CSA/ACVM Canadian Securities Administrators Autorités canadiennes en valeurs mobilières

# CSA Notice and Request for Comment
# Proposed Amendments to
# National Instrument 51-102 *Continuous Disclosure Obligations*,
# National Instrument 41-101 *General Prospectus Requirements*
# and
# National Instrument 52-110 *Audit Committees*

**May 22, 2014**

## Introduction

The Canadian Securities Administrators (the **CSA** or **we**) are publishing for a 90-day comment period proposed amendments to:

- National Instrument 51-102 *Continuous Disclosure Obligations* (**NI 51-102**),
- National Instrument 41-101 *General Prospectus Requirements* (**NI 41-101**), and
- National Instrument 52-110 *Audit Committees* (**NI 52-110**) (the **Proposed Amendments**).

We are also publishing for comment proposed changes to:

- Companion Policy 51-102CP to NI 51-102 (**51-102CP**), and
- Companion Policy 41-101CP to NI 41-101 (**41-101CP**).

If adopted, the Proposed Amendments would, among other things, streamline and tailor disclosure by venture issuers. They are intended to make the disclosure requirements for venture issuers more suitable and manageable for issuers at their stage of development. The proposals address continuous disclosure and governance obligations as well as disclosure for prospectus offerings.

The text of the Proposed Amendments is contained in Annex A of this notice and is also available on websites of CSA jurisdictions, including:

www.lautorite.qc.ca
www.albertasecurities.com
www.bcsc.bc.ca
nssc.novascotia.ca
www.fcnb.ca
www.osc.gov.on.ca
www.fcaa.gov.sk.ca
www.msc.gov.mb.ca

We are also publishing, for information only, blacklined excerpts of NI 51-102, Form 51-102F1 *Management's Discussion & Analysis*, Form 41-101F1 *Information Required in a Prospectus*, 51-102CP and 41-101CP.

**Substance and Purpose**

The Proposed Amendments are designed to focus disclosure of venture issuers on information that reflects the needs and expectations of venture issuer investors and eliminate disclosure obligations that may be less valuable to those investors. The Proposed Amendments are also intended to streamline the disclosure requirements for venture issuers to allow management of these issuers to focus on the growth of their business, and to enhance the substantive governance requirements for venture issuers.

In particular, the Proposed Amendments would, for venture issuers:

- if the venture issuer does not have significant revenue, allow the requirement for management's discussion and analysis (**MD&A**) for interim financial periods to be satisfied by a streamlined and highly focused report on quarterly highlights
- implement a new tailored form of executive compensation disclosure
- reduce the instances in which a business acquisition report (**BAR**) must be filed
- create a new requirement for audit committees to have a majority of independent members
- amend the prospectus disclosure requirements to reduce the number of years of audited financial statements required for venture issuers becoming reporting issuers and to conform the disclosure requirements to the Proposed Amendments related to continuous disclosure.

In addition, the Proposed Amendments would, for all issuers:

- revise the annual information form disclosure for mining issuers to conform that disclosure to the amendments made to National Instrument 43-101 *Standards of Disclosure for Mineral Projects* (**NI 43-101**) in 2011
- clarify the executive compensation disclosure filing deadlines.

**Background**

The CSA previously proposed new rules and rule amendments designed to streamline and tailor venture issuer disclosure while improving requirements for corporate governance. These proposals contemplated a separate continuous disclosure and corporate governance regime for venture issuers. In July 2011 and September 2012, we published for comment proposed National Instrument 51-103 *Ongoing Governance and Disclosure Requirements for Venture Issuers* and related rule amendments (the **Previous Proposals**).

While more comprehensive than the Proposed Amendments, the Previous Proposals contained many of the same key elements, including streamlined quarterly financial reporting, executive compensation disclosure and business acquisition reporting. Support for the Previous Proposals was initially strong; however, support for the September 2012 publication fell significantly and the CSA withdrew its proposal in July 2013. Feedback from the venture issuer community

indicated that the benefits from streamlining and tailoring were outweighed by the burden of the transition to a new regime, particularly at a time when many venture issuers were facing significant challenges.

The Proposed Amendments have retained important elements from the Previous Proposals. Rather than implementing them as part of a stand-alone, tailored regime for venture issuers, we now propose to implement them on a targeted basis by amending existing rules.

**Summary of the Proposed Amendments**

***1. Amendments exclusively applicable to venture issuers***

**Amendments to NI 51-102**

- *Quarterly highlights*: Currently, all issuers (venture and non-venture) are required to file quarterly interim MD&A using Form 51-102F1 *Management's Discussion & Analysis*. We propose to permit venture issuers without significant revenue to fulfil this requirement by preparing and filing a streamlined disclosure document, referred to as "quarterly highlights", in each of their first three quarters. The quarterly highlights consist primarily of a short discussion about the venture issuer's operations and liquidity. Venture issuers permitted to comply with the streamlined disclosure requirements could alternatively choose to comply with the existing interim MD&A requirement. (See Request for Comments below)

- *Business Acquisition Reports*: Currently, all issuers (venture and non-venture) must file a BAR (using Form 51-102F4 *Business Acquisition Report*) within 75 days of a significant acquisition. The BAR must include audited financial statements for the most recent financial year and pro forma financial statements. For venture issuers, an acquisition is "significant" under the current requirements if the asset or investment test specified in Part 8 of NI 51-102 is satisfied at the 40% level. We propose to increase the threshold for venture issuers from 40% to 100% (therefore reducing the instances where BARs are required) and eliminate the requirement that BARs filed by venture issuers must include pro forma financial statements. (See Request for Comments below)

- *Executive compensation disclosure*: Currently, all issuers (venture and non-venture) are required to file executive compensation disclosure using Form 51-102F6 *Statement of Executive Compensation* (**Form 51-102F6**).The disclosure requirements that apply to venture and non-venture issuers are nearly identical. We propose a new executive compensation disclosure form for venture issuers (**Proposed Form 51-102F6V**) that would tailor disclosure more specifically for venture issuers and would:
    - reduce the number of individuals for whom disclosure is required from a maximum of five to a maximum of three (the CEO, CFO and one additional highest-paid executive officer)
    - reduce the number of years of disclosure from three to two
    - eliminate the requirement for venture issuers to calculate and disclose the grant date fair value of stock options and other share-based awards in the summary

compensation table. Instead, venture issuers would disclose detailed information about stock options and other equity-based awards issued, held and exercised.

Venture issuers would be able to choose whether to comply with Form 51-102F6 or Proposed Form 51-102F6V.

**Amendments to NI 52-110**

- We propose to require venture issuers to have an audit committee consisting of at least three members, the majority of whom could not be executive officers, employees or control persons of the issuer. This would not be a new requirement for TSX Venture Exchange listed issuers, which are already required to meet an almost identical requirement under that exchange's policies. (See Request for Comments below)

**Amendments to NI 41-101**

- *Audited financial statements*: The Proposed Amendments would reduce from three to two the number of years of audited financial statements required in an initial public offering (**IPO**) prospectus for an issuer that will become a venture issuer on completion of its IPO.

- *Description of the business and history*: The Proposed Amendments would reduce the requirement to describe a venture issuer's business and its history from three to two years.

- *Conforming to proposed continuous disclosure changes*: The Proposed Amendments would also conform the prospectus disclosure requirements to the corresponding continuous disclosure changes described above by:

    - allowing venture issuers to use quarterly highlights instead of existing interim MD&A in their prospectus

    - allowing venture issuers to comply with executive compensation disclosure requirements using the Proposed Form 51-102F6V in their prospectus

    - only requiring the inclusion of BAR-level disclosure in a prospectus of a venture issuer where the acquisition is significant at the 100% level. (See Request for Comments below)

  Venture issuers could still choose to provide prospectus disclosure in accordance with existing interim MD&A and Form 51-102F6.

*2.* ***Amendments applicable to venture and non-venture issuers***

**Amendments to NI 51-102**

- *Mining issuer disclosure*: The Proposed Amendments include revisions to Form 51-102F2 *Annual Information Form*, to conform to changes made to NI 43-101 in 2011.

- *Filing requirements for Form 51-102F6 and Proposed Form 51-102F6V*: The Proposed Amendments contain revised requirements for filing executive compensation disclosure. We propose that:
    - non-venture issuers that are required to file an information circular file Form 51-102F6 not later than 140 days after their most recently completed financial year
    - venture issuers that are required to file an information circular file Form 51-102F6 or Proposed Form 51-102F6V not later than either 140 days or 180 days after their most recently completed financial year (see Request for Comments below)
    - the requirements in section 11.6 of NI 51-102 will only apply to issuers that do not have a requirement to send an information circular and do not send an information circular.

**Anticipated Costs and Benefits of the Proposed Amendments**

We think the tailoring of venture issuer disclosure will enhance informed investor decision making for the venture issuer market by improving the quality of information available to investors while reducing the burden of preparation for venture issuers. For example, we expect that a venture issuer satisfying the interim MD&A requirement by filing quarterly highlights to be able to do so with disclosure no longer than one or two pages in length, which would be tailored to meet the needs and expectations of venture issuer investors. The Proposed Amendments will eliminate some disclosure obligations; however, we think that those eliminated obligations may be of less value to venture issuer investors and that the Proposed Amendments will result in more relevant disclosure for those investors. The resulting streamlined disclosure should also make it easier for venture issuer investors to read disclosure documents and locate key information.

The Proposed Amendments will reduce the length of some disclosure instructions applicable to venture issuers. We expect this to allow venture issuer management more time to focus on the growth of the business.

The Proposed Amendments will also enhance corporate governance by introducing an audit committee independence requirement for venture issuers.

## Local Matters

Annex B is being published in any local jurisdiction that is making related changes to local securities laws, including local notices or other policy instruments in that jurisdictions. It also includes any additional information that is relevant to that jurisdiction only.

**Request for Comments**

We welcome your comments on the Proposed Amendments, and the proposed changes to the related companion policies. In addition to any general comments you may have, we also invite comments on the following specific questions:

*Questions relating to quarterly highlights*

1. We propose to permit venture issuers without significant revenue in the most recently completed financial year to provide the more tailored and focused "quarterly highlights" form of MD&A in interim periods. Venture issuers that have significant revenue would be required to provide existing interim MD&A for interim periods because we think that larger venture issuers should provide more detailed disclosure.

   a. Do you agree that we have chosen the correct way to differentiate between venture issuers?

   b. Should all venture issuers be permitted to provide quarterly highlights disclosure?

*Question relating to executive compensation disclosure*

2. We are proposing to clarify filing deadlines for executive compensation disclosure by both venture and non-venture issuers. In most cases, the disclosure is contained in an issuer's information circular and the filing deadline is driven by the issuer's corporate law or organizing documents, and the timing of its annual general meeting (**AGM**). Issuers may also include the disclosure in their Annual Information Form.

We are proposing to revise Section 9.3.1 of NI 51-102 to set the deadline for filing executive compensation disclosure by non-venture issuers at 140 days. For venture issuers, we are proposing a corresponding deadline of either 140 days or 180 days. For venture issuers whose corporate law or organizing documents permit a later AGM, an earlier deadline could result in an issuer filing its executive compensation disclosure twice: once as a stand-alone form to meet the deadline in Section 9.3.1 of NI 51-102 and a second time with the information circular filed for the AGM.

What is the most appropriate deadline applicable to venture issuers for filing executive compensation disclosure: 140 days, 180 days or some later date? Please explain.

