencies for prospectus filings relating to:

- IPO venture issuer;
- financial statement disclosure in a long form prospectus;
- pro forma financial statements; and
- updating of financial statement disclosure.

We also highlight some key areas to consider in offering documents resulting from the changeover to IFRS.

A. IPO Venture Issuer

The IPO venture issuer is a new issuer category introduced when National Instrument 41-101 *General Prospectus Requirements* (NI 41-101) came into force in 2008. The purpose of adding this category was to harmonize prospectus disclosures for issuers that will meet the definition of a venture issuer under NI 51-102 upon the completion of their initial public offering (IPO).

[11] The TSX venture exchange is responsible for the review of CPC prospectuses. The ASC receipts the CPC prospectus.

We remind issuers that they must identify themselves as an IPO venture issuer under section 20.11 of Form 41-101F1 *Information Required in a Prospectus* (41-101F1).

Issuers that meet the definition of an IPO venture issuer[12] should consider the following when filing a prospectus:

- **Financial Statement Periods**
  We saw a number of long form prospectuses where the issuer failed to either include the correct periods of financial statements or update the prospectus for more recent financial statements. In these instances, the issuer intended to become a venture issuer, as defined by NI 51-102, once a final receipt for their prospectus was issued, but failed to realize when filing the long form prospectus that they met the definition of an IPO venture issuer. The issuer therefore incorrectly assumed the requirement for financial disclosure was the inclusion of annual financial statements for financial years ended more that 120 days before the date of the prospectus and interim financial statements for the most recent interim period that ended more than 60 days before the date of the prospectus. An IPO venture issuer, however, must follow the non-venture time periods, being 90 days and 45 days respectively.
- **Significant Acquisitions**
  For purposes of determining significant acquisitions, under section 35 of 41-101F1, the IPO venture issuer would apply the tests applicable to a venture issuer under Part 8 of NI 51-102. Issuers are reminded, however, that in certain circumstances, the acquisition may be regarded as a primary business as set out under section 32 of 41-101F1. For primary business see further discussion below.

B. Financial Statement Disclosure in a Long Form Prospectus

When filing a long form prospectus, issuers should consider what historic financial statement disclosures are required in the prospectus. We reviewed some preliminary prospectuses that failed to include all the required historical financial statements for the issuer's transactions, as required under section 32 of 41-101F1. In these instances the issuer incorrectly applied section 35 of 41-101F1 to the transaction. Section 35 only applies to significant acquisitions that do not fall within the scope of section 32. Generally, the primary difference between sections 32 and 35 is with respect to the number of years of financial statements that are required to be included in the prospectus. A transaction that falls within the scope of section 32 would require three years' of audited financial statements, whereas those transactions that fall within section 35 would require two years' financial statements where the most recently completed year is audited and the comparative year is reviewed.

[12] Definitions section 1.1 of NI 41-101-"IPO venture issuer" means an issuer that (a) files a long form prospectus, (b) is not a reporting issuer in any jurisdiction immediately before the date of the final long form prospectus, and (c) at the date of the long form prospectus, does not have any of its securities listed or quoted, has not applied to list or quote any of its securities, and does not intend to apply to list or quote any of its securities, on (i) the Toronto Stock Exchange, (ii) a U.S. marketplace, or (iii) a marketplace outside of Canada and the United States of America, other than the Alternative Investment Market of the London Stock Exchange or the PLUS markets operated by PLUS Markets Group plc.

Section 32 of 41-101F1 contemplates the inclusion of sufficient historical financial statements of the issuer and its acquisitions or proposed acquisitions to enable an investor to make an informed investment decision. The issuer's financial statements under section 32 are interpreted to include those of the issuer as well as:

- The predecessor entity: when an issuer has not existed for three years, acquired businesses that are unrelated and not otherwise significant, but together form the basis of the business of the issuer, even though the predecessor business is, or may have been, a different legal entity. [13]
- The primary business: a business or businesses acquired by an issuer within three years before the date of the prospectus or proposed to be acquired, if a reasonable investor would regard the primary business of the issuer to be the business or businesses acquired.
- The restated combined financial statements of the issuer and any other entity that the issuer completed a transaction within three years before the date of the prospectus or proposes to complete, if the transactions was or will be accounted for as a combination in which the combining entities or businesses ultimately are controlled by the same party or parties both before and after the combination, and that control is not temporary. [14]

Therefore, to the extent that section 32 of 41-101F1 applies to an issuer's transaction, the issuer would need to refer to sections 32.2 and 32.3 of 41-101F1 to determine the periods for which financial statements are required to be included.

