LIST OF COMMENTERS

CSA NOTICE OF REPUBLICATION AND REQUEST FOR COMMENT REGARDING PROPOSED NATIONAL INSTRUMENT 51-103 *ONGOING GOVERNANCE AND DISCLOSURE REQUIREMENTS FOR VENTURE ISSUERS*;

PROPOSED AMENDMENTS TO NATIONAL INSTRUMENT 41-101 *GENERAL PROSPECTUS REQUIREMENTS;* NATIONAL INSTRUMENT 44-101 *SHORT FORM PROSPECTUS DISTRIBUTIONS* AND NATIONAL INSTRUMENT 45-106 *PROSPECTUS AND REGISTRATION EXEMPTIONS* AND PROPOSED RELATED CONSEQUENTIAL AMENDMENTS

Request for Comment December 12, 2012

	COMMENTER	NAME	DATE
1.	Macquarie Private Wealth	Darrin Hopkins	October 23, 2012
2.	Jamie Lewin	Jamie Lewin, LLB, MBA, CMA	November 22, 2012
3.	KPMG LLP	Laura Moschitto	November 28, 2012
4.	Marrelli Support Services Inc.	Carmelo Marrelli	November 30, 2012
5.	Vulcan Minerals Inc.	Dawn Bishop	December 10, 2012
6.	The Canadian Institute of Chartered Accountants	Thomas S. Chambers & Huw Thomas	December 10, 2012
7.	Canadian Coalition for Good Governance	Daniel E. Chornous	December 11, 2012
8.	The Canadian Advocacy Council for Canadian CFA Institute Societies (CFA)	Ada Litvinov	December 11, 2012
9.	Financial Executives International (FEI)	Gordon Heard	December 12, 2012
10.	SISKINDS	A. Dimitri Lascaris, Anthony O'Brien and James Yap	December 12, 2012
11.	MOI Solicitors	David Gunasekera	December 12, 2012
12.	TSX Venture Exchange	Zafar Khan	December 12, 2012
13.	CNSX Markets Inc.	Rob Theriault	December 12, 2012
14.	Canadian Foundation for Advancement of Investor Rights (FAIR)	Ermanno Pascutto	December 12, 2012
15.	Burnet, Duckworth & Palmer LLP	Jessica M. Brown	December 12, 2012
16.	Pension Investment Association of Canada	Julie Cays	December 12, 2012

17.	Prospectors & Developers Association of Canada (PDAC)	Ross Gallinger	December 12, 2012
18.	Enhancing Audit Quality Working Group	David A. Brown Peter Mills Tom O'Neil	December 20, 2012
19.	Desjardins Group (French & English versions)	Daniel Dupuis	December 7, 2012
20.	Quebec Mineral Exploration Association (AEMQ) (French & English versions)	AEMQ	December 2012

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Office of the Superintendent of Securities, Government of Newfoundland and Labrador
Department of Community Services, Government of Yukon
Office of the Superintendent of Securities, Government of the Northwest Territories
Legal Registries Division, Department of Justice, Government of Nunavut

RE: CSA Notice of Republication and Request for Comment regarding Proposed National Instrument 51-103 *Ongoing Governance and Disclosure Requirements for Venture Issuers* Proposed Amendments to National Instrument 41-101 *General Prospectus Requirements,* National Instrument 44-101 *Short Form Prospectus Distributions* and National Instrument 45-106 *Prospectus and Registration Exemptions* and Proposed Related Consequential Amendments

Dear Sirs and Madams,

Please accept the following as my comments regarding the above proposed changes.

Specifically, I am commenting on the proposal that TSX Venture Exchange Capital Pool Companies ("CPCs") will not be exempt from Annual and Interim Reporting Requirements of Part 3 to the proposed NI 51-103. In addition I am responding to Question 13, Rule 12.1 and 12.2 regarding whether or not CPC's should be eligible for an exemption from additional requirements.

For the record, I have assisted in taking over 100 CPCs public over the past 18 years.

It is not correct to state that a CPC is a listed company like any other. At the lowest denominator, a CPC carries a ".P" designation that signals that it is separate and distinct from other TSX Venture Exchange ("TSXV") listed companies. In particular, a CPC is prohibited from carrying on any business other than the identification and evaluation of assets or businesses with a view to completing a proposed Qualifying Transaction (a "QT"). Clearly, a CPC is not the same as all other listed companies. TSXV Policy 2.4 (the "**CPC Policy**") provides a very specific set of rules and requirements governing CPCs until completion of a QT. I draw your attention to the CPC Policy.

With all due respect, it is not logical to state that: "*the progress of the CPC towards a qualifying transaction merits periodic updating.*" It is clearly stated in a CPC Prospectus that a CPC's lot in life is to investigate and identify potential business's in order to complete a CPC. There is no need for a periodic update, the raison d'etre of a CPC is tattooed right on it's very existence. If a CPC has in fact identified a qualifying transaction, that is a material change, the stock would be halted, and a press release

would be issued. I see no grey area here. It is pointless and costly for a CPC to have to spend a good portion of it's treasury to state that it is still looking for a QT, just like it said it would do in it's prospectus.

The only material matter of interest in the absence of a QT, is how much money is left in the CPC treasury. We must assume that fraud is not being committed and thus a management statement in the interim of the unaudited balance should suffice.

The costs associated with a CPC not being exempt from the proposed Annual and Interim Reporting Requirements are prohibitive. While I acknowledge that the CSA has provided a CPC with a limited ability to incorporate certain information (items 16 & 17 of Part 2 of the proposed Form 51-103F1) by reference to its CPC prospectus**.** It is worth noting, again, with the exception of management the sole asset of a CPC is the money it has in treasury to pursue a QT. If a CPC is forced to comply, it will be necessary to expend more money in relation to compliance. I suspect that CPCs will have to disclose in the CPC prospectus that a large amount of the funds raised in a CPC will be spent on complying with securities regulations. In fact, it may be the case that for some of the smaller CPCs, a majority funds in treasury may be used up complying with securities regulations. The irony here is that you will be forcing CPCs to raise more money for compliance. How is that of any value to the subscribers in a CPC? We end up with a pool of compliant CPCs that are all out of money.

A decision to not allow CPCs to be exempt from the additional requirements will be the end of the 25 year old highly successful CPC program.

Darrin Hopkins

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De : J A Lewin [mailto:jalewin@telus.net]
Envoyé : 2012-11-22 10:14
À : Consultation-en-cours
Objet : Disclosure Requirements for Venture Issuers

Thursday, November-22-12

Disclosure Requirements for Venture Issuers

To Whom it may concern,

I do not think it is in the best interest of the public to change the requirement for companies trading on the TSX-V to file publicly accessible financial statements from four times to two times a year.

Many companies on the TSX-V are very loosely organized. Their accounting at best is usually a part time affair. Often they have no real offices. Records are kept one place, while financial statements are prepared elsewhere. It is the requirement to file statements every 90 days that keeps these companies organized.

Because they are small and don't really have functioning Boards of Directors, many things happen fast in TSX-V companies. Many times these activities are approved by faxed resolutions to be signed by a minimum of directors, with little or no discussion of what is happening. This is not conducive to a safe, well organized investment market. Without continuous reporting every 90 days, many directors would not know what is happening in these companies.

Many TSX-V companies have six or more Subsequent Events in their annual audited financial statements. Six months plus sixty days is a long time for regulators and investors to wait to see the changes in the financial statements that the Subsequent Events will bring.

Banks and investment dealers are required to issue statements to their depositors or investors every 30 days. Why should investors in venture companies have to wait six months plus sixty days to see what is happening with their investment.

Six month plus sixty days reporting by venture firms is an open encouragement for fraud. Why not just say that venture companies only have to get audited every two years.

Regards,

Jamie Lewin, LLB, MBA, CMA

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November 28, 2012

Dear Sirs/Mesdames:

Proposed National Instrument 51-103 *Ongoing Governance and Disclosure Requirements for Ventures Issuers* and Related Amendments

November 28, 2012

This letter is in response to the Request for Comment published at (2012) 35 OSCB (Supp-4) concerning proposed National Instrument 51-103 *Ongoing Governance and Disclosure Requirements for Venture Issuers* and related amendments.

As indicated in our first response letter we generally support the direction the CSA has taken in the proposed materials to recognize venture issuers distinct from non-venture issuers.

We have a few comments set out below under the following headers

- Material change reports for related party transactions
- Issuers quoted in the U.S. over-the-counter market
- Major acquisitions
- Change of auditor

Material change reports for related party transactions

The proposed rule requires that upon the occurrence of a material related entity transaction or once a decision to implement a material related entity transaction is made either by the board of directors or by senior management who believe that confirmation of the board of directors is probable, that a news release is filed. By the 10th day after the event, Form 51-103F2 must either be filed or a press release available containing that same information.

We believe the rule should require that in the case that the board does not approve the transaction that material change disclosure occur again. The CSA responded to our previous comment on this matter that "We are of the view that a subsequent decision of the board not to approve a material related entity transaction would be a material change requiring material change disclosure and therefore an additional requirement is not necessary." We believe that if the CSA is not explicit in their rule making, then issuers may not apply this appropriately. At a minimum, we believe guidance should be added to the Companion Policy to address this matter.

Issuers quoted in the U.S. over-the-counter markets

Can the CSA please explain the logic of why an Ontario only issuer that trades in the U.S. Over-the-Counter Market would be eligible to apply NI 51-103 but an Ontario issuer that also trades in another province would not be eligible to apply NI 51-103? NI 51-103 has incremental disclosures specifically desirable for smaller issues and now these will not be required for securities that are more widely traded.

Major acquisitions

If a major acquisition has occurred subsection 23(3) requires interim financial reports. It was not clear whether this interim financial report should be accompanied by a notice indicating that an interim review was not performed, if that is the case. We suggest that such a notice should be required and recommend that this requirement be made explicit.

We also noted that the guidance under 23(2) refers issuers to NI 52-107 and the requirements for "major acquisitions." We suggest that the terminology in NI 52-107 should be used when making such a cross reference being "acquisition statements" and then indicate that this guidance is applicable for "major acquisitions".

Change of auditor

The guidance with respect to change of auditor notices in Section 37 is not sufficiently precise. The predecessor auditor will not be able determine whether the notice fairly and fully provides the necessary information. Further, the lack of precision may result in non-material facts being disclosed and we do not believe that disclosure beyond that which is required today is necessary.

We believe the rules should be amended or guidance should be added to the rules which would align these more closely to the existing requirements in NI 51-102. For example, it should be clear that a difference of opinion may arise over numerous matters; however, the CSA only requires differences to be reported that could impact the audit report or interim review report (for example, when a modified opinion or modified communication or similarly when a qualified or adverse report or disclaimer would be appropriate).

Paragraph 37(2)(d)(iii) indicates issuers should report "a consultation, unresolved issue or any other reason unrelated to the content or presentation" of the financial statements. This would mean that consultations related to the financial statements which were an important factor in the decision would not be reported such as a consultation related to the application of accounting principles or scope restrictions. We believe the existing guidance in NI 51-102 should be retained.

We do not agree that matters unrelated to the financial statements should be disclosed in the change of auditor notice. This may require personality conflicts or disputes over fees to be reported. If it is the intent of the regulator that such matters which are incremental to the required disclosures in NI 51-102 be disclosed, then we suggest that explicit examples of what should be captured by "other reasons" be provided in the guidance.

Thank you for the opportunity to comment on NI 51-103 and related amendments. Should you wish to discuss our comments in more detail, we would be pleased to respond.

November 28, 2012

Yours truly,

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November 30, 2012

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New Brunswick Securities Commission
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Office of the Superintendent of Securities, Government of Newfoundland and Labrador
Department of Community Services, Government of Yukon
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Attention: Anne-Marie Beaudoin, Corporate Secretary

Subject: Proposed National Instrument 51-102 *Ongoing Governance and Disclosure Requirements for Venture Issuers*

We have reviewed the Proposed National Instrument 51-103 as published by the Canadian Securities Administrators (CSA) on September 13, 2012. Generally we are in agreement with the Proposed Instrument as published.

There is a couple of areas we ask you to consider. The first concern we raise is Part 9, which provides for the venture issuer to include the Annual Financial Statements including the auditor's report. We believe this action will cause the Auditor's to have to provide a review of the Annual Report, as they would a Prospectus since the Annual Financial Statements on which they have opined is a part of the Annual Report. This will provide additional costs to the venture issuer and we recommend that the Annual Financial Statements continue to be a separate document. We also suggest the Unaudited Interim Financial Statements should continue as a separate document

Our second concern is that referring to the reports as "annual" and "interim" may be confusing, especially if the issuer itself provides to the issuer's shareholders a shareholders report which is in the industry also commonly referred to as a Annual Report to Shareholders. Possibly consider referring to these reports as the Venture Yearly Report and the Venture Quarterly Report

Yours Truly

Marrelli Support Services Inc.
Per: Carmelo Marrelli, President

December 10, 2012

British Columbia Securities Commission
Alberta Securities Commission
Saskatchewan Financial Services Commission
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Authorite des marches financiers
Nova Scotia Securities Commission
New Brunswick Securities Commission
Prince Edward Island Securities Office
Office of the Superintendent of Securities, Government of the Northwest Territories
Legal Registries Division, Department of Justice, Government of Nunavut

Dear Sir/Madame:

Re: Proposed National Instrument 51-103 – Comments

With regards to the CSA Notice of Republication and Request for Comment Regarding Proposed National Instrument 51-103 *Ongoing Governance and Disclosure Requirements for Venture Issuers*, and Proposed Amendments to National Instrument 41-101 *General Prospectus Requirements*, National Instrument 44-101 *Short Form Prospectus Distributions*, and National Instrument 45-106 *Prospectus and Registration Exemptions* and Proposed Related Consequential Amendments as published on September 13, 2012, as a TSX Venture Issuer, we have the following comments:

- We have concerns that by having an Annual Report and placing more disclosure into an Annual Report (by removing it from the Management Information Circular) there would be an increased cost for both printing and mailing this document. Currently, we are only required to mail the annual audited financial statements to all registered holders (unless they have submitted a financial statement request form pursuant to National Instrument 51-102 that they do not wish to receive audited financials) and to any beneficial holders that have submitted a financial statement request form pursuant to National Instrument 51-102 that they would like to receive audited financials. If the mailing of an Annual

Report is mandatory to be mailed to all shareholders, the printing and mailing costs of this document would be excessive for our company.

- Despite the change from the proposed six month financials back to quarterly financials, we are in support of six month financials, especially for junior exploration companies such as ours. We would propose that if there were six month financials, that there could be other means that an Issuer would be required to report any material financial changes, which of course would require a news release with more details about the material change.
- If an Annual Report does become mandatory, we are in support of the proposal that with the filing of an Annual Report, a company would be eligible to file a short form prospectus.

We are looking forward to seeing the latest comments and proposals in this regard.

Sincerely,

Dawn Bishop
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December 10, 2012

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Office of the Superintendent of Securities, Government of the Northwest Territories
Legal Registries Division, Department of Justice, Government of Nunavut

Ladies and Gentlemen:

Proposed Republished National Instrument 51-103

Thank you for the opportunity to comment on this proposed republished National Instrument (NI).

Small public companies are of significant value and job creators in the Canadian economy. It is important that these organizations operate in a reporting and regulatory environment that is both attractive and protective of investors' interests. These entities find it increasingly difficult to thrive, however, in an environment of ever more complex and voluminous regulatory and reporting requirements. Accordingly, as we noted in our November 4, 2011 letter that commented on the original proposed NI, we applaud the Canadian Securities Administrators for this initiative to simplify governance and disclosure requirements for entities on the venture exchange.

This response from the CICA's Canadian Performance Reporting Board (CPRB) and Risk Oversight and Governance Board (ROGB) draws on the views of our Small Company Advisory Group (SCAG). The CPRB and ROGB publish business reporting research and guidance and governance guidance, respectively, that they consider to be in the public interest. The CPRB's and ROGB's members are drawn from the primary stakeholders in the business reporting community – senior financial management, directors of public companies (including audit committee chairs), investors, auditors, and financial academics. The SCAG advises CICA about the needs of small Canadian public companies. Members of the SCAG all work in this important sector of the Canadian economy as senior financial management, audit committee chairs, or auditors.

In our view, while the overall reporting and governance objectives for venture issuers should be the same as for non-venture issuers, the execution of such objectives should take into account venture issuers' resource constraints, provided users of venture issuer reports are made aware that execution differences exist. Accordingly, we remain generally supportive of the proposals set out in the proposed NI. However, we do have several concerns, in particular on the subject of mid-year reporting. In the event that the CSA continues,

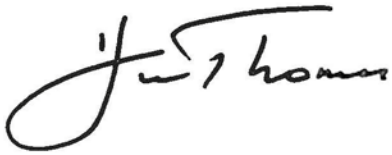
as it now proposes, to require quarterly financial statements of all venture issuers, we strongly believe a full MD&A should be required in all instances. More broadly however, we regret that the CSA has retreated from its original proposals to reduce the requirements for interim reporting. As well, we believe the responsibilities for audit committees should be the same for all issuers.

Overleaf we set out our specific comments on this and various other matters. If you would like to discuss our comments in more detail, please contact Chris Hicks, CPA, CA at chris.hicks@cica.ca or Gigi Dawe at gigi.dawe@cica.ca.