*Questions relating to BARs – proposed and recently completed acquisitions*

Under the Previous Proposals, the venture issuer prospectus requirements for acquisition financial statements were to be harmonized with the proposed changes to the significance threshold in a BAR. We received limited stakeholder comments on this proposal. In the process of preparing the Proposed Amendments, we identified a potential policy concern that may justify a difference between the BAR requirements and the prospectus and information circular requirements in respect of certain proposed acquisitions.

Specifically, if proceeds of a prospectus offering will be used to finance a proposed acquisition significant in the 40% to 100% range, the proposed amendments to the BAR requirements would result in no specific requirement to include any disclosure about the proposed acquisition in the prospectus (see Section 35.6 of Form 41-101F1 and Item 10 of Form 44-101F1). The prospectus would, however, be subject to the general requirement to provide full, true and plain disclosure of all material facts relating to the securities to be distributed.

In cases where prospectus proceeds are financing an acquisition of a business significant in the 40% to 100% range, if financial statements of the business are not necessary to meet the full, true and plain disclosure standard, there may be no financial statements of the business to be acquired in the prospectus.

Similarly, if a matter being submitted to a vote of security holders is in respect of a proposed acquisition significant in the 40% to 100% range, the proposed amendments to the BAR requirements would result in no specific requirement to include BAR-level disclosure about the proposed acquisition in an information circular (see section 14.2 of Form 51-102F5). The information circular would however be subject to the requirement to briefly describe the matter to be acted upon in sufficient detail to enable reasonable security holders to form a reasoned judgment concerning the matter (see section 14.1 of Form 51-102F5).

Where the matter being submitted to a vote of security holders is in respect of a proposed acquisition significant in the 40% to 100% range, if financial statements of the business are not required for there to be sufficient detail to enable reasonable security holders to form a reasoned judgement concerning the matter, there may be no financial statements of the business to be acquired in the information circular.

3. Do you think that a prospectus should always include BAR-level disclosure about a proposed acquisition if

- it is significant in the 40% to 100% range, and
- any proceeds of the prospectus offering will be used to finance the proposed acquisition?

Why or why not?

4. Do you think that an information circular should always include BAR-level disclosure about a proposed acquisition if

- it is significant in the 40% to 100% range, and
- the matter to be voted on is the proposed acquisition?

Why or why not?

5. Do you think we should require BAR-level disclosure in a prospectus where

- financing has been provided (by a vendor or third party) in respect of a recently completed acquisition significant in the 40% to 100% range, and
- any proceeds of the offering are allocated to the repayment of the financing.

Why or why not?

6. If we were to require BAR-level disclosure in the situations outlined above in questions 3, 4 and 5, the significance threshold for prospectus and information circular disclosure will not be harmonized with the threshold for continuous disclosure. Is this a problem?

7. If we do not require BAR-level disclosure in the situations outlined above in questions 3, 4, and 5, do you think an investor will be able to make an informed investment or voting decision?

*Questions relating to audit committees*

We propose to require venture issuers to have an audit committee consisting of at least three members, the majority of whom could not be executive officers, employees or control persons of the issuer. NI 52-110 currently provides non-venture issuers with certain exceptions from their audit committee independence requirement (for example, for initial public offerings or in cases of death, disability or resignation of member). We are not proposing the same exceptions for venture issuers because the proposed venture issuer audit committee composition requirements are not as onerous as the non-venture issuer independence requirements.

8. Do you think we should provide exceptions from our proposed audit committee composition requirements for venture issuers similar to the exceptions in sections 3.2 to 3.9 of NI 52-110? If so, which exceptions do you think are appropriate?

Please submit your comments in writing on or before August 20, 2014. If you are sending your comments by email, please also send an electronic file containing the submissions (in Microsoft Word format).

Address your submission to all of the CSA as follows:

British Columbia Securities Commission
Alberta Securities Commission
Financial and Consumer Affairs Authority (Saskatchewan)
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Financial and Consumer Services Commission (New Brunswick)
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island
Nova Scotia Securities Commission
Securities Commission of Newfoundland and Labrador

Superintendent of Securities, Northwest Territories
Superintendent of Securities, Yukon
Superintendent of Securities, Nunavut

Deliver your comments **only** to the addressees below. Your comments will be distributed to the other participating CSA.

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We cannot keep submissions confidential because securities legislation in certain provinces requires publication of a summary of the written comments received during the comment period. In addition, all comments received will be posted on the website of the *Autorité des marchés financiers* at www.lautorite.qc.ca and the website of the Ontario Securities Commission at www.osc.gov.on.ca. Therefore, you should not include personal information directly in comments to be published. It is important that you state on whose behalf you are making the submission.

Thank you in advance for your comments.

**Contents of Annexes**

The following annexes form part of this CSA Notice:

| | |
|---|---|
| **Annex A:** | **A1: Proposed amendment instruments for**<br>• National Instrument 51-102 *Continuous Disclosure Obligations*<br>• National Instrument 41-101 *General Prospectus Requirements*<br>• National Instrument 52-110 *Audit Committees* |

| | |
|---|---|
| | **A2: Proposed changes to**<br>• Companion Policy 51-102CP to National Instrument 51-102 *Continuous Disclosure Obligations*<br>• Companion Policy 41-101CP to National Instrument 41-101 *General Prospectus Requirements*<br><br>**A3: Blackline excerpts of proposed amendments to**<br>• National Instrument 51-102 *Continuous Disclosure Obligations*<br>• Form 51-102F1 *Management's Discussion & Analysis*<br>• Form 41-101F1 *Information Required in a Prospectus*<br><br>**A4: Blackline excerpts of proposed changes to**<br>• Companion Policy 51-102CP to National Instrument 51-102 *Continuous Disclosure Obligations*<br>• Companion Policy 41-101CP to National Instrument 41-*101General Prospectus Requirements* |
| **Annex B:** | **Local matters** |

**Questions**

Please refer your questions to any of the following:

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**Annex A**

**Annex A1**

**Proposed Amendments to**
**National Instrument 51-102 *Continuous Disclosure Obligations***

***1.*** ***National Instrument 51-102 Continuous Disclosure Obligations is amended by this Instrument.***

***2.*** ***Paragraph 5.3(2)(b) is amended by adding "***for an issuer that is not providing disclosure in accordance with section 2.2.1 of Form 51-102F1***" after "***interim MD&A***".***

***3.*** ***Subsection 5.4(1) is amended by replacing "***MD&A***" with "***annual MD&A and, if the issuer is not providing disclosure in accordance with section 2.2.1 of Form 51-102F1, its interim MD&A,***".***

***4.*** ***Paragraph 5.7(2)(b) is amended by adding "***for an issuer that is not providing disclosure in accordance with section 2.2.1 of Form 51-102F1***" after "***interim MD&A"**.*

***5.*** ***Paragraphs 8.3(1)(b) and (3)(b) are amended by replacing "***40 percent***" with "***100 percent***".***

***6.*** ***Subsection 8.4(5) is amended by adding "***issuer other than a venture***" after "***a reporting***".***

***7.*** ***Section 9.3.1 is amended***

***a. in subsection (1)***

***(i) by replacing "***sends***" with "***is required to send***", and***

***(ii) by replacing "***a reasonable person, applying reasonable effort***" with "***a person, applying reasonable effort***",***

***b. in subsection (2) by replacing "***, in accordance with, and subject to any exemptions set out in, Form 51-102F6 *Statement of Executive Compensation*, which came into force on December 31, 2008***" with "***and in accordance with Form 51-102F6 *Statement of Executive Compensation***",***

***c. by adding the following subsections:***

(2.1) Despite subsection (2), a venture issuer may provide the disclosure required by subsection (1) for the periods set out in and in accordance with Form 51-102F6V *Statement of Executive Compensation – Venture Issuers*.

(2.2) The disclosure required under subsection (1) must be filed

(a) not later than 140 days after the end of the issuer's most recently completed financial year, in the case of an issuer other than a venture issuer, or

(b) not later than [140 or 180 days] after the end of the issuer's most recently completed financial year, in the case of a venture issuer.**,**

***d. in subsection (3) by replacing "***, which came into force on December 31, 2008***" with "***or, for a venture issuer relying on subsection 2.1, in Form 51-102F6V *Statement of Executive Compensation – Venture Issuers****", and***

***e. by repealing subsection (4).***

***8. Section 11.6 is amended***

***a. in subsection (1)***

***(i) by replacing "***does not send to its securityholders***" with "***is not required to send to its securityholders an information circular and does not send***", and***

***(ii) by replacing "***a reasonable person, applying reasonable effort***" with "***a person, applying reasonable effort***",***

***b. in subsection (2) by striking out "***, which came into force on December 31, 2008***",***

***c. by adding the following subsection:***

(2.1) Despite subsection (2), a reporting issuer that is a venture issuer may provide the disclosure required under subsection (1) for the periods set out in and in accordance with Form 51-102F6V *Statement of Executive Compensation – Venture Issuers*.**,**

***d. in subsection (4) by deleting "***, which came into force on December 31, 2008***" and replacing it with "***or, for a venture issuer relying on subsection 2.1, in Form 51-102F6V *Statement of Executive Compensation – Venture Issuers****", and***

***e. by repealing subsection (6).***

***9. The Table of Contents of Form 51-102F1 is amended***

***a. in Part 1, by adding "***- Quarterly Highlights***" after "***(g) Venture Issuers Without Significant Revenue***", and***

***b. in Part 2, by adding "***2.2.1 Quarterly Highlights***".***

***10. Paragraph (g) of Part 1 of Form 51-102F1 is replaced by the following:***

**(g) Venture Issuers Without Significant Revenue – Quarterly Highlights**

If your company is a venture issuer without significant revenue in the most recently completed financial year, you have the option of meeting the requirement to provide interim MD&A under section 2.2 by instead providing quarterly highlights disclosure. Refer to section 2.2.1. The purpose of the quarterly highlights reporting is to provide a brief narrative update about the business activities and financial condition of the company. Provide a short, focused discussion that gives a balanced and accurate picture of the company's business activities during the interim period.

If there was a change to the company's accounting policies during the interim period, include a description of the material effects resulting from the change.

Refer to Companion Policy 51-102CP for guidance on quarterly highlights..

***11. Item 2 of Part 2 of Form 51-102F1 is amended by adding the following section:***

**2.2.1 Quarterly Highlights**

If your company is a venture issuer without significant revenue in the most recently completed financial year, you have the option of meeting the requirement to provide interim MD&A under section 2.2 by instead providing a short discussion of your company's operations and liquidity including known trends, demands, major operating statistics and changes thereto, commitments, events, expected or unexpected, or uncertainties that have materially affected your company's operations and liquidity in the quarter or are reasonably likely to have a material effect going forward.

*INSTRUCTIONS*

*(i) If the first MD&A you file in this Form (your first MD&A) is an interim MD&A, you must provide all the disclosure called for in Item 1 in your first MD&A. Base the disclosure, except the disclosure for section 1.3, on your interim financial report. Since you do not have to update the disclosure required in section 1.3 in your interim MD&A, your first MD&A will provide disclosure under section 1.3 based on your annual financial statements.*

*(ii) You must focus your discussion on business activities and financial condition. While summaries are to be clear and concise, they are subject to the normal prohibitions against false and misleading statements.*

*(iii) Quarterly highlights prepared in accordance with section 2.2.1 are not required for your company's fourth quarter as relevant fourth quarter content will be contained in your company's annual MD&A prepared in*

*accordance with Item 1 (see section 1.10).*

*(iv) You must title your quarterly highlights "Interim MD&A – Quarterly Highlights".***.**

***12. Item 5.4 of Form 51-102F2 is repealed and replaced with the following:***

**5.4 Companies with Mineral Projects**

If your company had a mineral project, provide the following information, by summary if applicable, for each project material to your company:

(1) **Current Technical Report** – The title, author(s), and date of the most recent technical report on the property filed in accordance with National Instrument 43-101 *Standards of Disclosure for Mineral Projects*.