Example

Illustration of financial statement disclosure for a primary business:

The issuer was formed in 2008. Prior to the acquisition, the issuer had commercial operations in the oil and gas industry with annual gross revenues of about $2 million and total assets of $10 million. On April 1, 2010, the issuer acquired all the outstanding securities of Company X for aggregate cash consideration of $25 million. Company X is also engaged in the oil and gas industry. Both the issuer and Company X have a year-end of December 31. The issuer filed an IPO on May 15, 2010 and declared itself an IPO venture issuer.

Staff comments:

It would be our view that a reasonable investor would consider the acquisition of Company X as the issuer's primary business. In this circumstance, section 35 of 41-101F1 would not apply. Based on this set of facts, the prospectus would therefore require the inclusion of the following financial statements:

Issuer financial statements:

- audited financial statements for the years ended December 31, 2008 and 2009
- unaudited interim financial statements for the three months ended March 31, 2010 and March 31, 2009

[13] Sections 5.3 and 5.4 of Companion Policy to NI 41-101provide further guidance to interpretation of primary business and predecessor entity.

[14] Under current GAAP this is commonly referred to as continuity of interests accounting.

Company X financial statements (Also considered the "issuer" for purposes of section 32):

- audited annual financial statements consisting of:
    - o an income statement, a statement of retained earnings, and a cash flow statements for the years end December 31, 2007, 2008 and 2009,
    - o balance sheet at December 31, 2008 and 2009, and
    - o notes to the financial statements
- unaudited interim financial statements for the three months ended March 31, 2010 and 2009

Pro forma financial statements:

- a pro forma balance sheet of the issuer that gives effect to the transaction as at March 31, 2010,
- a pro forma income statement of the issuer that gives effect to the acquisition, as if it had taken place at the beginning of the financial year, for each of the following periods:
    - o December 31, 2009, and
    - o March 31, 2010.

C. Pro Forma Financial Statements

An issuer that is subject to section 32 should also consider the necessity of including pro forma financial statements in order to provide full, true and plain disclosure of all material facts relating to the securities being distributed. Examples of when pro forma financial statements would likely be necessary are where the issuer has acquired multiple businesses over the relevant period, or the issuer has an active business and has acquired another business that will constitute its primary business going forward.

In the instance of multiple acquisitions, ASC staff would not object to the inclusion of one set of pro forma financial statements, provided that it:

- reflects the results of each acquisition since the beginning of the issuer's most recently completed financial year for which the financial statements of the issuer are included; and
- is prepared as if each acquisition had occurred at the beginning of the most recently completed financial year of the issuer for which financial statements of the issuer are included in the prospectus.

D. Updating Financial Statement Disclosure

Issuers are reminded that the final prospectus must not contain outdated information. They should consider if there is a likelihood the time period between the preliminary and the final prospectus may trigger the requirement to include more recent financial statements.

E. IFRS Considerations

On October 1, 2010, the CSA published amendments to the prospectus rules resulting from the changeover to IFRS.

Issuers need to comply with the amended rules when filing a preliminary prospectus, an amendment to a preliminary prospectus, a final prospectus or an amendment to a final prospectus, which includes or incorporates by reference financial statements of the issuer in respect of periods relating to financial years beginning on or after January 1, 2011.

Other issuers that have a non calendar year-end that ends prior to December 31, 2010[15] and includes or incorporates by reference statements prepared in accordance with Part V of the CICA Handbook on Accounting (current Canadian GAAP) will be required to comply with the versions of the prospectus rules that contain current Canadian GAAP terms and phrases (General Prospectus Requirements for prospectus financial statements of the RI for periods relating to financial years beginning before January 1, 2011).

To accommodate the transition we will have two different unofficial consolidations of the prospectus rules on our website.

Some IFRS highlights to consider when filing a prospectus under the NI 41-101 rules are:

- **Mixed GAAP Financial Statements**
  The long form prospectus rules contemplate the inclusion of three years' financial statements. For those situations where those required financial statements use different accounting principles, the issuer can choose to include two sets of financial statements as demonstrated in the example below.