Yours truly,

Thomas S. Chambers, FCA
Chair, Canadian Performance Reporting Board

Huw Thomas, CPA, CA
Chair, Risk Oversight and Governance Board



COMMENTS ON PROPOSED REPUBLISHED NATIONAL INSTRUMENT 51-103

1. Mid-year financial reporting

Removal of MD&A requirement
We note that the CSA now plans to eliminate the previously-proposed mid-year report and introduce an interim report for all interim periods, consisting of a title page, quarterly highlights, which would contain a short discussion of the venture issuer's operations and liquidity, the interim financial statements and a certificate from the CEO and CFO. A venture issuer might choose, in addition to the quarterly highlights, to provide more traditional MD&A in the form prescribed in NI 51-102.

In the event that the CSA continues to require quarterly financial statements of all venture issuers, we believe a full MD&A should also be required in all instances. For the great majority of venture issuers, the primary cost and effort of quarterly reporting is attached to preparing quarterly financial statements in accordance with IFRSs. Once this work has been carried out, the additional effort required in preparing any other accompanying disclosure documents is generally significantly less. This being the case, we do not believe the CSA's current proposal would provide a significant cost saving for the majority of venture issuers. In fact, we believe many issuers would incur additional costs in analyzing the instrument and in determining the appropriate changes to their current practices.

At the same time, the proposal would reduce consistency between issuers in what is disclosed, particularly since, as currently drafted, the requirements for an interim report are very brief, and in contrast to some other areas of the proposed instrument, provide little guidance on matters that should be addressed. For example, it is unclear that the proposal as currently drafted would consistently generate meaningful quarterly discussion about adverse developments in working capital or similar issues. Overall, we do not believe the benefits of this aspect of the proposals would exceed their likely costs.

Voluntary three and nine month financial reporting
The above-noted comments assume that the CSA may not return to its original proposals to reduce the requirements for interim reporting. Subject to the observations we made in our original response we believe those original proposals were well-founded, and even at this advanced stage in the project, we urge the CSA to reconsider. We accept that the CSA faced a difficult task in finding the best path through a diverse and often conflicting collection of comments on this matter. However, the comments provided do not convince us of the cost/benefit of quarterly reporting. Members of CICA's Small Company Advisory Group find the costs of preparing quarterly financial reports very significant but the benefits limited. For example, many venture issuers operate in the exploration and development stages of the extractive industries where interim financial reporting is less important. The flexible approach set out in the original proposed NI would have allowed entities whose circumstances made interim financial performance information more valuable to provide this reporting on a voluntary basis, while significantly reducing the time and cost devoted to financial reporting in cases where interim reporting is simply unimportant. Indeed, the concept of detailed financial reporting every three months is questionable. Many argue that time would be better spent on operational excellence, managing the business, and strategy. Outside North America, most public company financial reporting requirements centre on half yearly and annual reporting without any concerns being experienced. This view seems to be supported by the strong indication provided in responses to the original CSA proposal

that the absence of 3 and 9 month interim reports would not deter investors from investing in venture issuers. As well, it should be noted that many view quarterly reporting to be a contributor to short-termism in the capital markets and some large companies such as Unilever have moved away from quarterly reporting of earnings.

2. Annual reports

The CSA proposes allowing incorporation by reference only in limited circumstances, citing the goal of reducing the number of documents that investors have to consult in order to make an informed investment decision. Although we believe that providing all the required information in a single annual report will generally be incrementally beneficial, some of the larger venture issuers have long-established forms of structuring their disclosures, well known to analysts and other investors, and eliminating the possibility of incorporation by reference will only disrupt these established practices, with no resulting benefit. For example, where analysts and other investors are accustomed to accessing a particular document directly on SEDAR, relocating this document within the annual report will only make the information *less* easily accessible, while introducing an unnecessary difference from practices allowed for non-venture issuers. Venture issuers might avoid this by duplicating the information, but this would introduce an unwarranted additional cost – particularly where it results in expanding the volume of information to be printed and mailed to security holders – with no apparent benefit.

We therefore encourage the CSA to provide a more balanced approach toward allowing incorporation by reference. At a minimum, we believe the CSA should be flexible in granting exemptive relief to allow such incorporation by reference, and should define the circumstances in which such relief would be routinely granted. Preferably, however, greater flexibility should be provided within the document itself. Investors must always be made aware that some other filed document may be relevant to their decision-making (most obviously, that a material news release may be issued even between the time of having made an investment decision and actually placing the trade that results from that decision). It follows that investors, for their own protection, if they choose to trade for their own account, *must* possess a mindset of being willing to consult multiple documents on an ongoing basis, so that the need to separately access a document incorporated into an annual report by reference should not be unusual or onerous.

3. Long-form prospectus

We continue to believe that one year of audited financial statements, with unaudited financial statements for the second most recently completed year, should constitute sufficient disclosure for all venture issuers. For the great majority of venture issuers, a forward-looking investment decision could not reasonably be materially affected by the small possibility that the comparative period might have been adjusted, in some unknown way, had that period been audited. In the rare cases where this does not hold, investors would be capable of taking any additional perceived risk into account in making their decisions (presumably to the issuer's disadvantage). In explicitly noting that venture issuers may seek exemptive relief from the requirement to have two years of audited financial statements, the CSA appears to acknowledge that it does not in fact consider two years of audited information to be necessary in all cases. However, this leaves it to CSA staff to assess the necessity for two years of disclosure in any individual case, using its own judgment of relative costs and benefits. We believe this is undesirable and that the securities regulator should refrain where possible from injecting itself into assessing the relative risks of competing opportunities.

4. Audit committees

The proposed NI sets out different responsibilities for audit committee members than those in NI 52-110 *Audit Committees*. We believe these overall responsibilities should be the same, regardless of where the entity is listed. In particular, we believe proposed NI 51-103 should require that the audit committee pre-approve all non-audit services, and that the audit committee should recommend to the board of directors the auditor's compensation. As well, the audit committee should be satisfied that adequate procedures are in place for review of the issuer's public disclosure of financial information extracted or derived from the issuer's financial statements.

ROGB members agree with the proposed NI's view that controlling shareholders not be viewed as independent for the purposes of the audit committee. It is their view that a controlling shareholder may have undue influence on management or other audit committee members. Members of our SCAG, however, continue to believe that control persons should be counted as independent for these purposes. While control persons might on occasion bring biases of some kind to the table, in their view such biases would rarely motivate those persons to (say) actively argue in favour of non-compliant disclosure, and if such events did occur, these arguments should rarely succeed, in view of the requirements of securities law, the involvement of independent auditors, and other governance requirements. Even if some risk exists in this regard, SCAG members believe this risk is significantly less than the broader risk that audit committees might be rendered less effective in general, because even if their members are in some sense independent, they will lack suitable qualifications, experience and knowledge of the business. In other words, SCAG members believe the CSA should have placed the greatest weight on the difficulty of recruiting audit committee members for small public companies, and on the likelihood that increasing this difficulty – however well intended the reasons, considered in isolation – will not ultimately serve the greater good.

5. Compensation disclosure

The proposals continue to require a discussion of performance criteria and goals, weightings and related matters for each named executive officer. We do not believe such disclosure will often be meaningful for small public companies, for which compensation structures seldom exhibit the degree of formality suggested by this requirement, and will more likely result in over-inflated or boilerplate narratives that obscure matters more than clarifying them. We believe this should be replaced by a more general requirement to explain how compensation was determined, with the currently proposed requirements serving as examples of matters that would be discussed only in the (rare) circumstances where they apply.

6. Governance and ethical conduct

The proposals contain various detailed disclosure requirements about the conduct of the board, such as a requirement to disclose whether or not the board takes any steps to encourage and promote a culture of ethical business conduct and, if so, to describe those steps, and to disclose how the board of directors facilitates its exercise of independent supervision over management. Similar to the point above, these requirements seem likely only to result in boilerplate information in most circumstances. We suggest it would be preferable to require a broader discussion of governance matters, citing these matters as examples of what might be addressed.

7. Control reporting

The proposals currently envisage cover-page disclosure in the annual report that: “although management is responsible for ensuring processes are in place to provide them with the information they need to comply with disclosure obligations on a timely basis, (the issuer) is not required to establish and maintain disclosure controls and procedures and internal control over financial reporting.” The certificate to the annual report requires disclosing more fully that these terms are used as defined in National Instrument 52-109 *Certification of Disclosure in Issuers Annual and Interim Filings,* and that this may result in additional risks to the quality, reliability, transparency and timeliness of annual reports, interim reports and other disclosures provided by it under securities legislation. We believe the additional information in the certificate is important in understanding the context of these representations, and suggest it should also be included in the cover-page disclosure.

Canadian Coalition for
GOOD GOVERNANCE

THE VOICE OF THE SHAREHOLDER

December 11, 2012

British Columbia Securities Commission
Alberta Securities Commission
Saskatchewan Financial Services Commission
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Nova Scotia Securities Commission
New Brunswick Securities Commission
Prince Edward Island Securities Office
Office of the Superintendent of Securities, Government of Newfoundland and Labrador
Department of Community Services, Government of Yukon
Office of the Superintendent of Securities, Government of the Northwest Territories
Legal Registries Division, Department of Justice, Government of Nunavut

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Dear Sir/Madame:

Re: Proposed National Instrument 51-103 *Ongoing Governance and Disclosure Requirements for Venture Issuers*

We have reviewed Proposed National Instrument 51-103 *Ongoing Governance and Disclosure Requirements for Venture Issuers* released September 13, 2012 (the "Proposal") and we thank the Canadian Securities Administrators ("CSA") for the opportunity to provide you with our comments.

Representing the interests of institutional shareholders, CCGG promotes good governance practices in Canadian public companies and the improvement of the regulatory environment to best align the interests of boards and management with those of their shareholders, and to promote the efficiency and effectiveness of the Canadian capital markets. Our members collectively manage almost $2 trillion of savings on behalf of most Canadians. Our members regularly invest in issuers listed on the TSX-V. A list of our members is attached to this submission.

Overview

We are pleased with certain changes the CSA have made to the original Proposed National Instrument 51-103 *Ongoing Governance and Disclosure Requirements for Venture Issuers* published for comment by the CSA on July 29, 2011 (the "Original Proposal"), and in particular the decision not to eliminate quarterly financial reporting for venture issuers. We continue to believe, however, that the proposed standards overall will result in less protection for investors and have the potential to adversely affect the reputation of the Canadian marketplace. In our view, smaller companies are not in less need of robust governance practices and the risk to investors of the lack thereof does not diminish with the smaller size of the company. The current regime's less stringent governance disclosure requirements for venture issuers already recognizes some of the unique aspects of venture issuers and further reducing those requirements does a disservice to investors.

We restrict our comments below generally to those not included in our previous comment letter, dated October 27, 2011, that responded to the Original Proposals. Much of our previous letter continues to be relevant to the Proposal and we confirm those comments.

Reduced Compensation Disclosure

We are pleased that the Proposal will require that compensation disclosure be located in the information circular since investors need this information when they are making voting decisions with respect to annual general meeting (AGM) matters. We continue to maintain, however, that all public companies should be providing the same executive compensation disclosure. We do not believe that the disclosure required under the current regime is a significant burden for issuers, as reflected in the fact that when the executive compensation rules were recently amended no venture issuers commented that those rules were too complicated or onerous.

We do not support reducing the number of "named executive officers" for which compensation disclosure is required from five to three. If an executive meets the prescribed threshold (total compensation of more than $150,000) there is no reason to assume information about his or her compensation would not be material to shareholders assessing a venture issuer's compensation program. The additional burden on venture issuers would be minimal.

As noted in our previous comment letter, we question permitting venture issuers to provide only two years of compensation information instead of three. Typically, executive compensation programs incorporate elements that are designed to reward performance over a time frame of greater than two years, especially when securities- based awards are part of the program. A two

year picture does not provide enough information about the alignment of compensation and company performance to enable shareholders to meaningfully assess the total compensation program.

As we also noted in our previous comment letter, we believe that combining NEO and director compensation information into one table reduces the clarity and utility of that disclosure, while doing little to lessen the burden on venture issuers. It also implies that the roles of management and directors are similar, which is incorrect. We believe it is especially important to be clear on the differences between management and directors in the case of venture issuers which are more likely to have related parties in executive and director roles.

Finally, while CCGG supports the proposal to allow stock options or other securities-based compensation to be disclosed at fair market value at the time options are exercised, we do not support the elimination of the current requirement to disclose the grant date fair value of stock options. What the board intended to pay an executive at the time the award was made is valuable information for shareholders and, in conjunction with the disclosure of fair market value at the time of exercise, allows shareholders to compare how the actual return to an executive compares with the board's intentions. Further, since options may comprise a large portion, if not all, of variable pay at venture issuers, a requirement that grant date fair values be disclosed will ensure that directors of these issuers consider a measure of wealth transfer from shareholders to executives when granting options and be in a position to justify to shareholders that the value is warranted.

Location of Governance Disclosure

We strongly disagree with the proposal to move the governance disclosure to the Annual Report and not include it in the information circular. Information about directors should be disseminated to shareholders along with the other information that is needed to make meaningful voting decisions on AGM matters, especially since the election of directors is the most fundamental right of shareholders and arguably the most important item on the AGM agenda. Shareholders generally are used to looking for this information in the circular and having to reference the Annual Report as well is an unnecessary inconvenience.

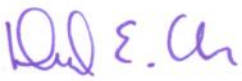
Conclusion

In summary, we continue to believe that the potential negative consequences of reducing the governance and executive compensation disclosure requirements outweigh the possible benefits to venture issuers of further streamlining and simplifying their compliance. Given that the majority of the publicly listed companies in Canada are TSX V-issuers, with these proposals the CSA risks creating the perception among international investors that Canada's governance standards as a whole are lax. It also may create an incentive for issuers to list (or continue to be listed) on the TSX-V even if they are eligible to be listed on the TSX, simply to avoid the TSX's more stringent governance and disclosure regime.

We thank you again for the opportunity to provide you with our comments. If you have any questions regarding the above, please feel free to contact our Executive Director, Stephen

Erlichman, at 416.868.3585 or serlichman@ccgg.ca or our Director of Policy Development, Catherine McCall at 416.868.3582 or cmccall@ccgg.ca.

Yours very truly,



Daniel E. Chornous, CFA
Chair of the Board
Canadian Coalition for Good Governance

CCGG MEMBERS

Acuity Investment Management Inc.
Alberta Investment Management Corporation (AIMCo)
Alberta Teachers' Retirement Fund Board
Aurion Capital Management Inc.
BlackRock Asset Management Canada Limited
BMO Harris Investment Management Inc.
British Columbia Investment Management Corporation (bcIMC)
Burgundy Asset Management Ltd.
Canada Post Corporation Registered Pension Plan
CIBC Global Asset Management
Claymore Investments, Inc.
Colleges of Applied Arts and Technology Pension Plan (CAAT)
Connor, Clark & Lunn Investment Management
CPP Investment Board
Franklin Templeton Investments Corp.
GCIC Ltd.
Greystone Managed Investments Inc.
Hospitals of Ontario Pension Plan (HOOPP)
Jarislowsky Fraser Limited
Leith Wheeler Investment Counsel Ltd.
Lincluden Investment Management
Mackenzie Financial Corporation
MFC Global Investment Management
NAV Canada
New Brunswick Investment Management Corporation (NBIMC)
NEI Investments
Ontario Municipal Employees Retirement Board (OMERS)
Ontario Pension Board
Ontario Teachers' Pension Plan (Teachers')
OPSEU Pension Trust
Public Sector Pension Investment Board (PSP Investments)
RBC Global Asset Management Inc.
Régimes de retraite de la Société de transport de Montréal
Russell Investments
SEAMARK Asset Management Ltd.
Sionna Investment Managers Inc.
Standard Life Investments Inc.
State Street Global Advisors Ltd. (SSgA)
Sun Life Financial Canada
TD Asset Management Inc.
Teachers' Retirement Allowance Fund
UBS Global Asset Management (Canada) Co.
United Church of Canada
University of Toronto Asset Management Corporation
Workers' Compensation Board - Alberta
York University Pension Plan

December 11, 2012

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Ontario Securities Commission
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New Brunswick Securities Commission
Prince Edward Island Securities Office
Office of the Superintendent of Securities, Government of Newfoundland and Labrador
Department of Community Services, Government of Yukon
Office of the Superintendent of Securities, Government of the Northwest Territories
Legal Registries Division, Department of Justice, Government of Nunavut

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Dear Sirs/Mesdames:

Re: CSA Notice of Republication and Request for Comment Regarding Proposed National Instrument 51-103 *Ongoing Governance and Disclosure Requirements for Venture Issuers,* Proposed Amendments to National Instrument 41-101 *General Prospectus Requirements,* National Instrument 44-101 *Short-Form Prospectus Requirements* and National Instrument 45-106 *Prospectus and Registration Exemptions* and Proposed Related Consequential Amendments ("Proposed NI 51-103")

The Canadian Advocacy Council[1] for Canadian CFA Institute[2] Societies (the CAC) appreciates the opportunity to comment on Proposed NI 51-103.