(2) **Project Description, Location, and Access**

(a) The location of the project and means of access.

(b) The nature and extent of your company's title to or interest in the project, including surface rights, obligations that must be met to retain the project, and the expiration date of claims, licences and other property tenure rights.

(c) The terms of any royalties, overrides, back-in rights, payments or other agreements and encumbrances to which the project is subject.

(d) To the extent known, any significant factors or risks that might affect access or title, or the right or ability to perform work on, the property, including permitting and environmental liabilities to which the project is subject.

(3) **History**

(a) To the extent known, the prior exploration and development of the property, including the type, amount, and results of any exploration work undertaken by previous owners, any significant historical estimates, and any previous production on the property.

(4) **Geological Setting, Mineralization, and Deposit Types**

(a) The regional, local, and property geology.

(b) The significant mineralized zones encountered on the property, the surrounding rock types and relevant geological controls, and the length, width, depth and continuity of the mineralization together with a description of the type, character and distribution of the mineralization.

(c) The mineral deposit type or geological model or concepts being applied.

(5) **Exploration -** The nature and extent of all relevant exploration work other than drilling, conducted by or on behalf of your company, including a summary and interpretation of the relevant results.

(6) **Drilling -** The type and extent of drilling and a summary and interpretation of all relevant results.

(7) **Sampling, Analysis, and Data Verification -** The sampling and assaying including, without limitation,

(a) sample preparation methods and quality control measures employed before dispatch of samples to an analytical or testing laboratory;

(b) the security measures taken to ensure the validity and integrity of samples taken;

(c) assaying and analytical procedures used and the relationship, if any, of the laboratory to your company; and

(d) quality control measures and data verification procedures, and their results.

(8) **Mineral Processing and Metallurgical Testing -** If mineral processing or metallurgical testing analyses have been carried out, describe the nature and extent of the testing and analytical procedures, and provide a summary of the relevant results and, to the extent known, provide a description of any processing factors or deleterious elements that could have a significant effect on potential economic extraction.

(9) **Mineral Resource and Mineral Reserve Estimates -** The mineral resources and mineral reserves, if any, including, without limitation,

(a) the effective date of the estimates;

(b) the quantity and grade or quality of each category of mineral resources and mineral reserves;

(c) the key assumptions, parameters, and methods used to estimate the mineral resources and mineral reserves; and

(d) the extent to which the estimate of mineral resources and mineral reserves may be materially affected by metallurgical, environmental, permitting, legal, title, taxation, socio-economic, marketing, political, and other relevant issues.

(10) **Mining Operations -** For advanced properties, the current or proposed mining methods, including a summary of the relevant information used to establish the amenability or potential amenability of the mineral resources or mineral reserves to the proposed mining methods.

(11) **Processing and Recovery Operations** – For advanced properties, a summary of current or proposed processing methods and reasonably available information on test or operating results relating to the recoverability of the valuable component or commodity.

(12) **Infrastructure, Permitting, and Compliance Activities –** For advanced properties,

(a) the infrastructure and logistic requirements for the project; and

(b) the reasonably available information on environmental, permitting, and social or community factors related to the project.

(13) **Capital and Operating Costs** – For advanced properties,

(a) a summary of capital and operating cost estimates, with the major components set out in tabular form; and

(b) an economic analysis with forecasts of annual cash flow, net present value, internal rate of return, and payback period, unless exempted under Instruction (2) to Item 22 of Form 43-101F1.

(14) **Exploration, Development, and Production -** A description of your company's current and contemplated exploration, development or production activities.

*INSTRUCTIONS*

*(i) Disclosure regarding mineral exploration, development or production activities on material projects must comply with National Instrument 43-101 Standards of Disclosure for Mineral Projects, including the limitations set out in it. You must use the appropriate terminology to describe mineral reserves and mineral resources. You must base your disclosure on information prepared by, under the supervision of, or approved by, a qualified person.*

*(ii) You are permitted to satisfy the disclosure requirements in section 5.4 by reproducing the summary from the technical report on the material property and incorporating the detailed disclosure in the technical report into the AIF by reference.*

***13. Paragraph (c) of Part 1 of Form 51-102F5 is amended by adding "***or Form 51-102F6V *Statement of Executive Compensation – Venture Issuers*" **after "**Form 51-102F6 *Statement of Executive Compensation*"**.**

***14. Item 8 of Part 2 of Form 51-102F5 is amended by adding "***or, in the case of a venture issuer, a completed Form 51-102F6 *Statement of Executive Compensation* or a completed Form 51-102F6V *Statement of Executive Compensation – Venture Issuers" after "***Form 51-102F6 *Statement of Executive Compensation".*

***15. Subsection 1.3(1) of Form 51-102F6 is amended by replacing "***a reasonable person, applying reasonable effort" ***with "***a person, applying reasonable effort***",***

***16. Commentary 1 of section 2.1 of Form 51-102F6 is amended by replacing "***a reasonable person, applying reasonable effort***" with "***a person, applying reasonable effort***",***

***17. Commentary 2 of subsection 3.1(10) of Form 51-102F6 is amended by striking out "***still***",***

***18. Subsection 8.1(1) of Form 51-102F6 is amended by replacing "***required by***" with "***they are required to disclose in the United States under***".***

***19. The following form is added:***

**Form 51-102F6V**
***Statement of Executive Compensation – Venture Issuers***

**Table of Contents**

**Form 51-102F6V**
***Statement of Executive Compensation – Venture Issuers***

## ITEM 1 – GENERAL PROVISIONS

### 1.1 Objective

All direct and indirect compensation provided to certain executive officers and directors for, or in connection with, services they have provided to the company or a subsidiary of the company must be disclosed in this form.

The objective of this disclosure is to communicate the compensation the company paid, made payable, awarded, granted, gave or otherwise provided to each named executive officer and director for the financial year, and the decision-making process relating to compensation. This disclosure will provide insight into executive compensation as a key aspect of the overall stewardship and governance of the company and will help investors understand how decisions about executive compensation are made.

A company's executive compensation disclosure under this form must satisfy this objective and subsections 9.3.1(1) or 11.6(1) of the Instrument.

While the objective of this disclosure is the same as the objective in section 1.1 of Form 51-102F6, this form is to be used by venture issuers only. Reporting issuers that are not venture issuers must complete Form 51-102F6.

### 1.2 Definitions

If a term is used in this form but is not defined in this section, refer to subsection 1.1(1) of the Instrument or to National Instrument 14-101 *Definitions*.

In this form,

**"company"** includes other types of business organizations such as partnerships, trusts and other unincorporated business entities;

**"compensation securities**" includes stock options, convertible securities, exchangeable securities and similar instruments including stock appreciation rights, deferred share units and restricted stock units granted or issued by the company or one of its subsidiaries for services provided or to be provided, directly or indirectly, to the company or any of its subsidiaries;

**"external management company"** includes a subsidiary, affiliate or associate of the external management company;

"**named executive officer**" or "**NEO**" means each of the following individuals:

(a) each individual who, in respect of the company, during any part of the most recently completed financial year, served as chief executive officer, including an individual performing functions similar to a chief executive officer;

(b) each individual who, in respect of the company, during any part of the most recently completed financial year, served as chief financial officer, including an individual performing functions similar to a chief financial officer;

(c) in respect of the company and its subsidiaries, the most highly compensated executive officer other than the individuals identified in paragraphs (a) and (b) at the end of the most recently completed financial year whose total compensation was more than $150,000, as determined in accordance with subsection 1.3(5), for that financial year;

(d) each individual who would be a named executive officer under paragraph (c) but for the fact that the individual was not an executive officer of the company, and was not acting in a similar capacity, at the end of that financial year;

**"plan"** includes any plan, contract, authorization, or arrangement, whether or not set out in any formal document, where cash, compensation securities or any other property may be received, whether for one or more persons;

"**underlying securities**" means any securities issuable on conversion, exchange or exercise of compensation securities.

## 1.3 Preparing the form

### (1) All compensation to be included

(a) When completing this form, the company must disclose all compensation paid, payable, awarded, granted, given, or otherwise provided, directly or indirectly, by the company, or a subsidiary of the company, to each named executive officer and director, in any capacity, including, for greater certainty, all plan and non-plan compensation, direct and indirect pay, remuneration, economic or financial award, reward, benefit, gift or perquisite paid, payable, awarded, granted, given, or otherwise provided to the named executive officer or director for services provided and for services to be provided, directly or indirectly, to the company or a subsidiary of the company.

(b) If an item of compensation is not specifically mentioned or described in this form, disclose it in the column "Value of all other compensation" of the table in section 2.1.

*Commentary*

*1. Unless otherwise specified, information required to be disclosed under this form may be prepared in accordance with the accounting principles the company uses to prepare its financial statements, as permitted by National Instrument 52-107 Acceptable Accounting Principles and Auditing Standards.*

*2. The definition of "director" under securities legislation includes an individual who acts in a capacity similar to that of a director.*

**(2) Departures from format**

(a) Although the required disclosure must be made in accordance with this form, the disclosure may

(i) omit a table, column of a table, or other prescribed information, if it does not apply, and

(ii) add a table, column, or other information if

(A) necessary to satisfy the objective in section 1.1, and

(B) to a reasonable person, the table, column, or other information does not detract from the prescribed information in the table in section 2.1.

(b) Despite paragraph (a), a company must not add a column to the table in section 2.1.

**(3) Information for full financial year**

(a) If a named executive officer acted in that capacity for the company during part of a financial year for which disclosure is required in the table in section 2.1, provide details of all of the compensation that the named executive officer received from the company for that financial year. This includes compensation the named executive officer earned in any other position with the company during the financial year.

(b) Do not annualize compensation in a table for any part of a year when a named executive officer was not in the service of the company. Annualized compensation may be disclosed in a footnote.

**(4) Director and named executive officer compensation**

(a) Disclose any compensation awarded to, earned by, paid to, or payable to each director and named executive officer, in any capacity with respect to the

company. Compensation to directors and named executive officers must include all compensation from the company and its subsidiaries.

(b) Disclose any compensation awarded to, earned by, paid to, or payable to, a named executive officer, or director, in any capacity with respect to the company, by another person or company.

**(5) Determining if an individual is a named executive officer**

For the purpose of calculating total compensation awarded to, earned by, paid to, or payable to an executive officer under paragraph (c) of the definition of named executive officer,

(a) use the total compensation that would be reported for that executive officer in the table in section 2.1, as if the executive officer were a named executive officer for the company's most recently completed financial year, and

(b) exclude any compensation disclosed in the column "Value of all other compensation" of the table in section 2.1.

*Commentary*

*The $150,000 threshold in paragraph (c) of the definition of named executive officer only applies when determining who is a named executive officer in a company's most recently completed financial year. If an individual is a named executive officer in the most recently completed financial year, disclosure of compensation in the prior years must be provided even if total compensation in a prior year is less than $150,000.*

**(6) Compensation to associates**

Disclose any awards, earnings, payments, or payables to an associate of a named executive officer, or of a director, as a result of compensation awarded to, earned by, paid to, or payable to the named executive officer or the director, in any capacity with respect to the company.