Example
Illustration of an issuer filing a prospectus that includes financial statements for periods relating to financial years beginning on or after January 1, 2011: The issuer has a year-end of December 31. The IPO is filed on April 1, 2012. The prospectus would include audited annual financial statements for the years ended December 31, 2011 and 2010 and 2009. The December 31, 2010 and 2011 financial statements would be prepared using IFRS. The following options are available for the second set:

[15] There is an exemption in section 5.3 of NI 52-107 that gives issuers the option to transition to IFRS when their new financial year begins between December 22, 2010 and December 31, 2010. See discussion in Section 3.1 –A, Amendments to National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards* (NI 52-107) in this same document.

Option 1:
One set that presents December 31, 2010 and 2009 using Current Canadian GAAP applicable to public enterprises.

Option 2:
One set that presents December 31, 2009 and 2008 using Current Canadian GAAP applicable to public enterprises.

Note: Option 2 results in the issuer providing four years of audited financial statements rather than the required three years.

- **30 day extension for the first interim financial report**
  A 30 day extension for the inclusion of the first interim financial report is available for issuers in the year of adopting IFRS, in respect of an interim period beginning on or after January 1, 2011 for final long form prospectuses filed before July 5, 2012. This extension is only applicable for issuers that are disclosing, for the first time, an unreserved statement of compliance with IAS 34 *Interim Financial Reporting* and are an RI in any jurisdiction immediately before the date of the final long form prospectus. For example, this extension will not be available to RIs that early adopted IFRS or for issuers filing an IPO.

- **Interim financial statements in the year of adopting IFRS**[16]
  If an issuer files a long form prospectus in the year of adopting IFRS, that includes a comparative interim financial report for an interim period in that year, then the issuer is required to provide an opening IFRS statement of financial position at the date of transition to IFRS and the reconciliations required by IFRS 1 (IFRS 1 disclosures). If the interim period is the second or third interim period, and the issuer was not an RI in at least one jurisdiction immediately before filing the prospectus, the issuer will need to provide the IFRS 1 disclosures. This requirement can be satisfied by either including the first interim report that includes the IFRS 1 disclosures, or by providing the IFRS 1 disclosures in the second or third interim financial report.

- **Acquisition statements**
  Issuers filing a long form prospectus with acquisitions falling within the scope of section 32 of 41-101F1 are not permitted to present the acquisition statements using Canadian GAAP applicable to private enterprises. Section 3.11 of NI 52-107 permits acquisition statements included in a prospectus to be prepared in accordance with Canadian GAAP applicable to private enterprises only for acquisitions pursuant to section 35 of 41-101F1.

[16] See subsections 32.3(2) (e) and 32.3(4) of Form 41-101F1.

6. Other Considerations

6.1 Commonly Filed Securities Documents

We continue to see errors and disclosure deficiencies in other commonly filed securities documents. We have summarized these findings below and provide guidance to assist RIs in meeting their filing requirements and improve disclosure.

<table>
<tr><td>Material change report in respect to restructuring arrangements</td><td>A material change report (MCR) must be filed as soon as practicable, and in any event within 10 days of the date on which the material change occurs. Upon the closing of a restructuring transaction, section 5.2 of 51-102F3 requires the MCR to include disclosure as set out in section 14.2 of 51-102F5. Therefore, RIs are required to provide prospectus level disclosure (including financial statements) in the prescribed prospectus form (i.e. long form or short form prospectus rules) that the RI is entitled to use prior to the transaction. Section 5.2 of 51-102F3 will not apply if an information circular is sent to shareholders or if there is a filing of a prospectus or securities exchange takeover bid circular in respect to the transaction.

We have seen instances where the RI incorporated by reference the filing statement, which is acceptable, other than for the fact that the filing statement did not provide sufficient prospectus level disclosure. In these instances, the deficiencies were due to insufficient financial statement disclosure.

In other instances the filing statement contained the correct prospectus level disclosure but the MCR failed to incorporate the filing statement.</td></tr>
<tr><td>Decision to refile a CD document or restate financial information

Filing a news release in a timely manner</td><td>In some instances, we observed that RIs did not file a news release at the time they made the decision to refile a CD document or restate financial information. Instead, a news release was filed only at the time that the actual restated or refiled document was filed on SEDAR.

As set out in section 11.5 of NI 51-102, a news release must be <u>immediately</u> filed if an RI <u>decides</u> that they will (emphasis added):
(1) refile a document under NI 51-102; or
(2) restate financial information for comparative periods in financial statements for reasons other than retroactive application of a change in accounting standard or adoption of a new accounting standard;

and the information in the refiled or restated document, differs materially from the information originally filed.