[1] The CAC represents the 13,000 Canadian members of CFA Institute and its 12 Member Societies across Canada. The CAC membership includes portfolio managers, analysts and other investment professionals in Canada who review regulatory, legislative, and standard setting developments affecting investors, investment professionals, and the capital markets in Canada. See the CAC's website at http://www.cfasociety.org/cac. Our Code of Ethics and Standards of Professional Conduct can be found at

General Comments

The CAC continues to disagree with the concept of a separate disclosure regime for venture issuers. Many inexperienced retail investors purchase securities of venture issuers on speculation of large investment returns. These are the type of investors which stand to lose the most from reduced disclosure requirements. We believe that the reduced disclosure standards in Proposed NI 51-103 will result in a loss of investor protection and, potentially, lower confidence in Canada's capital markets.

In addition, one of the standards contained in the CFA Institute's Code of Ethics and Standards of Professional Conduct requires members to exercise diligence in analyzing investments, and to have a reasonable and adequate basis, supported by appropriate research, for any investment recommendation. We are concerned that a disclosure regime for venture issuers which results in less public information being available than what is available for more senior public issuers could, in some cases, result in insufficient information for the necessary due diligence analysis.

With respect to specific comments on Proposed NI 51-103, the CAC generally supports the use of the annual report for venture issuers on the basis that a consolidated report, with limited ability to incorporate information by reference, will be easier for retail investors to use to find and understand key information about an issuer. We also support the retention of the 3 month and 9 month interim financial reports, which should provide additional transparency to potential investors. Those venture issuers contemplating becoming senior listed issuers should also benefit, as the availability of such statements should help ease the transition to a senior market.

We are strongly supportive of the new substantive governance standards relating to conflicts of interest, related party transactions and insider trading, as well as the enhanced requirements for independence for audit committee members. Strong corporate governance is key to the integrity of issuers and enhances investor confidence in the capital markets.

Significant Acquisitions

We continue to believe that the Business Acquisition Report requirement should remain intact and should not be replaced with other continuous disclosure documentation.

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http://www.cfainstitute.org/ethics/codes/ethics/Pages/index.aspx.

[2] CFA Institute is the global association of investment professionals that sets the standard for professional excellence and credentials. The organization is a champion for ethical behavior in investment markets and a respected source of knowledge in the global financial community. The end goal: to create an environment where investors' interests come first, markets function at their best, and economies grow. CFA Institute has more than 113,000 members in 140 countries and territories, including 102,000 CFA charterholders, and 137 member societies. For more information, visit http://www.cfainstitute.org/.

Proposed NI 51-103 provides that the acquisition of a business by a venture issuer would be a major acquisition if the pre-announcement value of the consideration to be transferred is 100% or more of the market capitalization of the venture issuer. We do not believe that only requiring financial statements for business acquisitions that are 100% significant based on a market capitalization test is sufficient. It is important that potential investors be able to view historical financial information rather than focus on prospective statements made by management in the annual report and interim commentaries. While we appreciate that the CSA is trying to balance an investor's need for disclosure and a venture issuer's need for a streamlined system, we do not believe that a venture issuer's disclosure preferences should trump investor protection.

Furthermore, we do not believe that a market capitalization test is the appropriate measure of a major acquisition. While the set percentage would seem to indicate a transformational transaction for an issuer, the test would constantly be affected by outside market forces. As a result, we believe that the asset test should continue to be used in connection with significant acquisitions.

Prospectus Requirements

In connection with the proposed long-form prospectus requirements, we believe that venture issuers should be required to provide three years of audited financial statements, which would provide a more accurate financial picture of an issuer and is more difficult to influence.

Concluding Remarks

We thank you for the opportunity to provide these comments. We would be happy to address any questions you may have and appreciate the time you are taking to consider our points of view. Please feel free to contact us at chair@cfaadvocacy.ca on this or any other issue in future.

(Signed) *Ada Litvinov*

Ada Litvinov, CFA
Chair, Canadian Advocacy Council

December 12, 2012

British Columbia Securities Commission
Alberta Securities Commission
Saskatchewan Financial Services Commission
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
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New Brunswick Securities Commission
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Department of Community Services, Government of Yukon
Office of the Superintendent of Securities, Government of the Northwest Territories
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Re: Proposed NI 51-103 and NI 51-802 - Ongoing Governance and Disclosure Requirements for Venture Issuers

The Committee on Corporate Reporting of Financial Executives International Canada (FEI Canada) is responding to the Canadian Securities Administrators request for comment regarding Proposed NI 51-103 and NI51-802 Ongoing Governance and Disclosure Requirements for Venture Issuers.

FEI Canada is the all-industry professional membership association for senior financial executives. With eleven chapters across Canada and more than 1,800 members, FEI Canada provides professional development, thought leadership and advocacy services to its members. The association membership, which consists of Chief Financial Officers, Audit Committee Directors and senior executives in the Finance, Controller, Treasury and Taxation functions, represents a significant number of Canada's leading and most influential corporations.

The Committee on Corporate Reporting (CCR) is one of two national advocacy committees of FEI Canada. CCR comprises more than 25 senior financial executives representing a broad cross-section of the FEI membership and of the Canadian economy who have volunteered their time, experience and knowledge to consider and recommend action on a range of issues related to accounting, corporate reporting and disclosure. In addition to advocacy, CCR is devoted to improving the awareness and educational implications of the issues it addresses, and is focused on continually improving the standards and regulations impacting corporate reporting.

We have limited our response to the amendments to the Continuous Disclosure requirements, other elements of the proposals are outside the scope of the CCR's mandate.

The CCR is appreciative of the CSA's efforts to reduce the length and complexity of continuous disclosure instruments for venture issuers, while improving access to relevant information for venture issuer investors. We are very supportive of the objective to reduce the time required for venture issuer management to understand the disclosure requirements, which will allow management more time to focus on the growth of their business.

The CCR supports the revised requirements for quarterly reporting, and believe these are a reasonable standard for venture issuers. The CCR also is supportive of the proposal to combine all significant year-end reporting requirements into an annual report. We would suggest however, that it is clarified that only the financial statements, as a component of the annual report, are subject to annual external audit.

The CCR is also supportive of the amendments to the audit committee proposals, which ensure that audit committee guidelines are consistent with those of the TSX Venture Exchange.

The CCR appreciates the opportunity to respond to the revised proposals.

Yours very truly,

Gordon Heard
Chair
Committee on Corporate Reporting
FEI Canada

680 Waterloo Street, London, ON N6A 3V8

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Delivered by Email

December 12, 2012

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Department of Community Services, Government of Yukon
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Dear Ms. D'Aoust and Ms. Beaudoin:

Re: Proposed Amendments to Regulatory Regime for Venture Issuers

Thank you for the opportunity to comment on Proposed National Instrument 51-103 – *Ongoing Governance and Disclosure Requirements for Venture Issuers* ("NI 51-103") and the related amendments.

By way of introduction, Siskinds LLP is one of the leading plaintiff securities class action firms in Canada. While we act in a broad range of shareholder rights litigation, the focus of our practice is representing institutional and retail shareholders in securities class actions arising out of disclosure violations by issuers, their directors and officers, and other market participants. We have been and are counsel to the plaintiffs in numerous class actions in which claims for prospectus and secondary market misrepresentation have been asserted under

section 130 and Part XXIII.1 of the Ontario *Securities Act* (the "*OSA*"), and the equivalent provisions of the Securities Acts of the other Canadian provinces and territories. A number of those cases have involved issuers that would qualify as "venture issuers" under NI 51-103.[1]

We have a number of specific comments on the proposed amendments, which are addressed in the last section of this submission. We also have serious concerns with the proposed amendments from a policy perspective, which we discuss first below. In our view, there is no justification for any further relaxation of the disclosure and governance obligations of venture issuers beyond the numerous concessions that are already afforded to venture issuers under the existing securities regulatory regime.

Stronger Public Regulation is Required for Venture Issuers

It is widely recognized that the private enforcement of securities laws through mechanisms such as private litigation is an important tool in ensuring general compliance with securities legislation. Indeed, some empirical studies have suggested that private enforcement mechanisms are more effective than public enforcement mechanisms in this regard.[2] In any event, it is clear that public and private enforcement of securities legislation both have complementary roles to play. They operate in conjunction to secure a common objective, which is ensuring general compliance with securities regulations. It is widely understood that a robust and effective system of both public and private enforcement mechanisms is essential to an effective regime for the enforcement of securities legislation.[3]

In Canada, Professor Poonam Puri has documented how the successful interplay between public and private enforcement mechanisms has been essential in promoting stability and capacity in Canadian capital markets.[4] This dualistic conception of securities law enforcement has also been affirmed by Ontario courts. In *Fischer v IG Investment Management Ltd*, Chief Justice Winkler acknowledged "the role of private enforcement, including class action litigation, in regulating the behaviour of capital market participants."[5]

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1 E.g. Bear Lake Gold Ltd., Cathay Forest Products Corp. and Zungui Haixi Corporation.

2 La Porta, R., Lopez–de–Silanes, F., Shleifer, A., "What works in securities laws?" (2006), 61 J. Finance 1; S. J. Choi and A. C. Pritchard, "SEC Investigations and Securities Class Actions: An Empirical Comparison" (2012), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2109739 (last accessed December 5, 2012).

3 H. E. Jackson and M. E. Rowe, "Public and Private Enforcement of Securities Laws: Resource-Based Evidence" (2009), 93 J. Financial Econ. 207.

4 Poonam Puri, "Securities Litigation and Enforcement: The Canadian Perspective" (2012), 37 Brooklyn J. Int'l L. 967.

5 *Fischer v IG Investment Management Ltd*, [2012] OJ no 343 at para 49.

The regulation of securities markets takes on added importance with respect to venture issuers. The unfortunate reality is that the risk of investor fraud is higher among companies that are less established, are starved for capital, and possess fewer resources to ensure compliance with applicable disclosure requirements.[6] Thus, the need for effective regulation is greater when it comes to venture issuers.

However, private enforcement of securities laws through class action litigation is actually weaker with respect to venture issuers. That is because it is less likely to be economical to pursue a class action against a small cap issuer. That is particularly the case for secondary market securities class actions under Part XXIII.1 of the *OSA*. The liability of an issuer under Part XXIII.1 is capped by a "liability limit" equal to the greater of 5% of the issuer's market capitalization and $1 million. Overall, the liability limits of venture issuers are likely to be lower than those of non-venture issuers. Moreover, the issuer's liability limit under Part XXIII.1 will apply even in cases of fraud. As a result, in many secondary market cases against venture issuers, it will be uneconomical to seek a remedy under Part XXIII.1 and investors will be forced to pursue riskier remedies under the common law. Empirical data confirms that smaller issuers are sued for securities fraud at a disproportionately lower rate than larger issuers.[7]

Thus, public regulation needs to be more robust in order to compensate for weaker private enforcement with respect to venture issuers, and to restore the balance between public and private enforcement mechanisms that is so crucial to an effective securities regulation regime. Similarly, lower standards for continuous disclosure threaten to contract even further what is already a precariously low level of private enforcement when it comes to venture issuers. In its efforts to streamline continuous disclosure obligations for venture issuers, the CSA must be mindful not to do so in a manner that interferes with the efficient functioning of the securities law enforcement regime. If the relaxation of the disclosure obligations of small cap issuers

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6 See e.g. Final Report of the Advisory Committee on Smaller Public Companies to the Securities and Exchange Commission (2006), http://www.sec.gov/info/smallbus/acspc/acspc-finalreport.pdf (last accessed 21 November, 2012) (noting that "small firms consistently have more misstatements and restatements of financial information, nearly twice the rate of large firms.... Alarmingly, these small firms also make up the bulk of accounting fraud cases under review by regulators and the courts (one study puts it at 75 percent of the cases from 1998-2003)."); Donald C. Langevoort, "Angels on the Internet: The Elusive Promise of Technological Disintermediation for Unregistered Offerings of Securities," 2 J. Small & Emerging Bus. L. 1 at 2 (1998) ("investment frauds have always been, and will always be, heavily concentrated among new and unfamiliar ventures..."), Jill E. Fisch, "Can Internet Offerings Bridge the Small Business Capital Barrier?", 2 J. Small & Emerging Bus. L. 57 at 82 (1998).

7 Douglas Cumming and Sofia John, "Exchanges and Their Investors: A New Look at Reporting Issues, Fraud, and Other Problems by Exchange" (2012), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1985319 (last accessed 21 November 2012).

undermines this regime and in turn causes the market to conclude that investing in small cap issuers is riskier than before, then the cost of capital for these issuers will increase, which will defeat one of the purposes of the proposed changes to NI 51-103.

Greater Protections are Required for Retail Investors

As the CSA has acknowledged, investors in venture issuers are "proportionately more likely to be retail investors with small positions."[8] The CSA suggests that this justifies reduced continuous disclosure obligations for venture issuers because such investors have less time and resources to devote to reading complex disclosure documents.[9]

We respectfully disagree with the argument that details should be removed from disclosure documents because retail investors are less likely to read them otherwise. We certainly agree that the behaviour, interests, and expectations of retail investors will tend to diverge in key respects from those of institutional investors. However, another key difference is that retail investors will tend to be in a more vulnerable position financially, and more dependent on publicly available information. Crucially, they also have less ability to hold issuers accountable for their misrepresentations. Detailed disclosure obligations enhance their ability to hold issuers accountable. Thus, if anything, retail investors have greater need of the powers and protections afforded by rigorous disclosure obligations. Furthermore, even if retail investors have less time to review complex disclosure documents than institutional investors, market professionals upon whom retail investors rely, such as investment advisers, analysts, the financial press and underwriters, do have the time and resources to study and absorb complex disclosures. Therefore, greater detail in the disclosures of venture issuers will enable those market professionals to provide better quality advice to their clients in regard to those issuers.

Specific Comments

In light of the above, we strongly urge the abandonment of the proposal to replace interim MD&As with significantly watered-down "quarterly highlights" relating to the issuer's operations and liquidity. Interim MD&As provide highly valuable financial disclosure and, in our respectful view, their elimination in favour of "quarterly highlights" will have a detrimental impact on the quality of disclosure being provided to venture investors. Moreover,

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8 Ontario Securities Commission, "Proposed National Instrument 51-103 Ongoing Governance and Disclosure Requirements for Venture Issuers and Related Amendments: Supplement to the OSC Bulletin," July 29, 2011, Volume 34, Issue 30 (Supp-5).

9 *Ibid.* at 5.

as was the case with the previous proposal to eliminate altogether three and six month financial reporting for venture issuers, the elimination of detailed interim MD&As will create an informational gap in that investors will only receive detailed financial disclosure from issuers once a year.

We also query whether the CSA properly considered the cost-benefit calculus before proposing to replace interim MD&As with "quarterly highlights". Of the two surveys conducted with respect to this issue, the first received only nine responses from venture investors and the second was not opened up to investors. The surveys were dominated by issuers and, in particular, venture issuers with very small market capitalizations, for which compliance costs are obviously a significant concern.[10] Proper consideration needs to be given to the impact of this proposal on investors.

We also disagree with the proposal to require venture issuers to provide only two years of executive and director compensation disclosure, rather than three years. The provision of compensation disclosure for three years in one place in the information circular imposes a negligible additional burden on issuers, whereas it provides useful comparative information for investors in assessing the remuneration of directors and executive officers.

Thank you again for the opportunity to comment on the proposed amendments.

Yours truly,

Siskinds LLP

Per:
A. Dimitri Lascaris, Anthony O'Brien and James Yap

10 Annex H at pgs 234-235.

December 12, 2012

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British Columbia Securities Commission
Alberta Securities Commission
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Office of the Superintendent of Securities, Government of Newfoundland and Labrador
Department of Community Services, Government of Yukon
Officers of the Superintendent of Securities, Government of the Northwest Territories
Legal Registries Division, Department of Justice, Government of Nunavut

Dear Sirs/Mesdames::

Re: Notice and Request for Comment - Proposed National Instrument 51-103 Ongoing Governance and Disclosure Requirements for Venture Issuers (the "Proposed Instrument")

We are responding to the Canadian Securities Administrators (the "**CSA**") Notice and Request for Comment dated September 13, 2012 regarding the Proposed Instrument. We are pleased to have this opportunity to participate in the review process by providing our specific comments below.

Section 3 of the Proposed Instrument provides, in part, that the Proposed Instrument applies to a reporting issuer unless the reporting issuer has any of its securities listed or quoted on a marketplace outside of Canada or the United States, other than a venture market. Subsection 3.1 of the Proposed Instrument defines a "venture market" as the Alternative Investment Market of the London Stock Exchange, the PLUS-SX market operated by PLUS Markets Group, plc, the NZAX Market of the New Zealand Stock Exchange, the Segmento de Capital Riesgo de la Bolsa de Valores de Lima, the NASDAQ OMX First North or the Bolsa de Valores de Columbia.

We have previously sought and received exemption orders for reporting issuer clients under National Instrument 51-102 - *Continuous Disclosure Requirements* ("**NI 51-102**") to provide that such reporting issuer does not cease to be a "venture issuer" under NI 51-102 due a listing on the Oslo Axess (see Order 2009-BCSECCOM 533) and the Venture Capital Board of the Botswana

Stock Exchange (See Order 2012-BCSECCOM 100). Accordingly, we would suggest that these particular exchanges should be added to the definition of "venture market". In addition, we believe the CSA should consider the inclusion of a schedule to the Proposed Instrument where additional exchanges could be added to the definition of "venture market" at the discretion of the CSA.