**(7) Currencies**

(a) Companies must report amounts required by this form in Canadian dollars or in the same currency that the company uses for its financial statements. A company must use the same currency in all of the tables of this form.

(b) If compensation awarded to, earned by, paid to, or payable to a named executive officer or director was in a currency other than the currency reported in the prescribed tables of this form, state the currency in which compensation was awarded, earned, paid, or payable, disclose the currency exchange rate and describe the methodology used to translate the compensation into Canadian

dollars or the currency that the company uses in its financial statements.

**(8) New reporting issuers**

(a) A company is not required to provide information for a completed financial year if the company was not a reporting issuer at any time during the most recently completed financial year, unless the company became a reporting issuer as a result of a restructuring transaction.

(b) If the company was not a reporting issuer at any time during the most recently completed financial year and the company is completing this form because it is preparing a prospectus, discuss all significant elements of the compensation to be awarded to, earned by, paid to, or payable to named executive officers and directors of the company once it becomes a reporting issuer, to the extent this compensation has been determined.

**(9) Plain language**

Information required to be disclosed under this form must be clear, concise, and presented in such a way that it provides a person, applying reasonable effort, an understanding of

(a) how decisions about named executive officer and director compensation are made, and

(b) how specific named executive officer and director compensation relates to the overall stewardship and governance of the company.

*Commentary*

*Refer to the plain language principles listed in section 1.5 of Companion Policy 51-102CP Continuous Disclosure Obligations for further guidance.*

## ITEM 2 – DIRECTOR AND NAMED EXECUTIVE OFFICER COMPENSATION

### 2.1 Director and named executive officer compensation, excluding compensation securities

(1) Using the following table, disclose all compensation referred to in subsection 1.3(1) of this form for each of the two most recently completed financial years, other than compensation disclosed under section 2.3.

*Commentary*

*For venture issuers, compensation includes payments, grants, awards, gifts and benefits including, but not limited to,*

- *salaries,*
- *consulting fees,*
- *management fees,*
- *retainer fees,*
- *bonuses,*
- *committee and meeting fees,*
- *special assignment fees,*
- *pensions and employer paid RRSP contributions,*
- *perquisites such as*
    - *car, car lease, car allowance or car loan,*
    - *personal insurance,*
    - *parking,*
    - *accommodation, including use of vacation accommodation,*
    - *financial assistance,*
    - *club memberships,*
    - *use of corporate motor vehicle or aircraft,*
    - *reimbursement for tax on perquisites or other benefits, and*
    - *investment-related advice and expenses.*

| **Table of compensation excluding compensation securities** | | | | | | | |
|---|---|---|---|---|---|---|---|
| **Name and position** | **Year** | **Salary, consulting fee, retainer or commission ($)** | **Bonus ($)** | **Committee or meeting fees ($)** | **Value of perquisites ($)** | **Value of all other compensation ($)** | **Total compensation ($)** |
| | | | | | | | |
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(2) In the table required under subsection (1), disclose compensation of each named executive officer first, followed by compensation of any director who is not a named executive officer.

(3) If the individual is a named executive officer and a director, state both positions in the column entitled “Name and position”.

*Commentary*

*For the purposes of the column entitled "Value of perquisites", an item is generally a perquisite if it is not integrally and directly related to the performance of the director or named executive officer's duties. If something is necessary for a person to do his or her job, it is integrally and directly related to the job and is not a perquisite, even if it also provides some amount of personal benefit.*

(4) If non-cash compensation, other than compensation required to be disclosed in section 2.3, was provided or is payable, disclose the fair market value of the compensation at the time it was earned or, if it is not possible to calculate the fair market value, disclose that fact in a note to the table and the reasons why.

(5) In the column entitled "Value of all other compensation", include

(a) any incremental payments, payables and benefits to a named executive officer or director that were triggered by, or resulted from, a scenario listed in subsection 2.5(2) that occurred before the end of the applicable financial year, and

(b) all compensation relating to defined benefit or defined contribution plans including service costs and other compensatory items such as plan changes and earnings that are different from the estimated earnings for defined benefit plans and above market earnings for defined contribution plans.

*Commentary*

*The disclosure of defined benefit or defined contribution plans relates to all plans that provide for the payment of pension plan benefits. Use the same amounts indicated in column (e) of the defined benefit plan table required by section 2.7 for the applicable financial year and the amounts included in column (c) of the defined contribution plan table required by section 2.7 for the applicable financial year.*

(6) Despite subsection (1), it is not necessary to disclose Canada Pension Plan, similar government plans and group life, health, hospitalization, medical reimbursement and relocation plans that do not discriminate in scope, terms or operation that are generally available to all salaried employees.

(7) If a director or named executive officer has served in that capacity for only part of a year, indicate the number of months he or she has served; do not annualize the compensation.

(8) Provide notes to the table to disclose each of the following for the most recently completed financial year only:

(a) compensation paid or payable by any person or company other than the company in respect of services provided to the company or its subsidiaries, including the

identity of that other person or company;

(b) compensation paid or payable indirectly to the director or named executive officer and, in such case, the amount of compensation, to whom it is paid or payable and the relationship between the director or named executive officer and such other person or company;

(c) for the column entitled "Value of perquisites", the nature of each perquisite paid or payable that equals or exceeds 25% of the total value of perquisites paid or payable to that director or named executive officer, and how the value of the perquisite was calculated, if it is not paid or payable in cash;

(d) for the column entitled "Value of all other compensation", the nature of each form of other compensation paid or payable that equals or exceeds 25% of the total value of other compensation paid or payable to that director or named executive officer, and how the value of such other compensation was calculated, if it is not paid or payable in cash.

**2.2 External management companies**

(1) If one or more individuals acting as named executive officers of the company are not employees of the company, disclose the names of those individuals.

(2) If an external management company employs or retains one or more individuals acting as named executive officers or directors of the company and the company has entered into an understanding, arrangement or agreement with the external management company to provide executive management services to the company, directly or indirectly, disclose any compensation that

(a) the company paid directly to an individual employed, or retained by the external management company, who is acting as a named executive officer or director of the company;

(b) the external management company paid to the individual that is attributable to the services they provided to the company, directly or indirectly.

(3) If an external management company provides the company's executive management services and also provides executive management services to another company, disclose the entire compensation the external management company paid to the individual acting as a named executive officer or director, or acting in a similar capacity, in connection with services the external management company provided to the company, or the parent or a subsidiary of the company. If the management company allocates the compensation paid to a named executive officer or director, disclose the basis or methodology used to allocate this compensation.

*Commentary*

*A named executive officer may be employed by an external management company and provide services to the company under an understanding, arrangement or agreement. In this case, references in this form to the chief executive officer or chief financial officer are references to the individuals who performed similar functions to that of the chief executive officer or chief financial officer. They are typically the same individuals who signed and filed annual and interim certificates to comply with National Instrument 52-109 Certification of Disclosure in Issuers' Annual and Interim Filings.*

**2.3 Stock options and other compensation securities**

(1) Using the following table, disclose all compensation securities granted or issued to each director and named executive officer by the company or one of its subsidiaries in the most recently completed financial year for services provided or to be provided, directly or indirectly, to the company or any of its subsidiaries.

| **Compensation Securities** | | | | | | | |
|---|---|---|---|---|---|---|---|
| **Name and position** | **Type of compensation security** | **Number of compensation securities, number of underlying securities, and percentage of class** | **Date of issue or grant** | **Issue, conversion or exercise price ($)** | **Closing price of security or underlying security on date of grant ($)** | **Closing price of security or underlying security at year end ($)** | **Expiry date** |
| | | | | | | | |
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(2) Position the tables prescribed in subsections (1) and (4) directly after the table prescribed in section 2.1.

(3) Provide notes to the table to disclose the following:

(a) the total amount of compensation securities, and underlying securities, held by each named executive officer or director on the last day of the most recently completed financial year end;

(b) any compensation security that has been re-priced, cancelled and replaced, had its term extended, or otherwise been materially modified, in the most recently completed financial year, including the original and modified terms, the effective

date, the reason for the modification, and the name of the holder;

(c) any vesting provisions of the compensation securities;

(d) any restrictions or conditions for converting, exercising or exchanging the compensation securities.

(4) Using the following table, disclose each exercise by a director or named executive officer of compensation securities during the most recently completed financial year.

| **Exercise of Compensation Securities by Directors and NEOs** | | | | | | | |
|---|---|---|---|---|---|---|---|
| **Name and position** | **Type of compensation security** | **Number of underlying securities exercised** | **Exercise price per security ($)** | **Date of exercise** | **Closing price per security on date of exercise ($)** | **Difference between exercise price and closing price on date of exercise ($)** | **Total value on exercise date ($)** |
| | | | | | | | |
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(5) For the tables prescribed in subsections (1) and (4), if the individual is a named executive officer and a director, state both positions in the columns entitled "Name and position".

*Commentary*

*For the purposes of the column entitled "Total value on exercise date" multiply the number in the column entitled "Number of underlying securities exercised" by the number in the column entitled "Difference between exercise price and closing price on date of exercise".*

**2.4 Stock option plans and other incentive plans**

(1) Describe the material terms of each stock option plan, stock option agreement made outside of a stock option plan, plan providing for the grant of stock appreciation rights, deferred share units or restricted stock units and any other incentive plan or portion of a plan under which awards are granted.

*Commentary*

*Examples of material terms are vesting provisions, maximum term of options granted, whether or not a stock option plan is a rolling plan, the maximum number or percentage of options that can be granted, method of settlement.*

(2) Indicate for each such plan or agreement whether it has previously been approved by shareholders and, if applicable, when it is next required to be approved.

(3) Disclosure is not required of plans, such as shareholder rights plans, that involve issuance of securities to all securityholders.

**2.5 Employment, consulting and management agreements**

(1) Disclose the material terms of each agreement or arrangement under which compensation was provided during the most recently completed financial year or is payable in respect of services provided to the company or any of its subsidiaries that were

(a) performed by a director or named executive officer, or

(b) performed by any other party but are services typically provided by a director or a named executive officer.

(2) For each agreement or arrangement referred to in subsection (1), disclose each of the following:

(a) the provisions, if any, with respect to change of control, severance, termination or constructive dismissal;

(b) the estimated incremental payments that are triggered by, or result from, change of control, severance, termination or constructive dismissal;

(c) any relationship between the other party to the agreement and a director or named executive officer of the company or any of its subsidiaries.

**2.6 Oversight and description of director and named executive officer compensation**

(1) Disclose who determines director compensation and how and when it is determined.

(2) Disclose who determines named executive officer compensation and how and when it is determined.

(3) For each named executive officer, disclose the following

(a) a description of all significant elements of compensation awarded to, earned by, paid or payable to the named executive officer for the most recently completed

financial year, including at a minimum each element of compensation that accounts for 10% or more of the named executive officer's total compensation;

(b) whether total compensation or any significant element of total compensation is tied to one or more performance criteria or goals, including for example, milestones, agreements or transactions and, if so,

(i) describe the performance criteria and goals, and

(ii) indicate the weight or approximate weight assigned to each performance criterion or goal;

(c) any significant events that have occurred during the most recently completed financial year that have significantly affected compensation including whether any performance criterion or goal was waived or changed and, if so, why;

(d) how the company determines the amount to be paid for each significant element of compensation referred to in paragraph (a), including whether the process is based on objective, identifiable measures or a subjective decision;

(e) whether a peer group is used to determine compensation and, if so, describe the peer group and why it is considered appropriate;

(f) any significant changes to the company's compensation policies that were made during or after the most recently completed financial year that could or will have an effect on director or named executive officer compensation.