This news release must disclose the nature and substance of the changes or proposed changes. Section 11.2 of Companion Policy to NI 51-102 (51-102CP) provides guidance about the disclosure that should be included in the news release. Under this guidance, the news release</td></tr>
</table>

Providing adequate disclosure about the restatement or refilings in the news release	should disclose: (1) the facts underlying the changes; (2) the general impact of the changes on previously disclosed information; and (3) the steps the RI would take before filing an amended document, or filing restated financial information, if the RI is not filing amended information immediately. In certain circumstances RIs did not disclose the general impact of the changes on previously filed information. In our view, RIs should disclose the general impact of the changes on previously filed information at the time they decide to restate or refile even though they may still be in the process of determining the exact amount of the change. We believe that management would know the general impact of the changes on previously filed information in order to make the decision to refile or restate. Therefore, we would expect that this information be disclosed at the time of filing the news release. In instances where the refiling or restatement involves an annual or interim filing, filers should also refer to NI 52-109 to identify the appropriate form of certificate to accompany the refiled or restated documents.
Financial statements of the reverse takeover acquirer for periods before a reverse takeover	We noted some RIs that completed a reverse takeover (RTO) did not file certain financial statements required for the RTO acquirer (accounting parent) or filed them late. In the circumstances where a RI completes an RTO, section 4.10 of NI 51-102 sets out the requirements for filing financial statements of the RTO acquirer. Generally, this is the reporting period(s) that follows the period for which financial statements were included in an information circular or similar document for the RTO acquirer. This requirement enables the public to access financial statements for all reporting periods even if there is a substantial time gap between the initial filing of the circular or similar document and the date that the RTO is completed. RIs and their advisers should also pay particular attention to the filing deadlines set out in NI 51-102 section 4.10. In some instances, the filing deadline will be ten days after the date of the RTO.

<table>
<tr>
<td>Reverse takeover transactions and resulting change of year-end</td>
<td>
Upon completion of an RTO where the RI's year-end after the transaction does not match the year-end of the RTO acquirer (accounting parent/legal subsidiary) before the transaction, the RI is required to file a notice of change in year-end as set out in section 4.8 of NI 51-102.
The filing of a change in year-end notice can be triggered even if the year-end of the RI has not changed.
For example:
<table>
<tr><th>Entity</th><th>Description</th><th>Year-end before RTO</th><th>Year-end after RTO</th></tr>
<tr><td>RI</td><td>RTO acquiree (legal parent)</td><td>Dec. 31</td><td rowspan="2">Dec. 31</td></tr>
<tr><td>Private co.</td><td>RTO acquirer (accounting parent)</td><td>Mar. 31</td></tr>
</table>
In the above example, the RI's year-end did not change. However, the year-end of the RTO acquirer before the transaction does not match RI's year-end after the transaction. Therefore, section 4.10(1) of NI 51-102 section 4.10(1) triggers the RI to file a change in year-end notice in accordance with section 4.8 of NI 51-102.
This change in year-end notice is necessary because GAAP requires that the comparative information presented in the RI's financial statements on a go-forward basis be that of the RTO acquirer.
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<tr>
<td>Revocation of cease trade order application</td>
<td>
RIs' filing applications to have their cease trade orders revoked under National Policy 12-202 Revocation of Compliance Related Cease Trade Order should be aware that their CD record will be subject to review by ASC staff and that all significant deficiencies identified will need to be resolved before ASC staff will recommend that a cease trade order be revoked. The extent of the CD review will depend on the length of time the CTO has been in effect.
RIs should ensure that all outstanding disclosure has been filed and that the RI is in a position to comply with all future filing deadlines before applying for a CTO revocation. The RI should also be in a position to respond in a timely manner to staff's CD review comments. Often processing the revocation applications is delayed because the RI's CD record is not complete or is materially deficient. In other instances, the RI fails to respond to our review comments in a timely manner or fails to comply with filing deadlines that come due during the review period. Generally if the applicant has not made substantial progress within 90 days of receiving a comment letter regarding the application, we will consider the application abandoned and close the file.
</td>
</tr>
</table>