Yours truly,

McCULLOUGH O'CONNOR IRWIN LLP

David Gunasekera

DG\dl

Enclosure

December 12, 2012

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zafar.khan@tsx.com

BY EMAIL

British Columbia Securities
Alberta Securities Commission
Saskatchewan Financial Services Commission
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Nova Scotia Securities Commission
New Brunswick Securities Commission
Prince Edward Island Securities Office
Office of the Superintendent of Securities, Government of Newfoundland and Labrador
Department of Community Services, Government of Yukon
Office of the Superintendant of Securities, Government of the Northwest Territories
Legal Registries Division, Department of Justice, Government of Nunavut

c/o Ashlyn D'Aoust
Legal Counsel, Corporate Finance
Alberta Securities Commission

Anne-Marie Beaudoin
Corporate Secretary
Autorité des marchés financiers

Dear Sirs/Mesdames:

Re: Proposed National Instrument 51-103

In response to the Notice of Republication and Request for Comment (the "**Notice**") published by the Canadian Securities Administrators (the "**CSA**") on September 23, 2012 in respect of Proposed National Instrument 51-103 *Ongoing Governance and Disclosure Requirements for Venture Issuers* (the "**Proposed NI**"), TSX Venture Exchange ("**TSXV**" or the "**Exchange**") provides the following comments and feedback.

A. General Comments

1. **Annual Reports for Capital Pool Companies:** It is noted that per section 6 of Form 51-103F1 *Annual and Interim Reports* ("**Form 51-103F1**"), a Capital Pool Company (a "**CPC**") may, in satisfying the disclosure requirements for an Annual Report, incorporate by reference the disclosure required in sections 16 and 17 of Form 51-103F1 from its initial public offering prospectus (the "**CPC Prospectus**") provided that it remains current. The

Exchange requests that this incorporation by reference concession available to CPCs be expanded to include Items 17, 19, 23 to 27, 30 and 35 to 37 of Form 51-103F1 provided that such information is fully disclosed in the CPC Prospectus and such disclosure remains current as of the date of the Annual Report.

The Exchange is of the view that expanding the incorporation by reference concession in the manner described above would not compromise the publicly available disclosure in respect of a CPC given that the relevant disclosure is, by virtue of the nature of a CPC, relatively static and the relevant disclosure could only be incorporated by reference if it actually existed in the CPC Prospectus and it remained current as of the date of the Annual Report.

By expanding the incorporation by reference concession in the manner described above, the costs of preparing an Annual Report for a CPC would potentially be decreased and the CPC would correspondingly have greater available resources to seek out and pursue a potential Qualifying Transaction. This would correspond with the expectations and best interests of the shareholders of the CPC and can reasonably be viewed as a better use of the CPC's financial resources as compared to paying the costs associated with preparing continuous disclosure documents that are of limited utility to the CPC's shareholders and the market in general given the existence of identical disclosure in the CPC Prospectus.

2. **Reverse Takeover Circulars as Alternative AIF:** TSXV requests that the proposed definition of "alternative AIF" to be added to National Instrument 45-106 *Prospectus and Registration Exemptions* ("**NI 45-106**") be expanded to include a current information circular or filing statement prepared by an issuer in accordance with TSXV Form 3D1/3D2 *– Information Required in an Information Circular for a Reverse Takeover or Change of Business/Information Required in a Filing Statement for a Reverse Takeover or Change of Business* (an "**RTO circular**").

   It is noted that, at present, a current "QT circular" is included within the proposed definition of "alternative AIF" (which corresponds with the inclusion of a current "QT circular" within the existing definition of AIF in NI 45-106). On this basis, it would be reasonable to include a current RTO circular within the proposed definition of "alternative AIF" given that the disclosure requirements for a QT circular and an RTO circular are substantially identical to one another with both being required to include prospectus-level disclosure.

   The principal benefit of including a current RTO circular within the definition of alternative AIF is that greater flexibility will be provided to issuers conducting a Reverse Takeover or Change of Business (as defined in TSXV policies) with respect to financing alternatives, in particular under Part 5 of NI 45-106.

3. **Implementation of the Proposed NI and Educating Issuers:** Given the scope of the changes that will be given effect upon implementation of the Proposed NI, the Exchange recommends that the CSA be proactive in its efforts to educate venture issuers and their advisors on the impact of the Proposed NI to the disclosure and governance regime applicable to venture issuers. To the extent that the Exchange can assist the CSA in this regard, the Exchange welcomes the opportunity to participate in this process. In this regard, please do not hesitate to contact the undersigned to coordinate such matters.

B. Comments Related to Drafting

TSXV provides the following comments in respect of certain drafting matters.

1. For drafting consistency, the wording of sections 30(3) to (5) of Form 51-103F1 *Annual and Interim Reports* ("**Form 51-103F1**") and the wording of sections 14(1) to (5) of Form 51-103F4 *Information Circular* ("**Form 51-103F4**") should be conformed with one another.

2. For drafting consistency and to correct ambiguous wording, the wording of Instruction 5 of From 51-103F2 *Report of Material Change or other Material Information* ("**Form 51-103F2**") should be conformed with the wording of Instruction 2 of Form 51-103F4. In particular, the reference to "a venture issuer" in the wording "another document filed by a venture issuer" in Instruction 5 of Form 51-103F2 should be replaced with "the venture issuer" similar to what is done in Instruction 2 of Form 51-103F4. In the absence of this change, it may be inferred under Form 51-103F2 that an issuer can incorporate by reference disclosure provided in another document filed by any venture issuer and not just by the issuer itself.

3. In section 12(4) of Form 51-103F4, it appears that the two cross-references to subsection (2) should actually be to subsection (3).

Thank you for the opportunity to provide our comments and feedback in respect of the Proposed NI. If you require any clarification of our comments and feedback, please do not hesitate to contact the undersigned at your convenience.

Regards,

TSX VENTURE EXCHANGE INC.

Per: (signed) *"Zafar Khan"*

Zafar Khan
Policy Counsel

December 12, 2012

BY EMAIL

Alberta Securities Commission
British Columbia Securities Commission
Manitoba Securities Commission
New Brunswick Securities Commission
Nova Scotia Securities Commission
Saskatchewan Financial Services Commission
Ontario Securities Commission
Autorité des marches financiers
Prince Edward Island Securities Office
Office of the Superintendent of Securities, Government of Newfoundland and Labrador
Department of Community Services, Government of Yukon
Office of the Superintendent of Securities, Government of the Northwest Territories
Legal Registries Division, Department of Justice, Government of Nunavut

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Email: consultation-en-cours@lautorite.qc.ca

Dear Mesdames/Sirs:

Re: Proposed National Instrument 51-103 Ongoing Governance and Disclosure Requirements for Venture Issuers ("NI 51-103") – Republication and Request for Comment

We appreciate this opportunity to comment on the changes to proposed NI 51-103 republished for comment on September 13, 2012. CNSX Markets Inc. ("CNSX Markets") is supportive of CSA's initiative to rationalize regulatory requirements and improve the quality of disclosure provided by venture issuers.

Background – CNSX Markets

CNSX Markets is a recognized stock exchange in Ontario, and authorized or exempt in Quebec, British Columbia, Alberta and Manitoba. We operate two distinct markets: the Canadian National Stock Exchange ("CNSX") and the Pure Trading facility ("Pure").

General Comments

CNSX supports the change to eliminate the mid-year report and reinstate the requirement for quarterly interim financial reports without having to file associated MD&A (at the discretion of the issuer) but rather interim reports must include "quarterly highlights". This addresses the concern raised in our previous comment letter that mid-year and annual reporting is too long a period between meaningful disclosure on the financial condition of an issuer. Quarterly financial reporting is a settled and well understood practice so any utility derived from transitioning to 6 month reporting periods is far outweighed by a potential loss of confidence in regulatory efficacy.

On the whole, we believe the CSA changes as set out in part (4) of the Notice are beneficial for venture issuers and investors. CNSX particularly agrees with the changes to exclude control persons as being considered independent in the composition of audit committees and the enhanced guidance to venture issuers to assist them in complying with their governance responsibilities. CNSX also supports proposed change to exempt venture issuers from the NI 43-101 requirement to file a technical report with its annual report but instead reinstate it in cases where the issuer plans to raise additional capital via a short form prospectus offering.

CNSX supports the CSA's move toward proportionate regulation as not all issuers are created equal when it comes to the resources at their disposal to deal with the growing complexity of the capital markets and their ongoing disclosure obligations. We believe the changes to proposed NI 51-103 are in keeping with the CSA's goal to "tailor and streamline" regulatory requirements for venture issuers.

Yours truly,

CNSX Markets Inc.

"Rob Theriault"

Director – Listings & Regulation

cc: Richard Carleton, CEO
Robert Cook, President
Mark Faulkner, Vice President, Listings & Regulation
Cindy Petlock, General Counsel & Corporate Secretary

FAIR | Canadian Foundation *for* Advancement *of* Investor Rights

December 12, 2012

British Columbia Securities Commission
Alberta Securities Commission
Saskatchewan Financial Services Commission
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Nova Scotia Securities Commission
New Brunswick Securities Commission
Prince Edward Island Securities Office
Office of the Superintendent of Securities, Government of Newfoundland and Labrador
Department of Community Services, Government of Yukon
Office of the Superintendent of Securities, Government of the Northwest Territories
Legal Registries Division, Department of Justice, Government of Nunavut

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Corporate Secretary
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RE: Proposed National Instrument 51-103 *Ongoing Governance and Disclosure Requirements for Venture Issuers* and Related Amendments

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FAIR Canada is pleased to offer comments on the Republication and Request for Comment (the "**Republication**") by the Canadian Securities Administrators ("**CSA**") regarding amendments proposing a new tailored regulatory regime for venture issuers contained in the CSA Notice of Republication and Request for Comment dated September 13, 2012 (the "**Notice**").

FAIR Canada is a national, non-profit organization dedicated to putting investors first. As a voice of Canadian investors, FAIR Canada is committed to advocating for stronger investor protections in securities regulation. Visit www.faircanada.ca for more information.

FAIR Canada Comments and Recommendations – Executive Summary:

1. Regulators should be careful not to reduce governance standards to a level that would undermine the TSX-V's reputation, reduce confidence or reduce the ability for venture issuers to raise capital.

2. FAIR Canada supports the objective of tailoring and streamlining the disclosure and governance requirements for venture issuers and increasing guidance for venture issuers so that compliance can be simplified and costs to venture issuers can be reduced. FAIR Canada also supports efforts to improve disclosure to reflect the needs and expectations of venture issuer investors. However, we do not agree that reducing the disclosure and governance standards applicable to venture issuers is an appropriate manner to achieve the stated goals.

3. FAIR Canada believes that empirical evidence should demonstrate that the current rules are confusing or costly to comply with and that new rules will be less confusing and costly before a proposed instrument is introduced.

4. FAIR Canada questions why a proposed instrument, purportedly aimed at improving investor usefulness, has been introduced prior to any consultation with investors. This would suggest a less than optimal process for an investor-focused initiative.

5. A reduction of the existing level of disclosure would result in informational gaps for investors and would increase the risks of investing in an already risky prospective venture market. This would not be a responsible course of action for regulators whose mandate is to protect investors nor would it improve confidence in the venture capital market.

6. It would arguably be more efficient and less resource-intensive to assemble all current regulatory requirements for venture issuers into a manual for venture issuers rather than incur the cost of the rule-making process. The Proposed Instrument does not create a single instrument where all of the rules applicable to venture issuers can be found.

7. FAIR Canada believes that benchmarking to the requirements of acceptable jurisdictions, particularly in respect of executive compensation, corporate governance, and the significance test for financial disclosure, is an essential element of robust and informed policy development.

8. FAIR Canada continues to strongly recommend that the CSA address the conflict of interest between the listing regulatory responsibilities and listing commercial operations of TSX and TSX-V and bring them in line with international standards.

9. FAIR Canada provides its comments on specific aspects of the proposals in sections 3 through 11 below:

   Section 3: Interim Reports and MD&A: FAIR Canada supports the proposal to require interim financial reports for venture issuers for each of the 3, 6 and 9 month interim periods. FAIR Canada recommends that MD&A be required for the interim financial reports.

   Section 4: Major Acquisitions: FAIR Canada disagrees that 100% or more of the market capitalization of the venture issuer is the correct threshold indicative of a transformational transaction for venture issuers. We recommend reducing the threshold from 40% to 25%.

   Section 5: Requiring BARs: FAIR Canada does not support the elimination of the requirement to file Business Acquisition Reports (BARs) because we see value to investors in the filing of these reports and do not support their replacement with other disclosure documents.

   Section 6: Pro-Forma Financial Statements: FAIR Canada believes that the pro forma financial statement requirement should be retained but the exchange should have the ability to waive the requirement if the information is not material or is unduly costly to produce.

   Section 7: Use of Proceeds Disclosure: FAIR Canada supports enhanced requirements for disclosure in the short form prospectus about use of proceeds. We agree that it is particularly relevant disclosure for venture issuers.

   Section 8: Executive Compensation Disclosure: FAIR Canada is of the view that venture issuers should not provide less disclosure with respect to executive compensation as compared with senior unlisted issuers or other issuers.

   Section 9: Reduced Governance Disclosure: Venture issuers are already subject to reduced corporate governance requirements and FAIR Canada is opposed to any further reduction of such standards.

   Section 10: Audit Committees: FAIR Canada supports enhanced requirements for impartiality by venture issuer audit committees.

   Section 11: Jurisdiction of Incorporation and Corporate Legislation: FAIR Canada recommends that TSX and TSX-V listing requirements and a national instrument require that all listed issuers, including venture issuers, be incorporated in a jurisdiction with corporate legislation that meets minimum corporate governance standards, including directors' duties to act honestly and in good faith and to exercise care, skill and diligence

1. General Comments

1.1. The Vancouver Stock Exchange had a terrible reputation (whether deserved or not) which undermined Canadian and international confidence in the Canadian capital markets. The TMX

Group and regulators have generally done a good job (aside from certain China listings) of erasing the memories of the old reputation and TSX-V has a much better reputation which adds to investor confidence and the ability of issuers to raise capital. Regulators should be careful not to reduce governance standards to a level that would undermine the TSX-V's reputation, reduce confidence or reduce the ability for venture issuers to raise capital.

1.2. **FAIR Canada supports the objective of tailoring and streamlining the disclosure and governance requirements for venture issuers and increasing guidance for venture issuers so that compliance can be simplified and costs to venture issuers can be reduced. FAIR Canada also supports efforts to improve disclosure to reflect the needs and expectations of venture issuer investors. However, we do not agree that reducing the disclosure and governance standards applicable to venture issuers is an appropriate manner to achieve the stated goals.**

1.3. As noted in our earlier comment letter[1], FAIR Canada believes that empirical evidence should demonstrate that the current rules are confusing or costly to comply with and that new rules will be less confusing and costly (including transition costs) than the current rules before a proposed instrument is introduced.

1.4. FAIR Canada also questions why a proposed instrument, purportedly aimed at improving investor usefulness, has been introduced prior to any consultation with investors. This would suggest a less than optimal process for an investor-focused initiative.

1.5. A reduction of the existing level of disclosure would result in informational gaps for investors and would increase the risks of investing in an already risky prospective venture market. This would not be a responsible course of action for regulators whose mandate is to protect investors nor would it improve confidence in the venture capital market. Our specific concerns are set out below.

1.6. As we commented in response to CSA Multilateral Consultation Paper 51-403 *Tailoring Venture Issuer Regulation* (the "**Initial Consultation**"), if a principal goal of the initiative is to clarify current obligations for venture issuers, it would arguably be more efficient and less resource-intensive to assemble all current regulatory requirements for venture issuers into a manual for venture issuers rather than incur the cost (both in terms of time and resources on the part of both regulators and stakeholders) of the rule-making process. The Republication does not create a single instrument where all of the rules applicable to venture issuers can be found. Given that venture issuers will still have to comply with other national instruments and securities laws in the applicable provincial acts, we do not believe that the goal of clarifying obligations and thereby reducing compliance costs will be achieved through the CSA's current proposals. Providing a comprehensive manual which would explain all current requirements would be preferable.

[1] FAIR Canada, RE: Proposed National Instrument 51-103 Ongoing Governance and Disclosure Requirements for Venture Issuers (October 27, 2011), online: <http://faircanada.ca/wp-content/uploads/2011/01/111027-FAIR-Canada-submission-re-Proposed-NI-51-103.pdf>.

Comment Weighting

1.7. FAIR Canada also notes that throughout the summary of key comments received by the CSA provided in the Republication, the number of comments in support or unsupportive of certain subjects were tallied by the number of comments received without any context for the source of the comments. For example, in response to question 7 (100% market capitalization threshold) of the CSA's original Notice and Request for Comment issued July 29, 2011 (the "**Original Notice**"), it is noted that "...thirty-eight commenters indicated 100% is the correct threshold..." while "...nine commenters indicated 100% is not the correct threshold..."[2] FAIR Canada, the Canadian Coalition for Good Governance and the Ontario Securities Commission's Investor Advisory Panel, all groups that advocate for investor protection, made up three of the nine submissions unsupportive of this proposed threshold. The vast majority of the letters in favour of a 100% threshold were submitted by venture issuers, who represented their interests with a standard form letter upon which they included their letterhead and signature. The majority view should have little or no weight in assessing the policy options given that most Canadians would have been completely unaware of the consultation and the vast majority of those who responded were those who stood to benefit.