(4) Despite subsection (3), if a reasonable person would consider that disclosure of a previously undisclosed specific performance criterion or goal would seriously prejudice the company's interests, the company is not required to disclose the criterion or goal provided that the company does each of the following:

(a) discloses the percentage of the named executive officer's total compensation that relates to the undisclosed criterion or goal;

(b) discloses the anticipated difficulty in achieving the performance criterion or goal;

(c) states that it is relying on this exemption from the disclosure requirement;

(d) explains why disclosing the performance criterion or goal would seriously prejudice its interests.

(5) For the purposes of subsection (4), a company's interests are considered not to be seriously prejudiced solely by disclosing a performance goal or criterion if that criterion or goal is based on broad corporate-level financial performance metrics such as earnings

per share, revenue growth, or earnings before interest, taxes, depreciation and amortization (EBITDA).

**2.7 Pension disclosure**

If the company provides a pension to a director or named executive officer, provide for each such individual the additional disclosure required by Item 5 of Form 51-102F6.

**2.8 Companies reporting in the United States**

(1) Except as provided in subsection (2), SEC issuers may satisfy the requirements of this form by providing the information that they disclose in the United States pursuant to item 402 "Executive compensation" of Regulation S-K under the 1934 Act.

(2) Subsection (1) does not apply to a company that, as a foreign private issuer, satisfies Item 402 of Regulation S-K by providing the information required by Items 6.B "Compensation" and 6.E.2 "Share Ownership" of Form 20-F under the 1934 Act.

**ITEM 3 – EFFECTIVE DATE AND TRANSITION**

**3.1 Effective date**

(1) This form comes into force on xx.

**3.2 Transition**

**xx**

***20. This Instrument comes into force on xx.***

**Proposed Amendments to**
**National Instrument 41-101 *General Prospectus Requirements***

***1. National Instrument 41-101 General Prospectus Requirements is amended by this Instrument.***

***2. Section 1.1 is amended by adding the following definition:***

"Form 51-102F6V" means Form 51-102F6V *Statement of Executive Compensation – Venture Issuers* of NI 51-102;.

***3. The Table of Contents of Form 41-101F1 is amended in Item 5 by striking out "*** *Three-year**" after "**5.2**".***

***4. Subsection 1.9(4) of Form 41-101F1 is amended by adding "**(**" after "**the United States of America**" and by adding "**)**" after "**PLUS Markets Group plc.**".***

***5. Subsections 5.1(2) and (3) of Form 41-101F1 are amended by adding "**, if the issuer is a venture issuer or an IPO venture issuer, the two most recently completed financial years,**" after "**within the three most recently completed financial years or**".***

***6. The heading of section 5.2 of Form 41-101F1 is amended by striking out "**Three-year"**.***

***7. Subsection 5.2(1) of Form 41-101F1 is amended by adding "**or, if the issuer is a venture issuer or an IPO venture issuer, the last two completed financial years,**" after "**over the last three completed financial years**".***

***8. Section 8.2 of Form 41-101F1 is amended by adding the following guidance after subsection (3):***

*GUIDANCE*

*Under section 2.2.1 of Form 51-102F1, a venture issuer, or an IPO venture issuer, without significant revenue in the most recently completed financial year has the option of meeting the requirement to provide interim MD&A under section 2.2 of Form 51-102F1 by providing quarterly highlights disclosure.***.**

***9. Paragraph 8.6(3)(b) of Form 41-101F1 is amended by adding "**if the issuer is not providing disclosure in accordance with section 2.2.1 of Form 51-102F1," ***before "**the most recent year-to-date**".***

***10. Paragraph 8.8(2)(b) of Form 41-101F1 is amended by adding "**if the issuer is not providing disclosure in accordance with section 2.2.1 of Form 51-102F1,**" before "**the most recent year-to-date**".***

***11.*** ***Section 17.1 of Form 41-101F1 is amended by adding "***or, if the issuer is a venture issuer or an IPO venture issuer, in accordance with Form 51-102F6 or Form 51-102F6V***" after "***in accordance with Form 51-102F6***".***

***12.*** ***Section 20.11 of Form 41-101F1 is amended by adding "***)" ***after "***the United States of America***" and adding "***)***" after "***PLUS Markets Group plc.***".***

***13.*** ***Subsection 32.4(1) of Form 41-101F1 is amended by replacing paragraph (a) with the following:***

(a) the statement of comprehensive income, the statement of changes in equity, and the statement of cash flows for the third most recently completed financial year, if the issuer is

(i) an IPO venture issuer, or

(ii) a reporting issuer in at least one jurisdiction immediately before filing the prospectus,**.**

***14.*** ***This Instrument comes into force on xx.***

**Proposed Amendments to**
**National Instrument 52-110 *Audit Committees***

***1. National Instrument 52-110 Audit Committees is amended by this Instrument.***

***2. The Table of Contents is amended by adding "***6.1.1. Composition of Audit Committee***".***

***3. Part 6 is amended by adding the following section:***

**6.1.1. Composition of Audit Committee**

(1) An audit committee of a venture issuer must be composed of a minimum of three members.

(2) Every member of an audit committee of a venture issuer must be a director of the issuer.

(3) A majority of the members of an audit committee of a venture issuer must not be executive officers, employees or control persons of the venture issuer or of an affiliate of the venture issuer**..**

***4. This Instrument comes into force on xx.***

**Annex A2**

**Proposed Changes to**
**Companion Policy to National Instrument 51-102 *Continuous Disclosure Obligations***

***1. The proposed changes to the Companion Policy to National Instrument 51-102 Continuous Disclosure Obligations are set out in this schedule.***

***2. The Table of Contents is changed by adding the following: "***5.6 Venture Issuer Quarterly Highlights***".***

***3. Section 5.4 is changed by***

***a. adding "****,* if the issuer is an issuer that is not providing disclosure in accordance with section 2.2.1 of Form 51-102F1, their***" after "***in their annual or***",***

***b. striking out "***the equity investee would meet the thresholds for the significance tests in Part 8***" and replacing it with ",", and***

***c. striking out "."" after "***as at the issuer's financial year-end***" and replacing it with "****,* either of the following apply

(a) for a reporting issuer that is not a venture issuer, the equity investee would meet the thresholds for the significance tests in Part 8;

(b) for a venture issuer, the equity investee would meet the thresholds for the significance tests in Part 8 if "100 percent" is read as "40 percent".".

***4. Part 5 is changed by adding the following section:***

**5.6 Venture Issuers without Significant Revenue - Quarterly Highlights**

(1) A venture issuer without significant revenue in the most recently completed financial year may be able to satisfy the requirements of section 2.2.1 of Form 51-102F1 with very brief statements.

For instance, a capital pool company may appropriately limit its discussion to "*This quarter we continued to look for a qualifying transaction. Management reviewed a number of proposals but there are no further developments to report at this time*".

A mining venture issuer might appropriately limit its discussion to "*This quarter we continued drilling and general exploration on our Nevada property and we plan to continue doing so. During the quarter, we completed 2 drill holes totalling 500 feet*".

An oil and gas venture issuer might appropriately limit its discussion to "*This quarter our production increased 100 bbl per day. We completed 4 wells and are continuing with our plan to drill 2 more. Production expenses have increased on a per bbl basis due to higher water production*".

(2) A venture issuer that provides quarterly highlights is not required to update its annual MD&A in the quarterly highlights. However, to meet the requirements of section 2.2.1 of Form 51-102F1, the venture issuer should disclose in its quarterly highlights any change, if material, from plans disclosed in the annual MD&A. For example, if a mining issuer discloses a drill program in its annual MD&A and decides to make a change to that drill program in a subsequent interim period, that change, if material, should be disclosed in the quarterly highlights for that period.

(3) When assessing whether an issuer has significant revenue in a financial year, a venture issuer should consider only the actual total revenue reported in its annual financial statements. For example, a venture issuer that begins generating revenue in its fourth quarter should consider whether the amount of revenue generated would be considered significant if the same amount had been earned over the course of a full year. A venture issuer should not annualize revenue earned over a portion of the year when assessing whether those revenues are significant.

(4) For greater certainty, a reference to interim MD&A is a reference to the quarterly highlights a venture issuer without significant revenue has the option of providing in accordance with section 2.2.1 of Form 51-102F1.**.**

***5. These changes become effective on xx.***

**Proposed Changes to**
**Companion Policy to National Instrument 41-101 *General Prospectus Requirements***

***1. The proposed changes to the Companion Policy to National Instrument 41-101 General Prospectus Requirements are set out in this schedule.***

***2. Subsection 4.4(3) is changed***

***a. by striking out "***the equity investee would meet the thresholds for the significance tests in Item 35 of Form 41-101F1" ***and replacing it with ",",***

***b. by striking out the "." and replacing it with ",", and***

***c. by adding the following after "***financial year-end,":

either of the following apply:

(a) for an issuer that is not a venture issuer or an IPO venture issuer, the equity investee would meet the thresholds for the significance tests in Item 35 of Form 41-101F1;

(b) for a venture issuer or an IPO venture issuer, the equity investee would meet the thresholds for the significance tests in Item 35 of Form 41-101F1 if "100 percent" is read as "40 percent"**.**

***3. These changes become effective on xx.***

**Annex A3**

**Blackline Excerpts of Proposed Amendments to**
**National Instrument 51-102**
***Continuous Disclosure Obligations***

*[These excerpts show the proposed amendments blacklined into the current consolidated version. Those portions of the instrument that contain no proposed amendments are denoted by ". . .". These excerpts are provided for illustrative purposes only.]*

**5.3 Additional Disclosure for Venture Issuers without Significant Revenue**

. . .

(2) The disclosure in subsection (1) must be provided for the following periods:

(a) in the case of annual MD&A, for the two most recently completed financial years~~;~~, and

(b) in the case of interim MD&A for an issuer that is not providing disclosure in accordance with section 2.2.1 of Form 51-102F1, for the most recent year-to-date interim period and the comparative year-to-date period presented in the interim financial report.

. . .

**5.4 Disclosure of Outstanding Share Data**

(1) A reporting issuer must disclose in its ~~MD&A~~annual MD&A and, if the issuer is not providing disclosure in accordance with section 2.2.1 of Form 51-102F1, its interim MD&A, the designation and number or principal amount of

(a) each class and series of voting or equity securities of the reporting issuer for which there are securities outstanding;

(b) each class and series of securities of the reporting issuer for which there are securities outstanding if the securities are convertible into, or exercisable or exchangeable for, voting or equity securities of the reporting issuer; and

(c) subject to subsection (2), each class and series of voting or equity securities of the reporting issuer that are issuable on the conversion, exercise or exchange of outstanding securities of the reporting issuer.

. . .

**5.7 Additional Disclosure for Reporting Issuers with Significant Equity Investees**

. . .

(2) The disclosure in subsection (1) must be provided for the following periods:

(a) in the case of annual MD&A, for the two most recently completed financial years; and

(b) in the case of interim MD&A for an issuer that is not providing disclosure in accordance with section 2.2.1 of Form 51-102F1, for the most recent year-to-date interim period and the comparative year-to-date period presented in the interim financial report.

. . .

**8.3 Determination of Significance**

(1) **Significant Acquisitions** – Subject to subsection (3) and subsections 8.10(1) and 8.10(2), an acquisition of a business or related businesses is a significant acquisition,

(a) for a reporting issuer that is not a venture issuer, if the acquisition satisfies any of the three significance tests set out in subsection (2); and

(b) for a venture issuer, if the acquisition satisfies either of the significance tests set out in paragraphs (2)(a) or (b) if "20 percent" is read as "~~40~~100 percent".