Filing material contracts Redacting or omitting information from a material contract.	We observed that some RIs failed to file a material contract on their SEDAR profile even though they had listed the contract as a material contract in their AIF. As set out in section 12 of NI 51-102, RIs are required to file material contracts entered into: (1) within the last financial year; or (2) before the last financial year if that material contract is still in effect. RIs should ensure that all required material contracts are filed on SEDAR on a timely basis. In addition, we reviewed material contracts that had provisions that were redacted or schedules that were omitted contrary to the rule. As set out in subsection 12.2(3) a provision in a material contract may be omitted or marked unreadable if an RI reasonably believes that disclosure of that provision would be seriously prejudicial to the interests of the RI or would violate confidentiality provisions <u>*unless*</u> the provisions relate to: (1) debt covenants and ratios in financing or credit agreements; (2) events of default or other terms relating to the termination of the material contract; or (3) other terms necessary for understanding the impact of the material contract on the business of the RI. If the provision relates to any of the above, it is not permitted to be redacted or omitted. RIs should be aware that the redaction and omission rules also apply to schedules, side letters or exhibits referred to in the material contract and any amendment to the material contract, since these are included as part of the material contract (see section 12.3 of 51-102CP). RIs should ensure that they comply with the redaction and omission provisions under the rule. RIs should also ensure that when they appropriately redact a provision in a material contract that they include a description of the type of information that has been omitted or marked to be unreadable immediately after the provision in the copy of the material contract filed by the RI (see subsection 12.2(5) of NI 51-102). We reviewed material contracts that did not include the required description.

There have also been some important changes that may affect RIs' filing requirements:

Filing NI 51-101 section 2.3(2) notice under the correct SEDAR category Effective December 30, 2010	Effective December 30, 2010, oil and gas RIs that decide to file their National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities* (NI 51-101) annual filings in their Annual Information Form (AIF) must file a notice in the form of 51-101F4 (the Notice). The purpose of this notice is to announce the NI 51-101 filings and to indicate that a copy of the NI 51-101 filings can be found for viewing by electronic means in

	the AIF (NI 51-101, section 2.3(2)). <u>The Notice must be filed under the SEDAR category labelled "Notice of filing of 51-101F1 information (Form 51-101F4)". Failure to do so could result in the RI being inadvertently noted in default.</u> ASC staff run automated processes to retrieve documents filed under this SEDAR category to determine whether an oil and gas RI has complied with the NI 51-101 reporting obligations. Failure to file the notice under the correct SEDAR category when a RI has included the NI 51-101 filings in the AIF may result in the RI being inadvertently noted in default because ASC staff have no other electronic means to identify that the NI 51-101 filings have been filed.
Filing insider reports Effective November 1, 2010	Reporting insiders should be aware that effective November 1, 2010, the filing deadline to report changes in a reporting insider's holdings has been reduced to five calendar days from the current filing deadline of 10 calendar days (see section 3.3 of National Instrument 55-104 *Insider Reporting Requirements and Exemptions* (NI 55-104). However, initial reports will still be subject to a 10 day filing deadline (see section 3.2 of NI 55-104).

6.2 2010 CSA Initiatives

Recently, CSA staff notices have been published on selected topics. Some of these notices communicate staff's expectations or provide guidance to improve disclosure. Other notices summarize results from recent reviews conducted across the CSA and identify areas where RIs did not comply with requirements. We identify and discuss some of these CSA staff notices in this Report. Copies of all CSA staff notices are available on the ASC website: www.albertasecurities.com. RIs and their advisers should review these publications in advance of their 2010 year-end reporting.

CSA staff notices published in recent months	Reference in this Report
CSA Staff Notice 41-305 *Share Structure Issues – Initial Public Offerings* (published September 24, 2010)	Section 7, Priorities for Corporate Finance
CSA Staff Notice 51-333 *Environmental Reporting Guidance* (published October 27, 2010)	Section 7, Priorities for Corporate Finance
CSA Notices on National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards and Other Amendments Consequential to the Transition to International Financial Reporting Standards* (published October 1, 2010)	Section 3.1 - A, Amendments to National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards* (NI 52-107)
CSA Staff Notice 52-306 (Revised) Non-GAAP *Financial Measures and Additional GAAP Measures* and CSA Notice on Amendments to National Policy 41-201 *Income Trusts and Other Indirect Offerings* (published November 9, 2010)	Section 4.3 - B, Non-GAAP Financial Measurements Reporting
CSA Staff Notice 52-326 *IFRS Transition Disclosure Review* (published July 23, 2010)	Section 3.3, IFRS Transition Disclosure for RIs
CSA Staff Notice 52-327 *Certification Compliance Review* (published October 15, 2010)	Section 4.3 - C, National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*

7. Priorities for Corporate Finance

IFRS Focus

In the coming year, review of filings containing financial statements prepared for the first time on the basis of IFRS will be a high priority. Such reviews will focus on:

- disclosure of IFRS accounting policies;
- the opening statement of financial position;
- reconciliations and other disclosures required by IFRS 1; and
- the application of key IFRSs which differ significantly from current Canadian GAAP.