1.8. Given that investors, particularly retail investors, are disproportionately under-represented in the policy-making process and submit far fewer comment letters on their own behalf, it is FAIR Canada's opinion that it would have been helpful for the summary of key comments to attribute comments to the interests they represent. We sincerely hope that the CSA considers the comments received in the context of the interests represented by the commenters and not on the volume of comments received for any given position.

Benchmarking

1.9. FAIR Canada believes that benchmarking to other jurisdictions is an important part of the policy-making process and questions the CSA's statement that "The venture market in Canada is unique and is not directly comparable to most other markets. We do not think that benchmarking to requirements in other jurisdictions is appropriate."[3] FAIR Canada believes that benchmarking to the requirements of acceptable jurisdictions, particularly in respect of executive compensation, corporate governance, and the significance test for financial disclosure, is an essential element of robust and informed policy development.

[2] (2012) 35 OSCB (Supp-4) at 24-25.
[3] (2012) 35 OSCB (Supp-4) at 24.

2. Address Listings Regulation Conflict of Interest

2.1. FAIR Canada also continues to strongly recommend that the CSA address the conflict of interest between the listing regulatory responsibilities and listing commercial operations of TSX and TSX-V and bring them in line with international standards.[4]

3. 3- and 9-month Interim Financial Reports and Management's Discussion and Analysis

3.1. FAIR Canada supports the proposal to require interim financial reports for venture issuers for each of the 3, 6 and 9 month interim periods. FAIR Canada recommends that MD&A be required for the interim financial reports. As noted in our October 27, 2011 comment letter[5], removing these filings would result in a gap in continuous disclosure, making it more difficult for investors to determine whether to invest or sell their shares of a particular venture issuer and allow too much time to lapse between regulators' receipt of such information for purposes of review and investigation of possible issues.

4. Major Acquisitions

4.1. Under the Proposed Instrument, the significance test for financial statement disclosure would be lowered so that instead of requiring reporting of acquisitions that are 40% significant, only acquisitions that are 100% or more of the market capitalization of the venture issuer would be considered to be indicative of a transformational transaction and thus would trigger a report. FAIR Canada disagrees that 100% or more of the market capitalization of the venture issuer is the correct threshold indicative of a transformational transaction for venture issuers. We recommend reducing the threshold from 40% to 25% as set out in our earlier comment letter.

5. Replacement of Business Acquisition Reports with Reports of Material Change, Material Related Entity Transactions or Major Acquisitions

5.1. FAIR Canada does not support the elimination of the requirement to file Business Acquisition Reports ("**BARs**") because we see value to investors in the filing of these reports and do not support their replacement with other disclosure documents. FAIR Canada believes that BARs should be retained and required when the acquisition is significant. The CSA should conduct a benchmarking exercise of requirements in other jurisdictions such as the US, UK, Australia and Hong Kong before it alters the significance test for financial statement disclosure or eliminates the requirement to file BARs.

6. Pro Forma Financial Statements

6.1. FAIR Canada believes that the pro forma financial statement requirement should be retained but the exchange should have the ability to waive the requirement if the information is not material or is unduly costly to produce.

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[4] See the report commissioned by FAIR Canada on this topic: John W. Carson, "Managing Conflicts of Interest in TSX Listed Company Regulation" (July 23, 2010), available online at: <http://faircanada.ca/wp-content/uploads/2008/12/TSX-Listings-Conflicts-final-report-23-Jul1.pdf>.

[5] *Supra* note 1.

7. Use of Proceeds Disclosure

7.1. FAIR Canada supports enhanced requirements for disclosure in the short form prospectus about use of proceeds. We agree that it is particularly relevant disclosure for venture issuers.

8. Executive Compensation Disclosure

8.1. FAIR Canada is of the view that venture issuers should not provide less disclosure with respect to executive compensation as compared with senior unlisted issuers or other issuers. FAIR Canada does not agree that venture issuers should only have to provide two years' worth of information (rather than three) nor should the table combine named executive officers and director compensation rather than produce it in a separate format as is required for other issuers.

8.2. FAIR Canada does not support the proposal to only require executive compensation disclosure in the Information Circular. As noted in our comments of October 27, 2011, we believe that executive compensation should be disclosed in the Information Circular as well as in the Annual Report.

8.3. FAIR Canada does not support the proposal that stock options or other securities-based compensation be disclosed on a different basis for venture issuers than is required for other issuers. Disclosure of the fair market value at the time compensation is earned could be an additional disclosure but should not replace the current requirement to disclose the grant date fair value of stock options. The current requirement of grant date fair value provides important information to investors as it discloses the amount the board intends to pay an executive at the time the award is made. Including the additional requirement to disclose the amount realized by the executive at the time it is earned (or "exercised") would allow investors to compare the two amounts. FAIR Canada recommends that there be a broad consultation with all relevant stakeholders, including investors, on the proposal to disclose non-cash compensation such as stock options using fair market value at the time it is earned in addition to the grant date and that such a proposal be considered for all issuers and not just venture issuers.

9. Reduced Governance Disclosure

9.1. **Venture issuers are already subject to reduced corporate governance requirements and FAIR Canada is opposed to any further reduction of such standards.** In FAIR Canada's view, any reduction in governance standards would not be in the interests of retail investors or market integrity. Venture issuers should be subject to the same disclosure requirements as large issuers given that all shareholders are entitled to the same level of information on such important matters.

9.2. FAIR Canada does not agree that venture issuers should not have to: (i) disclose and identify the independent and non-independent directors and the basis for that determination; (2) disclose whether a director is a director of any other issuer and identify both the director and the other issuer; and (3) describe the steps taken to identify new candidates for board nomination including who identifies new candidates and the process used to identify new candidates.

9.3. **FAIR Canada supports efforts to reduce duplication of information and believes that a brief summary of governance requirements and other attachments to the information circular could be provided (rather than the full documents) with links to the full documents on the listed issuer's website. Implementing such a change could reduce the size of many information circulars by 50% or more.**

10. Audit Committees

10.1. FAIR Canada supports enhanced requirements for impartiality by venture issuer audit committees. FAIR Canada supports the addition of control persons to the list of individuals, which includes executive officers or employees of the venture issuer, who may not make up the majority of the members of the audit committee.

11. Duties to Act Honestly and In Good Faith and to Exercise Care, Skill and Diligence

11.1. FAIR Canada recommends that TSX and TSX-V listing requirements and a national instrument require that all listed issuers, including venture issuers, be incorporated in a jurisdiction with corporate legislation that meets minimum corporate governance standards, including directors' duties to act honestly and in good faith and to exercise care, skill and diligence. Issuers should be required to be incorporated in a jurisdiction with an acceptable standard of corporate governance (i.e. in a major developed jurisdiction) comparable to standards found in Canadian corporate legislation.

11.2. Our understanding is that the TSX-V does not require that listed issuers be incorporated in Canada or pursuant to the corporate laws of a Canadian province or territory, and simply requires that the applicant complete a reconciliation of its constating documents and the corporate law or equivalent legal regime of its home jurisdiction with that of the Canada Business Corporations Act where the applicant is not incorporated or created under the laws of Canada or any Canadian province.[6]

11.3. It also imposes on directors and officers the requirements to act honestly and in good faith with a view to the best interests of the issuer and to exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. However, the latter requirements are contractual relationships between the TSX-V and the issuer and would be difficult or impossible for a shareholder to enforce against an issuer incorporated in the British Virgin Islands or any of the many offshore jurisdictions. Corporate laws that do not include this basic statement of directors' duties should not be acceptable. In addition to the lack of basic corporate law, many jurisdictions (like the British Virgin Islands) are structured to attract private issuers rather than public issuers. Further, the court system in many of these jurisdictions is inadequate.

We thank you for the opportunity to provide our comments and views in this submission. We welcome its public posting and would be pleased to discuss this letter with you at your

[6] See Part 1, section 1.18 of Policy 2.3 of the TSXV Corporate Finance Manual and see Part 5 of Policy 3.1 for the directors and officers duties.

convenience. Feel free to contact Ermanno Pascutto at 416-214-3443 (ermanno.pascutto@faircanada.ca).

Sincerely,

Canadian Foundation for Advancement of Investor Rights

Burnet, Duckworth & Palmer LLP
Law Firm

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Assistant: Nicole Norman
Direct Phone: **(403) 260-9482**

Via Electronic Correspondence to Addressees Indicated in Schedule "B"

December 12, 2012

British Columbia Securities Commission
Alberta Securities Commission
Saskatchewan Financial Services Commission
The Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
New Brunswick Securities Commission
Nova Scotia Securities Commission
Prince Edward Island Securities Office
Office of the Superintendent of Securities,
Government of Newfoundland and Labrador
Department of Community Services,
Government of Yukon
Office of the Superintendent of Securities,
Government of the Northwest Territories
Legal Registries Division, Department of Justice,
Government of Nunavut

Dear Sirs:

Re: Notice and Request for Comment – Proposed National Instrument 51-103 *Ongoing Governance and Disclosure Requirements for Venture Issuers* and Proposed Amendments to National Instrument 41-101 *General Prospectus Requirements*, National Instrument 44-101 *Short Form Prospectus Distributions* and National Instrument 45-106 *Prospectus and Registration Exemptions* and Proposed Related Consequential Amendments

We are responding to the Canadian Securities Administrators (the "**CSA**") Notice of Republication and Request for Comment – Proposed National Instrument 51-103 – *Ongoing Governance and Disclosure Requirements for Venture Issuers* (the "**Proposed Instrument**") and Proposed Amendments to National Instrument 41-101 – *General Prospectus Requirements*, National Instrument 44-101 – *Short Form Prospectus Distributions* and National Instrument 45-106 – *Prospectus and Registration Exemptions* and Proposed Related Consequential Amendments dated September 13, 2012 (the "**Request**"). The comments provided herein are those of a number of practitioners in our securities group and are not those of Burnet, Duckworth & Palmer LLP or its clients.

For the purposes of this letter we have provided general comments in response to the Request and the Proposed Instrument and have provided general drafting comments as set forth in Schedule "A" attached hereto.

General

Although we have not performed a detailed analysis of every aspect of the drafting of the Proposed Instrument and the related proposals, we have provided a summary of some of the key issues we have noted in this letter. In addition, the following are some general comments on the Proposed Instrument.

As noted in our previous comment letters, we applaud the efforts of the CSA in attempting to improve both the quality of venture issuer disclosure as well as streamlining the disclosure requirements for venture issuers to decrease the costs and time required to comply. In addition, we note that the CSA has made a number of improvements to the proposed new regime for venture issuers based on the comments received to date and we appreciate the willingness of the CSA to consider and respond thoughtfully to such comments.

Opt-Out/Annual Reports/Management's Discussion and Analysis

We do still have some general concerns with respect to the implementation of the proposed new regime for venture issuers. One of our main concerns is the inability of a venture issuer to opt-out of complying with the new regime and continue to use the current regime. We note that many venture issuers prefer to tailor their disclosure to replicate the disclosure of non-venture issuers as many of their peer companies are companies that are listed on the TSX. Investors are accustomed to seeing disclosure in a certain manner and having that disclosure easily comparable to other companies that they are interested in investing in. To the extent disclosure documents are different for venture issuers from those for non-venture issuers, as remains the case in certain aspects of the Proposed Instrument, it may significantly harm such venture issuers' ability to raise additional capital.

We note that although one of the goals of the Proposed Instrument is to make the disclosure requirements for venture issuers more manageable, complying with the requirements for annual reports will require significant dedication of time and resources for venture issuers - especially in the first few years after implementation of the Proposed Instrument. The disclosure required in the annual report goes far beyond the current baseline disclosure requirements for venture issuers. In addition, much of the disclosure required in an annual report is significantly different from the disclosure required in an annual information form. As such, even for venture issuers who currently file annual information forms, the preparation of the initial annual report will require a significant dedication of time and resources. The Proposed Instrument should strive to adopt disclosure that more closely mirrors the requirement under Form 51-102F2 – Annual Information Forms in order to partially reduce the burden of annual reports for venture issuers, which will at least assist the venture issuers who currently file annual information forms. An alternate approach could be to allow venture issuers to file the annual report in the form of Form 51-102F2, provided that they include in their Form 51-102F2 filing certain additional disclosure from the Form 51-103F1 that the CSA determines is necessary to include.

Finally, we note that the CSA indicates in its response in Annex A to the Request that under the Proposed Instrument, that venture issuers may voluntarily file certain documents in the form required under National Instrument 51-102 – Continuous Disclosure Obligations ("NI 51-102") (i.e. management's discussion and analysis); however, the Proposed Instrument should be revised to make it clear that there is an option for the venture issuer to file management's discussion and analysis in the form required under NI 51-102 as opposed to the quarterly reports currently contemplated under the Proposed Instrument. The Proposed Instrument should also reflect whether a venture issuer has the ability to voluntarily file any other continuous disclosure under NI 51-102 in lieu of under the Proposed Instrument and, if this is not the case, should make clear that any venture issuer wishing to file documents under the NI 51-102 regime will be required to apply for exemptive relief from the CSA.

Audit Committee Independence – Control Persons

We note that the CSA's response in Annex A to the Request indicates that the CSA believes control persons should not be considered independent for the purposes of audit committees. As stated in our previous response letter, we do not believe that control persons should be added to the list. In many circumstances, the interests of control persons are not aligned with the interest of management of a venture issuer. Like many other shareholders and stakeholders, control persons generally have an interest in ensuring accurate financial reporting. Eliminating control persons as potential independent candidates for the audit committee will result in the pool of potentially qualified candidates being reduced. Venture issuers already have a difficult time attracting qualified candidates to serve as directors and therefore efforts should be taken not to reduce the ability of venture issuers to attract qualified persons to act as independent directors any further.

We do agree that in certain circumstances there may be factors that prevent a control person from exercising independent judgment if they were to serve on the audit committee; however, rather than a deemed determination that such persons are not independent a better approach may be to adopt the test from Section 1.4 of National Instrument 52-110 – Audit Committees which requires a board of directors to make determination as to the independence of potential candidates for audit committees based on whether there is a "material relationship" which could be reasonably expected to interfere with the exercise of a member's independent judgment. We note in the CSA's response in Annex A to the Request that the adoption of the "material relationship test" was not considered appropriate; however, a subjective test for venture issuers as opposed to a bright line test would be more beneficial for venture issuers for the reasons outlined above. We specifically re-draw your attention to the fact that, at present, venture issuers have a difficult time attracting qualified candidates to serve as directors and audit committee members without an exclusionary rule against control persons as potential independent candidates. The companion policy to the Proposed Instrument could be drafted to draw attention to the issue of a control person being considered an independent member of the audit committee and could state that particular attention should be given to the issue.

We would be happy to expand upon any of the foregoing at your convenience and thank you for the opportunity to comment. If you wish clarification on any of the foregoing please feel free to contact Jessica Brown or Ted Brown of our office at your convenience.

Yours truly,

"*Burnet, Duckworth & Palmer LLP*"

cc: Burnet, Duckworth & Palmer LLP
Attn: Securities Group

SCHEDULE "A"
SUMMARY OF GENERAL DRAFTING COMMENTS

As noted in the main body of our letter, we have not performed a detailed analysis of every aspect of the drafting of the Proposed Instrument and the related forms; however, the following summary provides a description of some of the key drafting issues we noted in our review of the Proposed Instrument and related forms:

NI 51-103

Section 1(1) - Definitions

Definition of "related entity" – We question whether it is advisable to have a requirement to refer to an issuer's GAAP to make a determination of whether an entity is a related entity. In general, we believe this definition, as well as the definition of "related entity transaction", should be carefully considered and revised.

Definition of "related entity transaction" – In addition, as noted above pursuant to our comments on the definition of "related entity", we question whether it is advisable to include subsection (a) of this definition as it requires venture issuers and their advisors to refer to the issuer's GAAP to determine whether a transaction is a material related entity transaction. This may prevent an issuer from receiving quick concrete advice to help make a determination as to whether something is a material related entity transaction.

Section 4 – Conflicts of Interest and Material Related Entity Transactions

With respect to the conflict of interest provisions contained in the Proposed Instrument, we question the need to include this provision in the Proposed Instrument as corporate legislation would typically apply in most cases and specifically prescribes steps to be taken by corporations when dealing with conflicts of interest.

Section 15 – Delivery Options for Information Circular and Proxy Related Material

We are generally supportive of implementing options for notice and delivery of information circulars and proxy related materials; however, we do note that many corporate statutes will prevent issuers from taking full advantage of such options.

Section 19 – Contents of and Filing Deadline for Form 51-103F2 – Report of Material Change or Other Material Information

Subsection 19(1)(b)(ii) suggests that a news release can include the information required pursuant to proposed Form 51-103F2 in lieu of also filing Form 51-103F2 – *Report of Material Change or Other Material Information* ("**Form 51-103F2**"). While we are generally supportive of only one document being filed if it includes all relevant and required information, we question the wording of this subsection with regards to what is intended by "includes a title stating…". It would not be market standard to include a reference to a report required by the CSA in the title to a news release and would not provide any benefit to the reader as the filing would be made under SEDAR under the material change report category. If it is the intention of the subsection to have a heading in the news release stating that it is also a Form 51-103F2, the subsection should be revised to make this intent clear. Additionally, in respect of SEDAR filing requirements, it may be confusing for investors reviewing a venture issuer's SEDAR profile if the venture issuer chooses to combine its news release and Form 51-103F2 under the SEDAR category for material change reports and not also under the SEDAR category for news releases.