. . .

(3) **Optional Significance Tests** – Despite subsection (1) and subject to subsections 8.10(1) and 8.10(2), if an acquisition of a business or related businesses is significant based on the significance tests in subsection (2),

(a) a reporting issuer that is not a venture issuer may re-calculate the significance using the optional significance tests in subsection (4); and

(b) a venture issuer may re-calculate the significance using the optional significance tests in paragraphs (4)(a) or (b) if "20 percent" is read as "~~40~~100 percent".

. . .

**8.4 Financial Statement Disclosure for Significant Acquisitions**

. . .

(5) **Pro Forma Financial Statements Required in a Business Acquisition Report** – If a reporting issuer other than a venture issuer is required to include financial statements in a business acquisition report under subsection (1) or (3), the business acquisition report must include

(a) a pro forma statement of financial position of the reporting issuer,

(i) as at the date of the reporting issuer's most recent statement of financial position filed, that gives effect, as if they had taken place as at the date of the pro forma statement of financial position, to significant acquisitions that have been completed, but are not reflected in the reporting issuer's most recent statement of financial position for an annual or interim period; or

(ii) if the reporting issuer has not filed a statement of financial position for any annual or interim period, as at the date of the acquired business's most recent statement of financial position, that gives effect, as if they had taken place as at the date of the pro forma statement of financial position, to significant acquisitions that have been completed;

(b) a pro forma income statement of the reporting issuer that gives effect to significant acquisitions completed since the beginning of the financial year referred to in clause (i)(A) or (ii)(A), as applicable, as if they had taken place at the beginning of that financial year, for each of the following financial periods:

(i) the reporting issuer's

(A) most recently completed financial year for which it has filed financial statements; and

(B) interim period for which it has filed an interim financial report that started after the period in clause (A) and ended immediately before the acquisition date or, in the reporting issuer's discretion, after the acquisition date; or

(ii) if the reporting issuer has not filed a statement of comprehensive income for any annual or interim period, for the business's or related businesses'

(A) most recently completed financial year that ended before the acquisition date; and

(B) period for which financial statements are included in the business acquisition report under paragraph (3)(a); and

(c) pro forma earnings per share based on the pro forma financial statements referred to in paragraph (b).

. . .

**9.3.1 Content of Information Circular**

(1) Subject to Item 8 of Form 51-102F5, if a reporting issuer ~~sends~~is required to send an information circular to a securityholder under paragraph 9.1(2)(a), the issuer must

(a) disclose all compensation paid, payable, awarded, granted, given or otherwise provided, directly or indirectly, by the issuer, or a subsidiary of the issuer, to each NEO and director, in any capacity, including, for greater certainty, all plan and non-plan compensation, direct and indirect pay, remuneration, economic or financial award, reward, benefit, gift or perquisite paid, payable, awarded, granted, given, or otherwise provided to the NEO or director for services provided, directly or indirectly, to the issuer or a subsidiary of the issuer, and

(b) include detail and discussion of the compensation, and the decision-making process relating to compensation, presented in such a way that it provides a ~~reasonable~~ person, applying reasonable effort, an understanding of

(i) how decisions about NEO and director compensation are made,

(ii) the compensation paid, made payable, awarded, granted, given or otherwise provided to each NEO and director, and

(iii) how specific NEO and director compensation relates to the overall stewardship and governance of the reporting issuer.

(2) The disclosure required under subsection (1) must be provided for the periods set out in~~, in accordance with, and subject to any exemptions set out in, Form 51-102F6 *Statement of Executive Compensation*, which came into force on December 31, 2008~~ and in accordance with Form 51-102F6 *Statement of Executive Compensation*.

(2.1) Despite subsection (2), a venture issuer may provide the disclosure required by subsection (1) for the periods set out in and in accordance with Form 51-102F6V *Statement of Executive Compensation – Venture Issuers*.

(2.2) The disclosure required under subsection (1) must be filed

(a) not later than 140 days after the end of the issuer's most recently completed financial year, in the case of an issuer other than a venture issuer, or

(b) not later than [140 or 180 days] after the end of the issuer's most recently completed financial year, in the case of a venture issuer.

(3) For the purposes of this section, "NEO" and "plan" have the meaning ascribed to those terms in Form 51-102F6 *Statement of Executive Compensation*~~, which came into force on December 31, 2008.~~ or, for a venture issuer relying on subsection 2.1, in Form 51-102F6V *Statement of Executive Compensation – Venture Issuers*.

(4) ~~This section does not apply to an issuer in respect of a financial year ending before December 31, 2008.~~[Repealed]

. . .

**Executive Compensation Disclosure for Certain Reporting Issuers**

(1) A reporting issuer that ~~does~~is not required to send to its securityholders an information circular and does not send an information circular that includes the disclosure required by Item 8 of Form 51-102F5 and that does not file an AIF that includes the executive compensation disclosure required by Item 18 of Form 51-102F2 must

(a) disclose all compensation, paid, payable, awarded, granted, given, or otherwise provided, directly or indirectly, by the issuer, or a subsidiary of the issuer, to each NEO and director, in any capacity, including, for greater certainty, all plan and non-plan compensation, direct and indirect pay, remuneration, economic or financial award, reward, benefit, gift or perquisite paid, payable, awarded, granted, given, or otherwise provided to the NEO or director for services provided, directly or indirectly, to the issuer or a subsidiary of the issuer, and

(b) include detail and discussion of the compensation, and the decision-making process relating to compensation, presented in such a way that it provides a ~~reasonable~~ person, applying reasonable effort, an understanding of

(i) how decisions about NEO and director compensation are made,

(ii) the compensation paid, made payable, awarded, granted, given or otherwise provided to each NEO and director, and

(iii) how specific NEO and director compensation relates to the overall stewardship and governance of the reporting issuer.

(2) The disclosure required under subsection (1) must be provided for the periods set out in, and in accordance with, Form 51-102F6 *Statement of Executive Compensation*~~, which came into force on December 31, 2008~~.

(2.1) Despite subsection (2), a reporting issuer that is a venture issuer may provide the disclosure required under subsection (1) for the periods set out in and in accordance with Form 51-102F6V *Statement of Executive Compensation – Venture Issuers*.

(3) The disclosure required under subsection (1) must be filed not later than 140 days after the end of the reporting issuer's most recently completed financial year.

(4) For the purposes of this section, "NEO" and "plan" have the meaning ascribed to those terms in Form 51-102F6 *Statement of Executive Compensation*~~, which came into force on December 31, 2008.~~ or, for a venture issuer relying on subsection 2.1, in Form 51-102F6V *Statement of Executive Compensation – Venture Issuers*.

(5) This section does not apply to an issuer that satisfies securities legislation requirements relating to information circulars, proxies and proxy solicitation under section 4.6 or 5.7 of National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers*.

(6) ~~This section does not apply to an issuer in respect of a financial year ending before December 31, 2008.~~[Repealed]

**Blackline Excerpts of Proposed Amendments to**
**Form 51-102F1**
***Management's Discussion & Analysis***

*[These excerpts show the proposed amendments blacklined into the current consolidated version. Those portions of the form that contain no proposed amendments are denoted by ". . .". These excerpts are provided for illustrative purposes only.]*

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**PART 1 GENERAL PROVISIONS**

. . .

(g) Venture Issuers Without Significant Revenue – Quarterly Highlights

. . .

**Item 2 Interim MD&A**

. . .

2.2.1 Quarterly highlights

. . .

**PART 1 GENERAL PROVISIONS**

. . .

**(g) Venture Issuers Without Significant Revenue – Quarterly Highlights**

If your company is a venture issuer without significant revenue ~~from operations, focus your discussion and analysis of financial performance on expenditures and progress towards achieving your business objectives and milestones.~~in the most recently completed financial year, you have the option of meeting the requirement to provide interim MD&A under section 2.2 by instead providing quarterly highlights disclosure. Refer to section 2.2.1. The purpose of the quarterly highlights reporting is to provide a brief narrative update about the business activities and financial condition of the company. Provide a short, focused discussion that gives a balanced and accurate picture of the company's business activities during the interim period.

If there was a change to the company's accounting policies during the interim period, include a description of the material effects resulting from the change.

Refer to Companion Policy 51-102CP for guidance on quarterly highlights.

. . .

**PART 2 CONTENT OF MD&A**

**. . .**

**2.2.1 Quarterly Highlights**

If your company is a venture issuer without significant revenue in the most recently completed financial year, you have the option of meeting the requirement to provide interim MD&A under section 2.2 by instead providing a short discussion of your company's operations and liquidity including known trends, demands, major operating statistics and changes thereto, commitments, events, expected or unexpected, or uncertainties that have materially affected your company's operations and liquidity in the quarter or are reasonably likely to have a material effect going forward.

*INSTRUCTIONS*

*If the first MD&A you file in this Form (your first MD&A) is an interim MD&A, you must provide all the disclosure called for in Item 1 in your first MD&A. Base the disclosure, except the disclosure for section 1.3, on your interim financial report. Since you do not have to update the disclosure required in section 1.3 in your interim MD&A, your first MD&A will provide disclosure under section 1.3 based on your annual financial statements.*

*You must focus your discussion on business activities and financial condition. While summaries are to be clear and concise, they are subject to the normal prohibitions against false and misleading statements.*

*Quarterly highlights prepared in accordance with section 2.2.1 are not required for your company's fourth quarter as relevant fourth quarter content will be contained in your company's annual MD&A prepared in accordance with Item 1 (see section 1.10).*

*You must title your quarterly highlights "Interim MD&A – Quarterly Highlights".*

**Blackline Excerpts of Proposed Amendments to**
**Form 41-101F1**
***Information Required in a Prospectus***

*[These excerpts show the proposed amendments blacklined into the current consolidated version. Those portions of the form that contain no proposed amendments are denoted by ". . .". These excerpts are provided for illustrative purposes only.]*

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. . .



. . .

**Market for securities**

**1.9(4)** If the issuer has complied with the requirements of the Instrument as an IPO venture issuer, include a statement, in substantially the following form, with bracketed information completed:

> "As at the date of this prospectus, [name of issuer] does not have any of its securities listed or quoted, has not applied to list or quote any of its securities, and does not intend to apply to list or quote any of its securities, on the Toronto Stock Exchange, a U.S. marketplace, or a marketplace outside Canada and the United States of America (other than the Alternative Investment Market of the London Stock Exchange or the PLUS markets operated by PLUS Markets Group plc)."

. . .

**Describe the business**

**5.1(1)** Describe the business of the issuer and its operating segments that are reportable segments as those terms are described in the issuer's GAAP. Disclose information for each reportable segment of the issuer in accordance with subsection 5.1(1) of Form 51-102F2.

**(2)** Disclose the nature and results of any bankruptcy, receivership or similar proceedings against the issuer or any of its subsidiaries, or any voluntary bankruptcy, receivership or similar proceedings by the issuer or any of its subsidiaries, within the three most recently

completed financial years or, if the issuer is a venture issuer or an IPO venture issuer, the two most recently completed financial years, or completed during or proposed for the current financial year.

**(3)** Disclose the nature and results of any material restructuring transaction of the issuer or any of its subsidiaries within the three most recently completed financial years or, if the issuer is a venture issuer or an IPO venture issuer, the two most recently completed financial years, or completed during or proposed for the current financial year.