CD Reviews

CD reviews will also continue to be a high priority. RIs should endeavour to improve the quality of their CD and provide disclosures that are entity-specific and, if applicable, tailored to the industry within which the RI operates. We will review CD materials with an emphasis on:

- compliance with GAAP;
- timely and factually balanced disclosure with relevant risks sufficiently highlighted;
- discussion of the critical accounting estimates in areas where significant judgement is applied;
- sufficiency of information to assess the RI's ability to continue to operate the business in the near term and ability to obtain required funding for operating and capital needs;
- disclosure that is detailed enough to enable the reader to understand how uncertain economic conditions could impact the RI's business;
- proper identification of non-GAAP financial measurement reporting requirements and the related quantitative reconciliation and qualitative disclosure; and
- disclosure of environmental matters in compliance with securities legislation including meaningful information about the exposure to environmental risks, environmental protection regulations and related obligations and commitments.

Prospectus Filings

We will review prospectuses with an emphasis on:

- compliance with the legislative requirements in all material respects;
- timely and factually balanced disclosure with relevant risks sufficiently highlighted;
- full, true and plain disclosure of all material facts; and

- the issuer's capital structure in an IPO filing where the issuer has previously issued an unusually large number of shares for nominal cash consideration (or for assets or business development where the value is not readily supportable).

Disclosure Generally

Other areas on where we will focus in 2011:

- monitoring of news releases for promotional disclosure, consistency with other CD records, and compliance with securities legislation;
- selective reviewing of websites and other public disclosures for consistency with the RIs' other CD records;
- monitoring interconnected events and issues and their impact on RIs; and
- continued monitoring of disclosure requirements for smaller issuers.

We will continue to monitor new changes in the accounting and regulatory environment as well as current developments in the capital markets. This information may be used to determine future reviews.

8. Contact Personnel

Feedback on Reviews

We welcome comments on this Report directed to any of the individuals listed below:

Tom Graham, CA, **Director, Corporate Finance** (403) 297-5355 tom.graham@asc.ca.	**Cheryl McGillivray, CA,** **Manager, Corporate Finance** (403) 297-3307 cheryl.mcgillivray@asc.ca	**Lara Gaede, CA, CFA,** **Chief Accountant, Office of the Chief Accountant** (403) 297-4223 lara.gaede@asc.ca
Jonathan Taylor, CA, **Manager, CD Compliance and Market Analysis, Corporate Finance** (403) 297-4770 jonathan.taylor@asc.ca	**Anne Marie Landry, CA** **Securities Analyst** (403) 297-7907 annemarie.landry@asc.ca	**Brian Banderk, CA,** **Associate Chief Accountant, Office of the Chief Accountant** (403) 355-9044 brian.banderk@asc.ca

One of the primary contributors to this Report was Fred Snell, FCA, Senior Advisor, Executive Director's Office, who recently retired from the ASC. The ASC would like to acknowledge and thank Fred for his invaluable contribution to the development of the CD review process and Corporate Finance Disclosure Report. Over his 10 year tenure Fred has been instrumental in improving the reporting by Alberta issuers.

From time to time, the ASC will also host webinars and breakfast seminars on various topics related to securities requirements including CD matters. Breakfast seminars and a webinar on IFRS and other Corporate Finance matters are scheduled for January 2011. Details about these and future seminars and webinars can be found on the ASC website at albertasecurities.com. Archived presentation slides and related reference materials from past seminars are also available on the ASC website[17].

Secondment to the ASC

The ASC's secondment program provides an opportunity for a senior accountant from an audit firm or a reporting issuer to gain valuable contacts and experience within the ASC, including accounting, auditing, MD&A analysis and securities legislation (e.g., CD rules, prospectus rules and participation in policy setting committees). If you are interested in more information about this program, please contact one of the above noted individuals.

[17] Archived presentation materials are available on the ASC website under the "News & Publications, Events & Presentations" section.