Section 20 – Confidential Report of Material Change

We question whether a venture issuer should be precluded from reliance on Section 20 of the Proposed Instrument if the material change is in relation to a related entity transaction. We suggest that the requirements in respect of confidential material change reports for venture issuers be consistent with the requirements set out in Part 7 of NI 51-102. The

requirements in NI 51-103F2 could also be revised to provide that when a venture issuer is filing a confidential material change report, disclosure must be included in the covering letter which specifically discloses that the material change is with respect to a related entity such that the material change can be monitored appropriately by the regulatory authorities.

Form 51-103F1

Section 16 – Corporate Structure

In addition to requiring venture issuers to disclose each subsidiary entity, Section 16 also requires disclosure of each party with whom the venture issuer participates in a joint venture or partnership. Despite the guidance in Section 2 of Form 51-103F1 to focus on materiality, we believe the inclusion of every joint venture or partnership in which a venture issuer is a party in the disclosure required under Section 16 will be overly inclusive unless there is some exclusion for non-material or in-the-ordinary course of business joint ventures and partnerships. Many venture issuers, and in particular oil and gas venture issuers, may have many joint ventures or partnerships that they are undertaking with other parties which are immaterial in nature or entered into in-the-ordinary course of business. One option to make the requirements clearer with respect to this section is to include guidance (similar to the instruction provided under Item 3 of Form 51-102F2) which set a percentage threshold to determine whether a subsidiary, joint venture or partnership could be omitted. The requirement should also include a materiality threshold to indicate which subsidiaries and joint ventures should be included (i.e. as per the language included in the instruction for Item 3 in Form 51-102F2). Additionally, those joint ventures or partnerships which are entered into by the venture issuer in the ordinary course should be specifically excluded. Any material joint venture or partnership agreement would likely also constitute a material contract and would be disclosed pursuant to other sections of the Form 51-103F1.

Section 18 – Two Year History and Management's Discussion and Analysis in an Annual Report

We believe that subsection 17(2)(c) essentially mandates the disclosure of non-GAAP measures by venture issuers. We question the advisability of implementing such a requirement as it would appear to contradict the general approach that the CSA has taken to discourage non-GAAP measures from being disclosed as such measures may not have standardized meanings. Although we do believe that the disclosure of non-GAAP measures should be allowed, provided that the necessary disclosure explaining the non-GAAP measures are also included, we do not believe it is advisable to make it a requirement to disclose non-GAAP measures. Finally, we question the use of the word "typically" in subsection 17(2)(c) as it will be difficult for management of a venture issuer to assess which key operating statistics and measures are "typically" used for an entire industry as many issuers and analysts likely use different statistics and measures even in the same business.

Section 19 – Business Objectives, Performance Targets and Milestones

Although many venture issuers do provide guidance which discloses performance targets for the upcoming year, the requirement to disclose such targets may be burdensome and carry with it inherent risk for the venture issuers to the extent that such performance targets are not achieved. It will also require the venture issuer to provide regular updates when the expectations as to the achievability of such performance targets change, which places additional burdens on reporting issuers. We believe that the disclosure of such performance targets should be a voluntary decision of venture issuers. For example, projections of production, cash flow and earnings are currently only disclosed by some issuers and not others and such decision to disclose this information should remain voluntary. Additionally, some boards of directors do not believe that public disclosure of such projections and non-GAAP measures are appropriate given the stage of development of certain issuers and, in particular, venture issuers.

Section 36 – Governance and Ethical Conduct

We question the need for this requirement as for the majority of venture issuers it would result in boilerplate disclosure of the statutory duties of directors or officers which would have limited utility for most investors. It may be advisable to only include this requirement for venture issuers not incorporated under a Canadian corporate statute. Another alternative would be to require disclosure as to whether the venture issuer's directors and officers are *not* subject to any statutory or

contractual obligations or duties substantially similar to the statutory duties under Canadian corporate law as such disclosure would be of greater use and information for investors.

Form 51-103F2

Section 7 – Date of Material Change, Related Entity Transaction, Major Acquisition or Other Transaction

We question the relevance of disclosing the date of the decision to implement a material related entity transaction under subsection 7(b). In addition, it is not clear if the decision in this case is the decision of management or the board of directors of the venture issuer. If the disclosure of the date will be required, the section should be revised to make clear that the date to be disclosed is the date that the required approval was obtained (i.e. if board approval is required, the date of the board approval).

Form 51-101F4

Section 14 – Cease Trade Orders, Penalties, Sanctions and Bankruptcies of Proposed New Directors

The disclosure requirements under this section are slightly different than the current disclosure requirements under Section 7.2 of Form 51-102F5 as well as the proposed disclosure requirements under subsection 29(4) of Form 51-103F1. In particular, the disclosure of cease trade orders and bankruptcies is only required in Form 51-104F4 if a director or executive officer of the venture issuer was a director, CEO or CFO of an entity that was subject to a cease trade order or bankruptcy and in other instances (i.e. Form 51-102F5 and Form 51-103F1), the disclosure is required if a director or executive officer of the venture issuer was a director or any executive officer of an entity that was subject to a cease trade order or bankruptcy. It is not clear to us the rationale for the different disclosure thresholds and we believe that the language in the different Forms should be consistent.

Annex D – Proposed Amendments to National Instrument 44-101 – *Short Form Prospectus Distributions*

8 – Amendments to Form 44-101F1 re: Use of Proceeds (Item 4.11 Actual use of financing proceeds)

We believe that the disclosure proposed by the revisions to Item 4.11 of Form 44-101F1 should be limited to circumstances where there was an actual material change in the use of proceeds from a previous financing. For example, often oil and gas issuers will reallocate use of proceeds from the drilling of one well to another or the nature of the expenditures may change (i.e. the intended use of proceeds was for completing wells and the proceeds were used for drilling wells), which should not require additional disclosure in the form proposed by Item 4.11 of Form 44-101F1. However, additional disclosure could be required when there is a marked departure from the intended use of proceeds to the actual use of proceeds (i.e. the intended use of proceeds was for drilling wells and the proceeds were used for an acquisition).

SCHEDULE "B"

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Pension Investment Association of Canada

Association canadienne des gestionnaires de caisses de retraite

December 12, 2012

British Columbia Securities Commission
Alberta Securities Commission
Saskatchewan Financial Services Commission
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Nova Scotia Securities Commission
New Brunswick Securities Commission
Prince Edward Island Securities Office
Office of the Superintendent of Securities, Government of Newfoundland and Labrador
Department of Community Services, Government of Yukon
Office of the Superintendent of Securities, Government of the Northwest Territories
Legal Registries Division, Department of Justice, Government of Nunavut

c/o: **Ashlyn D'Aoust**
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RE: Proposed National Instrument 51-103 Ongoing Governance and Disclosure Requirements for Venture Issuers

This submission is made by the Pension Investment Association of Canada ("PIAC") in reply to the request for comments published on September 13, 2012 by the Canadian Securities Administrators ("CSA") on Proposed National Instrument 51-103 Ongoing Governance and Disclosure Requirements for Venture Issuers (the "2012 Proposal").

PIAC has been the national voice for Canadian pension funds since 1977. Senior investment professionals employed by PIAC's member funds are responsible for the oversight and management of over $1 trillion in assets on behalf of millions of Canadians. PIAC's mission is to promote sound investment practices and good governance for the benefit of pension plan sponsors and beneficiaries.

As noted in our response to the CSA Multilateral Consultation Paper 51-403 *Tailoring Venture Issuer Regulation* and to the 2011 request for comments on the Proposed National Instrument 51-103 Ongoing Governance and Disclosure Requirements for Venture Issuers (the "2011 Proposal"), PIAC is generally supportive of regulatory changes that streamline disclosure requirements and reduce expenses for venture issuers, provided that investors remain adequately protected. We are pleased the CSA has reflected on the feedback received and made a number of changes from what was contemplated in the 2011 Proposal. However, we still believe that some of the provisions outlined in the 2012 Proposal will unduly compromise disclosure and governance standards and it is unclear that the regime proposed will result in

a less complex, streamlined system that is more manageable for venture issuers. We have provided comments in respect of the questions or issues where we felt that our perspective might be helpful.

Financial Reporting Requirements

We welcome the CSA decision to require interim financial reports for venture issuers for each of the 3, 6 and 9 month interim periods.

Business Acquisition Reporting

As noted in our comments on the 2011 Proposal, in the event of a significant business acquisition, we believe that financial statements are useful because they provide certain asset specific information within the notes sections that would otherwise be unavailable post merger/amalgamation. We do not believe that issuers would incur additional cost from providing financial statements in this scenario given that they are historical and already filed. Given the value of the financial statements, we consider the proposed threshold of 100% of market capitalization of the issuer too high, as it would result in disclosure only within a limited set of circumstances. We do not believe that where an acquisition is under the 100% threshold while remaining a significant acquisition, it should be left to the issuer to determine the extent of its proposed disclosure.

Executive Compensation Disclosure

We support the proposal to only require executive compensation disclosure in the information circular. Executive compensation disclosure is important to investors and we believe that executive compensation disclosure should be consistent no matter the size of the issuer. Therefore, we oppose requiring executive compensation disclosure for only the top three, rather than top five, named executive officers of a venture issuer.

We are also opposed to proposals requiring only two years of compensation disclosure instead of three. We believe that two years of executive compensation data is insufficient for investors to assess the linkage between pay and performance, particularly since the performance measurement period for major components of executive pay often spans beyond this time frame.

As noted in our comments on the 2011 Proposal, we suggest reinstating the requirement to disclose the grant date fair value of stock options, as we believe that these details provide useful information for investors of venture issuers. The grant date fair value reflects the board's intentions with respect to compensation, and provides investors with a deeper understanding of the link between pay and performance.

* * * * * *

We appreciate this opportunity to comment. Please do not hesitate to contact Stéphanie Lachance, Chair of the Corporate Governance Committee (514-925-5441; slachance@investpsp.ca) if you wish to discuss any aspect of this letter in further detail.

Yours sincerely,

Julie Cays
Chair

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December 12, 2012

Re: CSA notice of republication and request for comment regarding:

- Proposed National Instrument 51-103 *Ongoing governance and disclosure requirements for venture* issuers
- Proposed amendments to
  - National Instrument 41-101 *General Prospectus Requirements*
  - National Instrument 44-101 *Short Form Prospectus Requirements*
  - National Instrument 45-106 *Prospectus and Registration Exemptions*
  - Related consequential amendments

To the following regulatory bodies:

- British Columbia Securities Commission
- Alberta Securities Commission
- Saskatchewan Financial Services Commission
- Manitoba Securities Commission
- Ontario Securities Commission
- Autorité des marchés financiers
- Nova Scotia Securities Commission
- New Brunswick Securities Commission
- Prince Edward Island Securities Office
- Office of the Superintendent of Securities, Government of Newfoundland and Labrador
- Department of Community Services, Government of Yukon
- Office of the Superintendent of Securities, Government of the Northwest Territories
- Legal Registries Division, Department of Justice, Government of Nunavut

As the voice of Canada's mineral exploration industry, the Prospectors and Developers Association of Canada (PDAC) takes an active interest in the regulatory environments that shape the landscape within which our industry operates, including the regulatory system created and administered by the various securities commissions across Canada.

We note with concern the changes being put forward in Proposed National Instrument 51-103 and the related amendments to other National Instruments.

Junior resource issuers have been faced with a relentless stream of modifications to disclosure and financial reporting standards in the past few years, without any demonstrable corresponding increase in protection to the investing public. Just as our members get up to speed on a particular set of standards, they are faced with revisions to those standards and/or new standards that require unnecessary expenditures of their all too scarce resources.

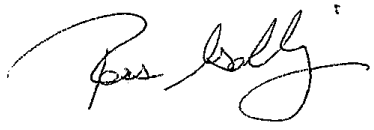
Our members are not in a position to implement a new disclosure system. Each time new disclosure requirements are imposed, (even if they are intended to reduce the disclosure burden for issuers) there is a significant cost to issuers. Issuers have just paid a very high price for the implementation of the new IFRS system, and most are not in position to pay for the implementation of a new annual and interim reporting system.

Although we agree with some of the proposed initiatives, which have the potential to increase investor protection and reduce regulatory burden (see Annex I), we would like to raise significant concerns about the majority of the proposed changes. In our view these will increase the regulatory burden faced by the junior exploration industry without any obvious and immediate improvements to investor protection (see Annex II).

We are of the view that now is not the time to make these changes to the various disclosure rules given the challenging financial situation that juniors currently find themselves in.[1] It is in moments of global economic turmoil that we would request extra support and consideration from regulatory institutions, not increased burdens and related increases in costs.

We invite you to work with us to support the survival and sustainability of the junior exploration sector.

Respectfully yours,



Ross Gallinger
Executive Director
Prospectors and Developers Association of Canada

[1] According to data from Capital IQ, 35% of the mining companies on the TSX-V have less than $200,000 cash on their balance sheets, and 65% have less than $1 million. Year to date, about $2 billion has been raised through the equity markets for TSX-V listed junior mining companies, compared to $4 billion per year in 2011 and 2010. 34% of these companies are trading at less than $0.05; 56% at less than $0.10.

ANNEX I
CHANGES THAT THE PDAC SUPPORTS

OSC PROPOSED CHANGES	
Creating a new tailored governance and continuous disclosure regime for venture issuers by…	… enabling more impartial decision-making by the audit committees of venture issuers
	… introducing substantive corporate governance requirements relating to conflicts of interest, related party transactions and insider trading
	… requiring the delivery of disclosure documents only on request, in lieu of mandatory mailing requirements
Amending the rules relating to prospectus offerings and specified prospectus-exempt offerings in order to…	…modify the disclosure required by a venture issuer in connection with a long form prospectus under NI 41-101 (by creating a new long form prospectus form for venture issuers that conforms to disclosure required in an annual report under the proposed instrument)
	…require only two instead of three years of audited financial statements to be included in a long form prospectus filed by a venture issuer
	…require only two instead of three years of audited financial statements to be included in a long form prospectus filed by a venture issuer
	…permit a venture issuer to incorporate by reference to the continuous disclosure documents prepared under the proposed instrument when preparing any of the following: • a short form prospectus under NI 44-101; • a qualifying issuer offering memorandum under NI 45-106; • a TSX Venture Exchange short form offering document as contemplated under NI 45-106.

ANNEX II
CHANGES WITH WHICH THE PDAC HAS CONCERNS

OSC PROPOSED CHANGES		PDAC COMMENTS
Creating a new tailored governance and continuous disclosure regime for venture issuers by…	… consolidating disclosure of the venture issuer's business, management, governance practices, audited annual financial statements, associated management's discussion and analysis (MD&A) and CEO/CFO certifications in a single document: the annual report.	While it is acknowledged that the AIF is a useful document for investors when they want to find out basic information about the business of the issuer (and that it is harder to piece together the equivalent information from TSX V listed companies that do not have AIFs) the learning curve and frustration of TSX V issuers that are not already filings AIFs in complying with the new form overrides the desirability of the proposed amendments at this time. It also is the view of the PDAC that this consolidation will not result in a reduction of the regulatory burden on issuers, because in essence the effect is that all TSX V issuers will be required to produce the equivalent of an AIF. In the short term at least, introducing a new form of reporting will impose an unnecessary regulatory burden on those issuers who are least able to afford it. Typically when far reaching changes to disclosure rules such as these are introduced the costs to issuers in terms of time away from their business, inconvenience and hard costs related to lawyers, accountants and the fees of other professionals are disproportionate to any advantage that might be gained by issuers from the changes (at least, in the short term).

OSC PROPOSED CHANGES		PDAC COMMENTS
	… streamlining the disclosure in information circular by moving governance disclosure to the annual report	This will require a rewriting of current disclosure now found in management information circulars and AIFs and will present a major inconvenience to issuers. This is not the time to impose such far-reaching changes on issuers who currently are struggling to update their current disclosure. Issuers will be required to either take long periods of time away from their businesses to rewrite their disclosure or spend large sums of moneys on lawyers and other service providers to create the new disclosure.
	… replacing interim MD&A requirements with a requirement for a short discussion of the venture issuer's operations and liquidity ("quarterly highlights") to accompany the 3, 6 and 9 month interim financial reports	PDAC sees no benefits to quarterly highlights. Currently issuers are used to producing MD&A and are familiar with MD&A reporting. Introducing the new quarterly highlights concept will require issuers to reorient their disclosure to accommodate the new rules in this area. It would be far better to merely eliminate the 3 and 9-month reporting requirements but leave the 6-month reporting requirement under the current MD&A standards.
	…replacing the requirement for business acquisition reports (BARs) in connection with acquisitions of significant businesses with enhanced continuous disclosure reporting, including disclosure of material related entity transactions, and requiring financial statements for business acquisitions that are 100% significant based on a market capitalization test	While there are issues with the current BAR requirements, eliminating them altogether would create considerable uncertainty as to reporting requirements in the instance of business acquisitions. Issuers would struggle with what information would be required in material change reports for example. Rather than eliminating the BARs altogether a better solution might be just to eliminate the pro forma

OSC PROPOSED CHANGES		PDAC COMMENTS
		requirement, which is an extremely onerous and often-unworkable disclosure requirement
	… tailoring and streamlining director and executive compensation disclosure	The entire area of executive compensation needs to be reviewed. Certain of these disclosure requirements are so complex so as to be nearly incomprehensible by both issuers and investors. In particular the disclosure requirements respecting stock options often results in misleading disclosure
Amending the rules relating to prospectus offerings and specified prospectus-exempt offerings in order to…	Requiring all venture issuers to file an annual report (making them eligible to file a short form prospectus)	Given the challenging times, the PDAC does not support the introduction of a requirement for an annual report at this time.
Amending local securities rules to…	…designate as "core documents" for the purpose of secondary market civil liability, the annual report and the interim report	
Amending the SEDAR filing categories to…	… more specifically contemplate the annual report and the interim report	

December 20, 2012

British Columbia Securities Commission
Alberta Securities Commission
Saskatchewan Financial Services Commission
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Nova Scotia Securities Commission
New Brunswick Securities Commission
Prince Edward Island Securities Office
Office of the Superintendent of Securities, Government of Newfoundland and Labrador
Department of Community Services, Government of Yukon
Office of the Superintendent of Securities, Government of the Northwest Territories
Legal Registries Division, Department of Justice, Government of Nunavut

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Dear Ms. D'Aoust and Ms. Beaudoin:

RE: CSA NOTICE OF REPUBLICATION AND REQUEST FOR COMMENT REGARDING PROPOSED NATIONAL INSTRUMENT 51-103 *ONGOING GOVERNANCE AND DISCLOSURE REQUIREMENTS FOR VENTURE ISSUERS*

The signatories to this letter are experienced corporate directors who are actively involved in *Enhancing Audit Quality: Canadian Perspectives (EAQ);* a consultation process being led by the Canadian Public Accountability Board (CPAB) and the Canadian Institute of Chartered Accountants (CICA) to gain stakeholder input on key issues emerging with respect to enhancing audit quality globally, and in Canada.