**(4)** If the issuer has implemented social or environmental policies that are fundamental to the issuer's operations, such as policies regarding the issuer's relationship with the environment or with the communities in which the issuer does business, or human rights policies, describe them and the steps the issuer has taken to implement them.

**~~Three-year~~ History**

**5.2(1)** Describe how the issuer's business has developed over the last three completed financial years or, if the issuer is a venture issuer or an IPO venture issuer, the last two completed financial years, and any subsequent period to the date of the prospectus, including only events, such as acquisitions or dispositions, or conditions that have influenced the general development of the business.

. . .

**MD&A**

**8.2(1)** Provide MD&A for

(a) the most recent annual financial statements of the issuer included in the prospectus under Item 32, and

(b) the most recent interim financial report of the issuer included in the prospectus under Item 32.

**(2)** If the prospectus includes the issuer's annual statements of comprehensive income, statements of changes in equity, and statements of cash flow for three financial years under Item 32, provide MD&A for the second most recent annual financial statements of the issuer included in the prospectus under Item 32.

**(3)** Despite subsection (2), MD&A for the second most recent annual financial statements of the issuer included in the prospectus under Item 32 may omit disclosure regarding statement of financial position items.

*GUIDANCE*

*Under section 2.2.1 of Form 51-102F1, a venture issuer, or an IPO venture issuer, without significant revenue in the most recently completed financial year has the opton of meeting the requirement to provide interim MD&A under section 2.2 of Form 51-102F1 by providing quarterly highlights disclosure.*

. . .

**Additional disclosure for venture issuers or IPO venture issuers without significant revenue**

**8.6(3)** Provide the disclosure in subsection (1) for the following periods:

(a) the two most recently completed financial years; and

(b) if the issuer is not providing disclosure in accordance with section 2.2.1 of Form 51-102F1, the most recent year-to-date interim period and the comparative year-to-date period presented in the interim financial report included in the prospectus, if any.

. . .

**Additional disclosure for issuers with significant equity investees**

**8.8(2)** Provide the disclosure in subsection (1) for the following periods:

(a) the two most recently completed financial years;

(b) if the issuer is not providing disclosure in accordance with section 2.2.1 of Form 51-102F1, the most recent year-to-date interim period and the comparative year-to-date period presented in the interim financial report included in the prospectus, if any.

. . .

**Disclosure**

**17.1** Include in the prospectus a Statement of Executive Compensation prepared in accordance with Form 51-102F6 or, if the issuer is a venture issuer or an IPO venture issuer, in accordance with Form 51-102F6 or Form 51-102F6V and describe any intention to make any material changes to that compensation.

. . .

**IPO venture issuers**

**20.11** If the issuer has complied with the requirements of the Instrument as an IPO venture issuer, include a statement, in substantially the following form, with bracketed information completed:

> "As at the date of the prospectus, [name of issuer] does not have any of its securities listed or quoted, has not applied to list or quote any of its securities, and does not intend to apply to list or quote any of its securities, on the Toronto Stock Exchange, a U.S. marketplace, or a marketplace outside of Canada and the United States of America (other than the Alternative Investment Market of the London Stock Exchange or the PLUS markets operated by PLUS Markets Group plc)."

. . .

**Exceptions to financial statement requirements**

**32.4(1)** Despite section 32.2, an issuer is not required to include the following financial statements in a prospectus

(a) the statement of comprehensive income, the statement of changes in equity, and the statement of cash flows for the third most recently completed financial year, if the issuer is

(i) an IPO venture issuer, or

(ii) a reporting issuer in at least one jurisdiction immediately before filing the prospectus,

**Annex A4**

**Blackline Excerpts of Proposed Changes to**
**Companion Policy 51-102CP**
***Continuous Disclosure Obligations***

*[These excerpts show the proposed changes blacklined into the current consolidated version. Those portions of the companion policy that contain no proposed changes are denoted by ". . .". These excerpts are provided for illustrative purposes only.]*

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. . .



. . .

**PART 5 MD&A**

. . .

**5.4 Additional Disclosure for Equity Investees**

Section 5.7 of the Instrument requires issuers with significant equity investees to provide in their annual or, if the issuer is an issuer that is not providing disclsoure in accordance with section 2.2.1 of Form 51-102F1, their interim MD&A (unless the information is included in their annual financial statements or interim financial report), summarized information about the equity investee. Generally, we will consider that an equity investee is significant if ~~the equity investee would meet the thresholds for the significance tests in Part 8,~~ using the financial statements of the equity investee and the issuer as at the issuer's financial year-end~~.~~, either of the following apply

(a) for a reporting issuer that is not a venture issuer, the equity investee would meet the thresholds for the significance tests in Part 8;

(b) for a venture issuer, the equity investee would meet the thresholds for the significance tests in Part 8 if "100 percent" is read as "40 percent".

. . .

**5.6 Venture Issuers without Significant Revenue -- Quarterly Highlights**

(1) A venture issuer without significant revenue in the most recently completed financial year may be able to satisfy the requirements of section 2.2.1 of Form 51-102F1 with very brief statements.

For instance, a capital pool company may appropriately limit its discussion to "*This quarter we continued to look for a qualifying transaction. Management reviewed a number of proposals but there are no further developments to report at this time*".

A mining venture issuer might appropriately limit its discussion to "*This quarter we continued drilling and general exploration on our Nevada property and we plan to continue doing so. During the quarter, we completed 2 drill holes totalling 500 feet*".

An oil and gas venture issuer might appropriately limit its discussion to "*This quarter our production increased 100 bbl per day. We completed 4 wells and are continuing with our plan to drill 2 more. Production expenses have increased on a per bbl basis due to higher water production*".

(2) A venture issuer that provides quarterly highlights is not required to update its annual MD&A in the quarterly highlights. However, to meet the requirements of section 2.2.1 of Form 51-102F1, the venture issuer should disclose in its quarterly highlights any change, if material, from plans disclosed in the annual MD&A. For example, if a mining issuer discloses a drill program in its annual MD&A and decides to make a change to that drill program in a subsequent interim period, that change, if material, should be disclosed in the quarterly highlights for that period.

(3) When assessing whether an issuer has significant revenue in a financial year, a venture issuer should consider only the actual total revenue reported in its annual financial statements. For example, a venture issuer that begins generating revenue in its fourth quarter should consider whether the amount of revenue generated would be considered significant if the same amount had been earned over the course of a full year. A venture issuer should not annualize revenue earned over a portion of the year when assessing whether those revenues are significant.

(4) For greater certainty, a reference to interim MD&A is a reference to the quarterly highlights a venture issuer without significant revenue has the option of providing in accordance with section 2.2.1 of Form 51-102F1.

**Blackline Excerpts of Proposed Changes to**
**Companion Policy 41-101CP**
**to National Instrument 41-101**
***General Prospectus Requirements***

*[These excerpts show the proposed changes blacklined into the current consolidated version. Those portions of the companion policy that contain no proposed changes are denoted by ". . .". These excerpts are provided for illustrative purposes only.]*

**MD&A**

. . .

**Additional disclosure for issuers with significant equity investees**

**4.4(3)** Section 8.8 of Form 41-101F1 requires issuers with significant equity investees to provide in their long form prospectuses summarized information about the equity investee. Generally, we will consider that an equity investee is significant if ~~the equity investee would meet the thresholds for the significance tests in Item 35 of Form 41-101F1,~~ using the financial statements of the equity investee and the issuer as at the issuer's financial year-end~~.~~, either of the following apply:

(a) for an issuer that is not a venture issuer or an IPO venture issuer, the equity investee would meet the thresholds for the significance tests in Item 35 of Form 41-101F1;

(b) for a venture issuer or an IPO venture issuer, the equity investee would meet the thresholds for the significance tests in Item 35 of Form 41-101F1 if "100 percent" is read as "40 percent".

## Annex B

## Local matters

There are no local matters to consider at this time.

INCLUDES COMMENT LETTERS

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www.midasgoldcorp.com

May 28, 2014

To: British Columbia Securities Commission
Alberta Securities Commission
Financial and Consumer Affairs Authority (Saskatchewan)
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Financial and Consumer Services Commission (New Brunswick)
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island
Nova Scotia Securities Commission
Securities Commission of Newfoundland and Labrador
Superintendent of Securities, Northwest Territories
Superintendent of Securities, Yukon
Superintendent of Securities, Nunavut

Attention:

Larissa Streu
Senior Legal Counsel, Corporate Finance
British Columbia Securities Commission
P.O. Box 10142, Pacific Centre
701 West Georgia Street
Vancouver, British Columbia V7Y 1L2
Fax: 604-899-6581
lstreu@bcsc.bc.ca

M[e] 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
Fax : 514-864-6381
consultation-en-cours@lautorite.qc.ca

Dear Sirs/Mesdames:

**RE Consultation on Proposed Amendments for venture Issuers**

Further to the proposed amendments to National Instrument 51-102 Continuous Disclosure Obligations, National Instrument 41-101 General Prospectus Requirements and National Instrument 52-110 Audit Committees, please find below my comments thereon:

1. Quarterly Highlights – The distinction as to who has access to the exemption should be made on the basis of significant revenue from ongoing operations; occasional or one off revenue should be excluded from consideration. Those with significant ongoing revenue should be required to provide more fulsome disclosure as per the current requirements. A clear definition of what constitutes "significant revenue" needs to be provided – is it relative to market capitalization, is it an absolute dollar amount?

2. Executive Compensation Disclosure – All issuers should only be required to make one filing per year and it should relate to the requirements for an information circular. Having potentially two reporting events is unnecessary and onerous. No matter what, shareholders would be provided the requisite information annually anyway. I see no benefit in adding a second reporting trigger and it would just add confusion.
3. Business Acquisition Reports – I support inclusion of a business acquisition report if the transaction is material and prospectus funds are being utilized to complete the transaction – new investors should have access to prospectus-level information on the business being acquired in order to make an informed investment decision. I do not think such disclosure is required in the situation of vendor financing since there are no new investors needing to make an investment decision.
4. Audit Committee composition – Venture issuers should have audit committees comprised of a majority of independent directors, however the number does not have to be set at three, it could be two, both of whom are independent. Small boards can function well and as long as there are at least two independent and a majority of independent directors, that should be sufficient.

Yours truly,

Stephen P. Quin

President & CEO

[redacted]

INCLUDES COMMENT LETTERS

**Subject:** FW: Proposed amendments to NI 51-102 (second comment letter)

**From:** David Taylor [redacted]
**Sent:** Friday, June 27, 2014 8:46 AM
**To:** Larissa M. Streu; 'consultation-en-cours@lautorite.qc.ca'
**Subject:** Proposed amendments to NI 51-102

To whom it may concern:

Please see below my response to the invitation for comment on proposed changes to *inter alia* NI 51-102.

As regards the proposed NI 51-120 s.9.3.1(2.2), The introduction of a timing requirement on the MIC (see the proposed NI 51-102 s.9.3.1 (2.2)) would put an implicit control over the timing of the Company's AGM as our MIC and Notice of Meeting are distributed together. This would introduce inconsistency with the BVI Business Companies Act the Company is incorporated under (and, incidentally, the UK Companies Act), and also the Company's articles of association. Our timings typically put us within the proposed 140 day limit in any case, but to my mind, this additional timing requirement is unnecessarily burdensome.

It would be normal amongst FTSE and AIM companies in the UK to incorporate the majority of the relevant disclosures within their annual report, which is an approach I would be keen to see adopted provided repetition is not required when publishing the notice of general meeting.

I hope these comments are useful; please do not hesitate to contact me if you wish to discuss this or any related matter.