We are writing to express our concerns about the proposals put forward in NI 51-103 that would reduce the responsibilities of audit committees in Venture issuers and weaken their effectiveness.

The Enhancing Audit Quality Initiative

We suggest that any attempt to weaken the responsibilities of audit committees needs to be assessed in the context of other international audit reform proposals currently being put forward and debated. In the wake of the global financial crisis, various recommendations on enhancing audit quality have been put forward in the European Commission, the United Kingdom, the United States and other countries. These proposals are far reaching and range from mandating public companies to change their audit firm every six years, to mandatory tendering and audit only firms.

The EAQ working groups (Steering Committee chaired by David Brown, C.M, Q.C.; Independence Working Group chaired by Peter Mills, Q.C.,ICD.D; Audit Committee Working Group chaired by Tom O'Neill, FCA) have studied these proposals and agree that while they might improve auditor independence to varying degrees, they are not likely to strengthen either audit quality or the governance of financial reporting. The EAQ working groups also think the disruption in the audit services marketplace these proposals would create, together with the increased costs that would be imposed on reporting issuers, would be disproportionate to the significance of the problem they are trying to fix and the benefits these international proposals hope to achieve.

The EAQ working groups are suggesting instead that the focus in Canada should be to continue to strengthen the governance of financial reporting in Canadian reporting issuers by providing more guidance to audit committees to help them discharge their existing responsibilities, and to implement a periodic comprehensive review of the external auditor's relationship with the issuer.

The EAQ's working group reports are currently being circulated to the public for comment and can be found at: http://www.cica.ca/enhancing-audit-quality-canadian-perspective/item64401.aspx

Our Comments on National Instrument 51-103

The EAQ working groups believe that effective governance of an issuer's financial reporting is of critical importance to the reputation of our capital markets and is dependent on the responsibilities of three parties: management; the external auditor; and the audit committee. NI 52-110 sets forth the responsibilities of the audit committee for all reporting issuers in Canada and makes it clear that the audit committee is responsible for managing the relationship of the external auditor with the issuer, and for overseeing the work of the external auditor in conducting their auditing engagements. This requirement was introduced in 2003/2004 to ensure that the auditors would be accountable to a body independent of management. The cost of an external audit can only be justified if it is truly an independent review of management's work product.

The EAQ working groups are concerned that the proposals being put forward in NI 51-103 water down the responsibilities of the Audit Committee as set forth in NI 52-110, and in so doing impair the effectiveness of the audit committee in Venture Issuers - at a time when the focus should be on enhancing the effectiveness of the audit committee. Reducing this independent oversight will only serve to re-establish the authority of management over the external audit. Adopting new regulations that explicitly weaken the audit committee's oversight of the external auditor in an important segment of our capital markets will damage Canada's credibility internationally, and make it more difficult for Canada to influence how these international proposals are finalized.

Attached in Appendix 1 is a comparison of the current requirements of NI 52-110 with the proposals put forward in NI 51-103, together with some detailed comments on these proposed changes. We direct the CSA's attention to the following five major conclusions that arise from this analysis.

Our Conclusions

1. NI 51-103 proposes to delete the requirement for the audit committee to pre-approve non-audit services and the requirement for the audit committee to recommend the compensation of the external auditor. Both of these changes are significant reductions in the responsibilities of the audit committee in their own right, but in combination, they seriously weaken the independence of the external auditors for Venture Issuers. Management will thus be left with control over the amount of work the audit firm provides plus the remuneration it receives for both the audit and the often lucrative non-audit services.

NI 51-103 returns the oversight role for the external auditors to management which is precisely what NI 52-110 was trying to correct, as evidenced in the following quote from the Companion Policy to NI 52-110.

> *"The Instrument requires that the audit committee also be responsible for managing, on behalf of the shareholders, the relationship between the issuer and the external auditors. In particular, it provides that an audit committee must have responsibility for:*
>
> *(a) overseeing the work of the external auditors engaged for the purpose of preparing or issuing an auditor's report or related work; and*
>
> *(b) recommending to the board of directors the nomination and compensation of the external auditors."*
>
> *"Although under corporate law an issuer's external auditors are responsible to the shareholders, in practice, shareholders have often been too dispersed to effectively exercise meaningful oversight of the external auditors. As a result, management has typically assumed this oversight role. However, the auditing process may be compromised if the external auditors view their main responsibility as serving management rather than the shareholders. By assigning these responsibilities to an independent audit committee, the Instrument ensures that the external audit will be conducted independently of the issuer's management."*

The changes proposed in NI 51-103 undo and impair the fundamental concept underlying NI 52-110, that the audit committee is the de facto client of the external auditor. NI 52-110 made it clear that while the external auditor has a responsibility to report to the shareholders, the auditor should be accountable to the audit committee - not management. NI 51-103 will diminish the auditor's independence and thus lessen the value of the external audit. It is not clear to us why the CSA wants to reverse such an important and fundamental principle. There are no cost savings to be had from these changes, so why are they being proposed?

2. The change in overseeing the audit work performed by the external auditor to overseeing the services performed by the external auditor suggest the CSA wants to change the focus of the audit committee from overseeing the audit work performed by the external auditor to overseeing the performance of all services provided by the external auditor. This proposed change moves the oversight to a higher, less involved level, and shifts the focus of the audit committee oversight to the quality of service not the quality of the audit. There is a real danger that quality of service would then be

measured by service criteria like responsiveness, availability of audit staff etc., not the rigour of the audit – a situation that NI 52-110 was trying to prevent.

3. NI 52-110 is very clear that the responsibilities of the audit committee for overseeing the work of the external auditor are limited to engagements where the purpose is preparing or issuing an auditor's report or performing other audit, review or attest services for the issuer. We are not convinced that there is merit in extending the oversight responsibilities of the audit committee for non-audit services beyond approving all non-audit services or is worth the time and effort involved. We point out, that the EAQ Audit Committee Working Group is proposing guidance for audit committees covering both large and small cap issuers to help them discharge this oversight responsibility. As a result, we believe that the current wording in section 2.3 (3) of NI 52-110 should not be changed.

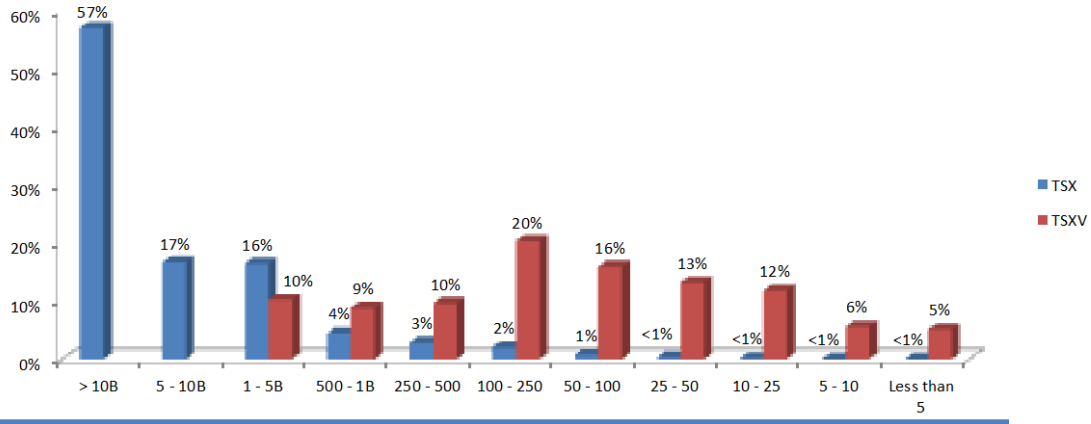
4. While the introduction of independence standards for audit committees is, on the surface, a step forward, the proposals put forward in NI 51-103 still lag behind the requirements of NI 52-110, and only bring NI 51-103 in line with the independence requirements that already exist in the CBCA, the OBCA, and the TSX-V listing requirements.

5. Writing securities regulations in plain English and simplifying our disclosure requirements is a very worthwhile objective. However, having two sets of disclosure standards and responsibilities for audit committees of reporting issuers will, in our view, create confusion for both directors and investors, and increase the potential for regulatory arbitrage. Corporate directors can sit on the boards of both TSX and Venture issuers. Investors invest in both TSX and Venture Issuers. The governance of financial reporting and the responsibilities of audit committees should be consistent across all reporting issuers in Canada.

In summary, the EAQ working groups believe strongly that there should be only one single statement of responsibilities for audit committees of reporting issuers in Canada. If changes are needed to NI 52-110, then changes should be proposed, commented on, voted on by the CSA and NI 52-110 should be changed. There should not be competing sets of responsibilities that force directors, investors and litigants to make their own interpretations of what is meant by the use of different words or different requirements.

Finally, we point out that the assumption that all Venture issuers are small, simple organizations may not be valid. The following chart was developed from data collected by the Canadian Public Accountability Board and presented at the CPAB Audit Quality Symposium held on November 30th 2012.

Market Capitalization of TSX and TSX-V Exchange Issuers ($CM)



Market Cap $CM											
TSX	$1,196,338 44 RI's	$349,385 47 RI's	$345,925 164 RI's	$94,053 129 RI's	$59,423 170 RI's	$42,551 258 RI's	$16,065 224 RI's	$7,184 198 RI's	$3,010 182 RI's	$552 79 RI's	$195 72 RI's
TSXV			$4,559 3 RI's	$3,931 7 RI's	$4,278 12 RI's	$9,060 60 RI's	$7,100 101 RI's	$5,867 172 RI's	$5,258 329 RI's	$2,510 348 RI's	$2,278 1,232 RI's

Percentage of market capitalization as at September 30, 2012

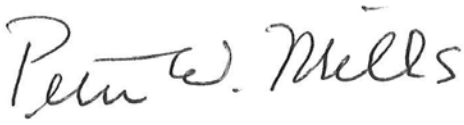
TSX Issuer Base: 1,567 Issuers, C$2.1 trillion in market capitalization
TSXV Issuer Base: 2,264 issuers, C$44.8 billion in market capitalization

This data suggests that there is an overlap in size of issuer between the TSX and TSX Venture exchanges and that there are a number of companies listed on the TSX-Venture Exchange that are companies of size and substance - which creates the potential that all the CSA proposals in NI 51-103, not just the audit committee proposals, will encourage regulatory arbitrage, which would not be in the best interests of our capital markets.

We would be pleased to respond to provide additional information or explanations on any of the matters raised in this letter or respond to any questions that you might have.

Yours truly,

David A. Brown, EAQ Steering Group, Chair



Peter Mills, EAQ Auditor Independence Working Group, Chair

Tom O'Neill, EAQ Audit Committee Working Group, Chair

Appendix 1

Comparison of Audit Committee Responsibilities

NI 52-110	NI 51-103	Comments
2.3 (2) An audit committee must recommend to the board of directors: a) the external auditor to be nominated for the purpose of preparing or issuing an auditor's report or performing other audit, review or attest services for the issuer; and b) the compensation of the external auditor.	"The audit committee of a venture issuer must do all of the following: a) make a recommendation to the board of directors for the appointment of an auditor;	• NI Reference to "the external auditor" in NI 52-110 has been changed to just "an auditor" in NI 51-103 • 51-103 deletes the requirements of the audit committee to recommend the compensation of the external auditor. • See Conclusion 1 in our letter
(4) An audit committee must pre-approve all non-audit services to be provided to the issuer or its subsidiary entities by the issuer's external auditor.	(i) be informed of all the services provided by the auditor which are beyond the scope of the venture issuer's audit and the amount of fees charged for those services relative to the fees charged for the audit of the venture issuer's annual financial statements;	• Requirement for pre-approval of non-audit services has been dropped in NI 51-103. The AC now just has to be informed. • NI 52-110 does not have a discussion of non-audit fees to audit fees. If this is needed then it should be included in 52-110. • See Conclusions 1 and 3 in our letter
(3) An audit committee must be directly responsible for overseeing the work of the external auditor engaged for the purpose of preparing or issuing an auditor's report or performing other audit, review or attest services for the issuer, including the resolution of disagreements between management and the external auditor regarding financial reporting.	(b) oversee the performance of services provided to the venture issuer by the auditor and the auditor's interaction with the venture issuer's management, including by doing all of the following: (ii) meet annually with the auditors, independent of the executive officers of the venture issuer, before the board of directors' review and approval of the annual	• The responsibility in NI 52-110 for overseeing the work of the external auditor in performing audit work has been changed in NI 51-103 to overseeing the performance of services provided to the venture issuer by the auditor. • See Conclusion 2 in our letter • NI 52-110 does not set forth any requirements for meetings with the external auditors. If this is needed then it should be included in 52-110.

	financial statements, to determine whether there have been any disagreements or contentious issues between the auditor and the venture issuer's executive officers relating to the venture issuer's disclosure and whether those issues have been resolved to the satisfaction of the auditor; (iii) meet with the auditor at such other times as reasonably necessary;	
(8) An audit committee must review and approve the issuer's hiring policies regarding partners, employees and former partners and employees of the present and former external auditor of the issuer.	(iv) review and approve the hiring policies regarding employees and consultants that are currently, or were previously, employed by or partners of the venture issuer's auditor or predecessor auditor;"	• Not sure what is meant in NI 51-103 by the reference to "employees and consultants"? Are these consultants to the audit firm that are not employees or are they consultants to the issuer, or both?
3.1 Composition – (1) An audit committee must be composed of a minimum of three members. (2) Every audit committee member must be a director of the issuer. (3) Subject to sections 3.2, 3.3, 3.4, 3.5 and 3.6, every audit committee member must be independent. (4) Subject to sections 3.5 and 3.8, every audit committee member must be financially literate.	5.(1) The board of directors of a venture issuer must appoint an audit committee composed of at least 3 directors, a majority of whom are not executive officers, employees or control persons of the venture issuer or an affiliate of the venture issuer.	• NI 52-110 requires all members of the audit committee to be independent which is required by the CBCA, the OBCA and the TSX-V Listing requirements. • NI 52-110 contains a more explicit definition of independence requirements (no direct or indirect material relationship with the issuer) and various bright line tests. • See Conclusion 4 in our letter • NI 51-103 does not contain any financial literacy requirements. Given the increasing complexity of financial reporting we believe that the governance of venture issuer audit committees would be strengthened by introducing a new requirement in 52-110 for at least one member of a venture issuer's audit committee to be financially literate.

[Translation]

December 7, 2012

Anne-Marie Beaudoin
Corporate Secretary
Autorité des marchés financiers
800, square Victoria, 22e étage
C.P. 246, tour de la Bourse
Montréal (Québec) H4Z 1G3

Dear Ms. Beaudoin:

Subject: Notice and Request for Comment regarding *Draft Regulation 51-103 respecting Ongoing Governance and Disclosure Requirements for Venture Issuers* ("Draft Regulation 51-103")

On July 29, 2011, the Canadian Securities Administrators ("CSA") published, for comment, a draft regulation and proposed rule amendments that would introduce a new regulatory regime tailored to venture issuers. On September 13, 2012, the CSA published a second draft further to comments made by market participants. The purpose of this letter is to provide you with Desjardins Group's comments on Draft Regulation 51-103 following the publication of CSA's latest Notice and Request for Comment.

We agree with the objectives sought by Draft Regulation 51-103. However, we note that the draft regulation, in the form proposed, will require issuers to comply with a strict disclosure framework, which raises several issues for our organization.

As you know, with the exception of the caisses (credit unions), Desjardins Group owns three entities that have launched public issues: Caisse centrale Desjardins, which qualifies as a reporting issuer, and Capital Desjardins Inc. and the Fédération des caisses Desjardins du Québec (the "Federation"), which qualify as venture issuers.

Desjardins Group raises funds in the Canadian, European and U.S. markets. Some of the securities and issuers thereof are rated by rating agencies. Desjardins Group is also subject to certain additional disclosure requirements pursuant to *An Act respecting financial services cooperatives*.

As a result, Desjardins Group is subject to various disclosure regimes. In spite of that, Desjardins Group is tending towards greater uniformity in its disclosure and would eventually like to prepare only one type of integrated disclosure aimed at reflecting what it has now become: an integrated financial group.

Desjardins Group is clearly aware that, given the nature of its operations and the fact that some subsidiaries are regulated, it is required to maintain reporting per entity concerned. It obviously does not intend to neglect its obligations. Instead, we would like to provide our investors with more information so they can better grasp the operational reality of Desjardins Group. It is our understanding that the investor markets and rating agencies analyze us in this regard and that this approach is beneficial for them. However, using various disclosure formats for our issuers risks affecting the investors' understanding of how to analyze this information in an integrated manner. The fact that venture issuers are not able to voluntarily meet the requirements set out in *Regulation 51-102 respecting Continuous Disclosure Obligations* ("Regulation 51-102") introduces various disclosure formats. As such, the Federation, which is subject to new Draft

Regulation 51-103, will not only need to file a different disclosure but a disclosure requirement that is greatly inferior to that of Capital Desjardins Inc. and Caisse centrale Desjardins.

For these reasons, Desjardins Group asks that Draft Regulation 51-103 be amended to allow venture issuers that meet the obligations of Regulation 51-102 to be deemed to meet those of future Draft Regulation 51-103. We think that the provisions of Regulation 51-102 are not only more demanding but also include all the requirements of the Draft Regulation. In addition, we believe that meeting the provisions of Regulation 51-102 is part of best industry practices. Further to the comments made following the first Notice and Request for Comment, we propose that a statutory provision be incorporated in Draft Regulation 51-103 so that a request does not need to be submitted to the CSA in this regard and to provide market participants with greater transparency.

Should you have any questions or comments, please do not hesitate to contact us.

Sincerely,

[signed]
Daniel Dupuis
Senior Vice-President, Finance, and Chief Financial Officer, Desjardins Group

Desjardins
Fédération des caisses du Québec

Membre de l'Association internationale des banques coopératives

Membre de la Confédération internationale des banques populaires

Le 7 décembre 2012

Madame Anne-Marie Beaudoin
Secrétaire de l'Autorité
Autorité des marchés financiers
800, square Victoria, 22ème étage
C.P. 246, tour de la Bourse
Montréal (Québec) H4Z 1G3

Objet : **Avis de consultation concernant le *Projet de règlement 51-103 sur les obligations permanentes des émetteurs émergents en matière de gouvernance et d'information* (le « Projet de Règlement 51-103 »)**

Madame Beaudoin,

Le 29 juillet 2011, les Autorités canadiennes en valeurs mobilières (les « ACVM ») ont publié, pour consultation, un projet de règlement et des projets de modifications réglementaires qui visaient à établir un nouveau régime adapté aux émetteurs émergents. Le 13 septembre 2012, les ACVM ont publié un second projet de règlement tenant compte de certains commentaires formulés par les intervenants du marché. La présente a pour objet de vous livrer les commentaires du Mouvement Desjardins à la suite du dernier Avis de consultation des ACVM concernant le Projet de règlement 51-103.

Nous sommes en accord avec les objectifs poursuivis par le Projet de règlement 51-103. Toutefois, nous constatons que dans la forme proposée, le projet de règlement imposera aux émetteurs de se conformer à un cadre strict de présentation de leur divulgation. Or ce cadre soulève quelques enjeux pour notre organisation.

Comme vous le savez, le Mouvement Desjardins possède, à l'exception des caisses, trois entités ayant fait appel public à l'épargne sur les marchés financiers, soit la Caisse centrale Desjardins, laquelle se qualifie comme émetteur assujetti, Capital Desjardins inc. et la Fédération des caisses Desjardins du Québec (la « Fédération »), lesquelles se qualifient d'émetteurs assujettis émergents.

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C.P. 7, succursale Desjardins
Montréal (Québec) H5B 1B2
514 281-7000 - 1 866 866-7000
Télécopieur : 514 843-4958
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Le Mouvement Desjardins procède à des levées de fonds dans les marchés canadien, européen et américain. Certains titres et les émetteurs de ces titres sont par ailleurs cotés par des agences de notation. Le Mouvement Desjardins est enfin assujetti à certaines obligations additionnelles de divulgation qui lui sont imposées par la *Loi sur les coopératives de services financiers*.

Il résulte de tout cela que le Mouvement Desjardins est assujetti à divers régimes de divulgation. En dépit de cela, le Mouvement Desjardins tend vers une plus grande uniformisation de sa divulgation et souhaite éventuellement ne présenter qu'un type de divulgation intégrée se voulant le reflet de ce qu'il est désormais à savoir un groupe financier intégré.

Le Mouvement Desjardins est évidemment conscient que la nature de ses opérations et le fait que certaines filiales soient réglementées lui imposent de maintenir une information par entité concernée. Il n'entend évidemment pas se soustraire à ses obligations. Nous souhaitons plutôt offrir plus d'informations à nos investisseurs afin de leur permettre de mieux saisir la réalité opérationnelle du Mouvement Desjardins. Il est de notre compréhension que les marchés investisseurs et les agences de notation nous analysent comme tel et que cette approche leur est bénéfique. Toutefois, utiliser différentes formes de divulgation pour nos émetteurs risque d'alourdir la compréhension des investisseurs pour analyser cette information de façon intégrée. Le fait que les émetteurs émergents ne puissent pas satisfaire volontairement aux exigences prévues au *Règlement 51-102 sur les obligations d'information continue* (le « Règlement 51-102 ») introduit différentes formes de divulgation. En effet, la Fédération, en étant assujettie au nouveau Projet de Règlement 51-103, devra déposer non seulement une divulgation différente mais un niveau de divulgation nettement inférieur à sa filiale Capital Desjardins inc. et Caisse centrale Desjardins.

Pour ces raisons, le Mouvement Desjardins demande que le Projet de règlement 51-103 soit modifié afin qu'il soit permis aux émetteurs émergents qui satisfont aux obligations du Règlement 51-102 soient réputés satisfaire à celles du futur Projet de Règlement 51-103. Nous pensons en effet que les dispositions du Règlement 51-102 sont non seulement plus exigeantes mais comprennent par ailleurs l'ensemble des obligations du règlement proposé. De plus, nous considérons que de satisfaire les dispositions du Règlement 51-102 fait partie des meilleures pratiques de l'industrie. Nous proposons, précisément pour faire suite au commentaire que vous avez retenu lors du premier avis de consultation, qu'une disposition statutaire soit enchâssée dans le Projet de Règlement 51-103 afin d'éviter de demander une requête à cet effet auprès des ACVM et ainsi d'être plus transparent auprès des intervenants du marché.

Pour toute question ou commentaire, n'hésitez pas à communiquer avec nous.

Veuillez recevoir, Madame Beaudoin, l'expression de nos meilleures salutations.

Daniel Dupuis
Premier vice-président
Finances et chef de la direction financière
Mouvement Desjardins

Comments by the Quebec Mineral Exploration Association (AEMQ)

Regulation 51-103 respecting Ongoing Governance and Disclosure Requirements for Venture Issuers

Submitted to

Anne-Marie Beaudoin

Corporate Secretary

Autorité des marchés financiers

December 2012

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[Translation]

Background

The Quebec Mineral Exploration Association (AEMQ) is a professional and industrial non-profit organization. The AEMQ represents the main players in the field of mineral exploration in Québec. Created in 1975, the AEMQ, which includes all workers in this industry, aims to bolster mineral exploration and support the development of mining entrepreneurship in the province.

Today, the AEMQ has over 2,200 individual members (prospectors, geologists, geophysicists, business people, exploration managers, brokers, tax specialists, lawyers, etc.) and some 250 corporate members (exploration and production companies, geological engineering consultancy firms, drilling companies, service providers, equipment manufacturers, etc.). The AEMQ is administered by a 20-member board of directors, which represents the different sectors of the mineral exploration industry.

The AEMQ hereby wishes to submit brief comments on the amendments the *Autorité des marchés financiers* (the "AMF" or the "Authority") intends to make to *Regulation 51-103 respecting Ongoing Governance and Disclosure Requirements for Venture Issuers* and, in particular, draw the AMF's attention to the possible effects of such amendments on SMEs in our sector.

Observations

- The AEMQ would like to point out that it agrees with the AMF's objectives to consolidate in a single regulation the majority of obligations concerning ongoing governance, disclosure and the certification of venture issuers.
- Our concern relates more specifically to Part 2, section 17 (2) of Form 51-103F1 Annual and Interim Reports and, more specifically, to the proposed disclosure obligation to provide a description of the major mineral projects carried out by venture issuers in the mineral sector listed on the TSX-V.
- The proposed obligation is identical to the current Annual Information Form requirement. Based on our understanding, Regulation 51-103 would replace the Annual Information Form used for a financing by way of a short form prospectus.
- Naturally, this requirement would not apply to mining companies listed on the TSX, given that they are already required to file an Annual Information Form.
- In Canada, more than 90% of financing is made by means of a private placement, mostly on a best effort or bought deal basis. In the case of private placements, the requirement to create a long or short form prospectus is waived.
- Evidently, the vast majority of mining companies listed on the TSX-V do not produce an Annual Information Form since they are under no obligation to do so.
- Under the Draft Regulation and its Form 51-103F1, a *technical report* would be required in all cases where a venture issuer is required to file a short form prospectus. The report would be included in the prospectus.

Effects

- Given that very few venture issuers are required to complete an Annual Information Form and that the vast majority of financing is made by means of private placement in which case such a Form is not always required, we fail to see what purpose might be served in imposing the obligation, as set out in Part 2, section 17 (2) of Form 51-103F1 of the Draft Regulation on all venture issuers.
- For hundreds of SMEs, the immediate effect would be to increase the already onerous costs involved in raising financing for their exploration projects, notwithstanding the effect of additional delays for the preparation and legal validation of these documents.
- In a challenging economic cycle such as we are currently experiencing, adding further regulatory burden on SMEs in the mining sector will not necessarily lead to better profitability with regard to their projects, and will render the legal and regulatory framework within which they are expected to operate even less attractive.
- As to the argument that the proposed regulation would also seek to better serve public interest, the AEMQ fully supports the AMF's intent to ensure that public interest is always better supported. However, we do not believe that obligations pertaining to less than 10% of SMEs should be imposed on more than 90% of SMEs.
- Currently, more than 48% of junior companies trade on the stock exchange at below $0.10/share. These businesses need support with a view to reducing the regulatory burden, instead of having to comply with more obligations that represent additional administrative and financial costs.
- We believe that such an obligation would apply to the detriment of venture issuers' shareholders, where, in the case of private placements (only), their company profits would subsequently be affected by the additional regulatory requirements.
- The regulation should not hinder financing activities by venture issuers. Instead, we believe that the AMF should attempt to comply with the *caveat emptor* principle for private financing, which in our law, despite the existence of an adequately developed regulatory system, places the onus on the buyer to remain vigilant at all times.

Recommendation

- *The AEMQ recommends that the production of the Annual Information Form, as set out in Part 2, section 17 (2) of Form 51-103F1 of the Draft Regulation, be mandatory for companies listed on the TSX-V that seek to obtain financing by way of a long or short form prospectus.* Our wording of this provision on governance and disclosure would help meet the AMF's obligation to protect the public while ensuring there is no additional regulatory burden imposed on mining SMEs in Québec.

Commentaires de l'Association de l'exploration minière du Québec (AEMQ)

Reglement 51-103 sur les obligations permanentes des émetteurs emergents en matière de gouvernance et d'information

Présenté à

Madame Anne-Marie Beaudoin

Secrétaire Générale

Autorité des marchés financiers

Décembre 2012

Tables des matières

Contexte

L'Association de l'exploration minière du Québec (AEMQ) est une association professionnelle et industrielle sans buts lucratifs. L'AEMQ représente les principaux intervenants œuvrant dans le domaine de l'exploration minière au Québec. Fondée en 1975 l'Association regroupe tous les artisans du secteur visant à intensifier l'exploration des richesses de notre sous-sol et étendre l'entrepreneuriat minier au Québec.

L'AEMQ représente aujourd'hui plus de 2200 membres individuels (prospecteurs, géologues, géophysiciens, entrepreneurs, directeurs d'exploration, courtiers, fiscalistes, avocats, etc.) et près de 250 membres corporatifs (sociétés d'exploration et de production, firmes d'ingénieurs-conseils en géologie, entreprises de forages, sociétés de services, équipementiers, etc.). Elle est dirigée par un conseil d'administration de vingt personnes issues de toutes les facettes de la filière minérale.

L'AEMQ souhaite par le présent document soumettre quelques brefs commentaires relativement aux modifications que l'AMF compte apporter au Règlement 51-103 sur les obligations permanentes des émetteurs émergents en matière de gouvernance et d'information et surtout attirer l'attention de l'Autorité sur les effets anticipés de ces modifications sur les PME de notre secteur.

Observations

- L'AEMQ tient à souligner qu'elle souscrit aux objectifs poursuivis par l'Autorité à vouloir consolider dans un seul règlement la plupart des obligations en matière d'information continue, de gouvernance et d'attestation des émetteurs émergents.
- Notre intérêt porte plus particulièrement sur la section 17.2 de la Partie 2 de l'Annexe 51-103A1 portant sur les Rapports Annuels et Intermédiaire et plus précisément l'obligation de divulgation proposée pour décrire les projets miniers importants d'un émetteur du secteur minier inscrit au TSX-V.
- L'exigence proposée semble identique à ce qui est déjà réclamé dans le cas d'une Notice Annuelle. Selon notre compréhension, le règlement 51-103 viserait à remplacer la Notice Annuelle utilisée pour un financement par prospectus simplifié.
- Cette exigence ne s'appliquerait évidemment pas aux entreprises minières inscrites au TSX, étant déjà appelées à produire une Notice Annuelle.
- Rappelons qu'au Canada, plus de 90 % des financements se font par placement privé principalement sous forme « best effort» ou « *bought deal* ». Dans les cas de placements privés, l'obligation de constituer un prospectus (détaillé ou simplifié) est ainsi dispensée.
- Pour les sociétés minières sur le TSX-V, puisque l'obligation de produire une Notice Annuelle n'est pas requise, la grande majorité n'en fait pas évidemment pas.
- Dans le contexte de ce projet de règlement et son Annexe 51-103A1, un *rapport technique* serait requis dans tous les cas où un émetteur émergeant serait appelé à déposer un prospectus simplifiée. Ce rapport serait intégré au prospectus.

Impacts

- Puisque très peu d'émetteurs émergeants sont ainsi appelés à compléter une Notice Annuelle et que la vaste majorité des financements se font par placement privé où une telle Notice n'est pas toujours requise, nous ne voyons pas à quelle fin servirait d'imposer à tous les émetteurs émergeants l'obligation illustrée dans la section 17.2 de la Partie 2 de l'Annexe 51-103A1 du projet de règlement.
- L'impact immédiat pour des centaines de PME sera d'accroître les frais déjà onéreux et imposant de lever du financement pour leurs travaux d'exploration, sans compter l'impact des délais additionnels impartis à la préparation et la validation juridique de ces documents.
- Dans un cycle économique exigeant comme celui que nous vivons actuellement, ajouter à la charge règlementaire des PME du secteur minier ne facilitera pas pour autant l'atteinte d'une meilleure rentabilité de leurs projets et rendra encore moins attrayant le cadre juridique et règlementaire dans lequel elles ont appelées à évoluer.
- Quant à l'argumentaire voulant que le règlement proposé chercherait également à mieux servir l'intérêt public, l'AEMQ appui sans réserve l'intention de l'Autorité de vouloir assurer que cet intérêt soit toujours mieux soutenu, nous ne croyons pas par contre qu'imposer à plus de 90% des PME de notre secteur, des obligations qui reviennent à moins de 10% de celles-ci.
- Actuellement, plus de 48 % des sociétés '' juniors'' se transigent en bourse à des prix inférieurs à 0.10$/action. Ces entreprises ont davantage besoin d'un appui en matière d'allègement règlementaire que de l'imposition d'un fardeau supplémentaire et des charges administratives et financières additionnelles.
- À notre avis une telle obligation s'appliquerait au détriment des actionnaires des émetteurs émergeants qui verraient dans les cas de placements privés (uniquement), la rentabilité de leur société atteint cette fois par des obligations règlementaires additionnelles.
- Il n'est pas souhaitable que la réglementation soit un frein au financement des émetteurs émergeants. Nous croyons plutôt que l'Autorité devrait également chercher à respecter dans le contexte des financements privés, le principe de *caveat emptor* qui dans notre droit, malgré l'existence d'un appareillage règlementaire assez développé, indique qu'il appartient toujours à l'acheteur de demeurer vigilant.

Recommandation

- *L'AEMQ recommande que la production de la Notice Annuelle indiquée dans la section 17.2 de la Partie 2 de l'Annexe 51-103A1 du projet de règlement devienne obligatoire pour les sociétés inscrites sur le TSX-V qui cherchent à obtenir un financement par voie de un prospectus simplifié ou détaillé.* Notre formulation de cette disposition en matière de gouvernance et de divulgation contribuerait à rencontrer l'obligation de l'Autorité de protéger le public tout en assurant que nous n'ajoutions pas au fardeau règlementaire des PME minières du Québec.