Yours faithfully,

**David Taylor FCIS**
Company Secretary

Arian Silver Corporation
Berkeley Square House
Berkeley Square
London
W1J 6BD

[redacted]

August 5, 2014

To: British Columbia Securities Commission
Alberta Securities Commission
Financial and Consumer Affairs Authority (Saskatchewan)
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Financial and Condumer Services Commission (New Brunswick)
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island
Nova Scotia Securities Commission
Securities Commission of Newfoundland and Labrador
Superintendent of Securities, Northwest Territories
Superintendent of Securities, Yukon
Superintendent of Securities, Nunavut

C/o: Larissa Streu
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Email: consultation-en-cours@lautorite.qc.ca

**Re: Amendments to 51-102 Continuous Disclosure Obligations**

Dear Sirs,

FIORE

Further to your request for comments dated May 22, 2014, below is my thoughts on your questions.

I would like to thank you for your efforts to help junior companies provide more relevant and simplified disclosure.

It makes sense to allow junior issuers to provide quarterly highlights as this provides the key information shareholders are looking for and would be easier for them to read with less boilerplate. The significant revenue test is a reasonable one.

The executive compensation disclosure for venture issuers should only be required to be included in the information circular filed for the company's AGM, and there is no need to be within 180 days of year end. As related party disclosure is included in quarterly reports and predominantly consists of stock option grants, once a year disclosure is sufficient.

As far as it relates to BAR's they are a waste of time and effort as the information is predominantly included in the other disclosure documents and adds little to no value, but significant costs. Why do you need a set of financial statements when by your definition they would not be included in a full true and plain disclosure document?

The venture audit committees should have a majority of independent members. The possible exceptions as per NI 52-110 section 3.2-3.9 make sense.

On other changes proposed the table of Director and NEO's in 2.3(4) I think the table should remove date of exercise and price on the date and just allow an aggregate number for the year including gross value realized. If an investor wants to research dates etc. they can go to the SEDI filings.

The disclosure of perquisites as a separate line item seems frivolous and detailed disclosure should only have to be made if it exceeds a certain threshold such as $5,000.

Sincerely,

Gordon Keep
CEO
Fiore Management & Advisory Corp.

August 7, 2014

**BY EMAIL**

British Columbia Securities Commission
Alberta Securities Commission
Financial and Consumer Affairs Authority (Saskatchewan)
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Financial and Consumer Services Commission (New Brunswick)
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island
Nova Scotia Securities Commission
Securities Commission of Newfoundland and Labrador
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Dear Sirs/Mesdames:

**Re: Proposed Amendments to NI 51-102 Continuous Disclosure Obligations, NI 41-101 General Prospectus Requirements and NI 52-110 Audit Committees (the "Proposed Amendments")**

The Canadian Advocacy Council[1] for Canadian CFA Institute[2] Societies (the CAC) appreciates the opportunity to comment on the Proposed Amendments and wishes to provide some general comments on the Proposed Amendments.

[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

We understand that the purpose of the proposed amendments is to focus the disclosure for venture issuers on valuable information reflecting the needs of venture issuer investors, while also streamlining the requirements for the issuers themselves. While we support the change from the original proposal which would have placed all the venture issuer continuous disclosure obligations in an entirely separate regulatory instrument, we remain concerned about placing too high a distinction on the nature of the issuer with respect to continuous disclosure requirements. While we appreciate the time and costs involved in maintaining robust disclosure and the resulting impact on the ability of small issuers to access the public markets, we do not believe that those considerations should outweigh the benefits to investor protection that arise through fulsome disclosure. As a result, we continue to believe that venture issuers should be required to provide the same level of disclosure as other issuers.

As previously noted in our comments on the 2013 proposals, 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. 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.

In the event that the reduced disclosure regime for venture issuers proceeds, we have the following comments on some of the proposed specific requirements.

It is proposed that venture issuers without significant revenue can complete their quarterly interim MD&A using a streamlined disclosure document. In the very early stages of a venture issuer's existence post-IPO, it is particularly important for investors to become comfortable with the issuer's continuous disclosure record. Investors should be given an opportunity to determine whether or not the issuer is expending cash in the manner it disclosed in its IPO prospectus, and thus in the streamlined document the CSA should require robust disclosure with respect to capital expenditures in each quarter. While arguably issuers would have to discuss material changes in expenditures, the Companion Policy could clarify this expectation. In addition, guidance should be provided with respect to the term "significant revenue" such that only the smallest issuers would be exempt from the full MD&A requirements (and the determination of significant revenue is less subjective).

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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 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 119,000 members in 147 countries and territories, including 112,000 CFA charterholders, and 143 member societies. For more information, visit www.cfainstitute.org.

With respect to the proposed changes to the executive compensation disclosure, we do not understand the rationale for reducing the number of individuals for whom disclosure would be required, nor the reduction in the number of years of disclosure from three to two. In our experience, venture issuers tend to have a less complicated corporate structure than more established, senior issuers, and thus should be able to identify the requisite five named executive officers for full disclosure.

We support the requirement for an audit committee to have a majority of independent members. As stated in the notice accompanying the Proposed Amendments, the TSX Venture Exchange already has a similar requirement, and thus requiring all venture issuers to have a majority of independent audit committee members would help place all similarly situated issuers on a level playing field. Independence is key to the proper functioning of the audit committee and its oversight functions relating to the external auditor.

We continue to be of the view that inexperienced investors may purchase venture issuer securities to speculate on large investment returns, and such investors are vulnerable to losses as a result of reduced disclosure requirements. For example, we believe that the business acquisition report requirements should not be amended in the manner proposed. Investors should receive financial statements with respect to a proposed acquisition, both in a prospectus and in continuous disclosure materials when proceeds are being used to finance a proposed acquisition that is significant in the 40% to 100% range in order to make a knowledgeable investment decision.

In order for investors to make fully informed investment decisions, issuers must disclose information in a consistent fashion. If, after a market review and consultation, it is determined that certain information is not useful to investors, it may be preferable to change the disclosure requirements for all issuers such that the disclosure is more meaningful for all parties. Investors may not appreciate the subtleties in financial performance or condition of different companies whether or not in the same industry and assess results and risks properly if the same level of detail is not required to be provided by all issuers.

**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) *Cecilia Wong*

**Cecilia Wong, CFA**
**Chair, Canadian Advocacy Council**

August 8, 2014

**SENT VIA EMAIL**

To: British Columbia Securities Commission
Alberta Securities Commission
Financial and Consumer Affairs Authority (Saskatchewan)
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Financial and Consumer Services Commission (New Brunswick)
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island
Nova Scotia Securities Commission
Securities Commission of Newfoundland and Labrador
Superintendent of Securities, Northwest Territories
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Dear Sirs/Mesdames:

**Re: Proposed Amendments to National Instrument 51-102 *Continuous Disclosure Obligations*, National Instrument 41-101 *General Prospectus Requirements* and National Instrument 52-110 *Audit Committees***

On behalf of a client, we wish to provide comments on the Proposed Amendments to National Instrument 51-102 *Continuous Disclosure Obligations* ("NI 51-102"), National Instrument 41-101 *General Prospectus Requirements* ("NI-41-101") and National Instrument 52-110 *Audit Committees* ("NI 52-110"), published by the Canadian Securities Administrators (the "CSA") on May 22, 2014.



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Our client (the "Company") is a reporting issuer because it has issued non-convertible debt securities to the public. The Company is jointly owned by more than one entity, each of whom has an equal equity and voting stake. None of the Company's equity securities trade on a marketplace.

**NI 52-110**

The proposed changes to NI 52-110 would require venture issuers to have an audit committee composed of three members, a majority of whom must not be executive officers, employees or control persons of the venture issuer or an affiliate of the venture issuer.

As the instrument currently reads, Section 1.2(e) of NI 52-110 provides an exception from the application of NI 52-110 for an issuer that is a "subsidiary entity" if the entity "does not have equity securities (other than non-convertible, non-participating preferred securities) trading on a marketplace,", provided that the parent of the entity is subject to NI 52-110, as set forth in Section 1.2(e)(ii).

In order for the exception to apply, an entity must be a "subsidiary entity" which requires the entity to be "controlled" by a person or company, which is the parent referred to in Section 1.2(e)(ii). "Control" is defined to mean "the direct or indirect power to direct or cause the direction of the management and policies of a person or company, whether through ownership of voting securities or otherwise". We assume that this exception is meant to reflect the fact that, as a controlled entity, the financial results of the subsidiary entity would typically be consolidated into the parent company's results, and the audit committee of the parent would provide oversight of the subsidiary with an appropriate level of independence and financial literacy.

The current exception does not apply to the Company, because it is jointly owned by more than one entity. Although all of the parent entities are subject to and in compliance with NI 52-110, none of the parent entities on its own "controls" the Company within the meaning of the applicable definition (i.e., individually is in a position to direct or cause the direction of the management and policies of the Company).

Ultimately, each parent entity of the Company uses equity accounting with respect to the Company in reporting its own financial position and results and as such, the audit committee of each parent entity provides oversight of the Company as part of the parent entity's processes. Given further that none of the Company's equity securities trade on a marketplace, we do not see a policy reason why the Company should not receive the same exception to the application of NI 52-110 as an entity that is controlled and consolidated by only a single entity.

We submit that:

a) NI 52-110, Section 1.2(e) should be expanded to exempt an entity that does not have equity securities trading on a marketplace, where a majority of its voting securities are held by more than one entity that consolidates or uses equity accounting with respect to the accounts of the issuer entity on their own financial statements and that are subject to and in compliance with NI 52-110; or

b) in the alternative, we would suggest that the CSA consider providing an exception to the proposed venture issuer audit committee composition requirements of Part 6 of NI 52-110, for a venture issuer where a majority of its voting securities are held by entities that consolidate or use equity accounting with respect to the accounts of the issuer entity on their own financial statements and are in compliance with NI 52-110.

In the event that the submissions above are not accepted by the CSA, we would request guidance on the circumstances where the CSA would be willing to grant an exemption order to a venture issuer from the proposed Part 6 of NI 52-110 (specifically, proposed Section 6.1.1).

**Other Submissions**

While the CSA has not requested comments on other venture issuer requirements, the Company would also like to submit a similar proposed revision with respect to National Instrument 58-101 *Disclosure of Corporate Governance Practices* ("NI 58-101").



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We submit that where a majority of a venture issuer's voting securities are held by one or more entities that are subject to NI 58-101 and its financial results are consolidated or incorporated by equity accounting into such parent entities, there is sufficient oversight of the subsidiary entity's governance practices provided by the parents.

Accordingly, we further submit that a more principles-based disclosure would be appropriate, outlining the general manner in which the venture issuer approaches corporate governance, rather than requiring specific disclosure on all of the items currently set forth in Form 58-101F2. While many of such items may well be covered by a venture issuer under more general principles-based disclosure, we suggest that more flexibility in the disclosure requirements than is currently provided under Form 58-101F2 would be appropriate.

Thank you for the opportunity to comment on the proposed amendments. If you have any questions or would like any further clarification on the above, please contact David Taniguchi by telephone at 403-298-1891 or by email at david.taniguchi@gowlings.com.

Sincerely,

**GOWLING LAFLEUR HENDERSON LLP**

/mjb



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INCLUDES COMMENT LETTERS

August 11, 2014

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**BY E-MAIL**

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Securities Commission of Newfoundland and Labrador
Superintendent of Securities, Northwest Territories
Superintendent of Securities, Yukon
Superintendent of Securities, Nunavut

**c/o Larissa Streu**
**Senior Legal Counsel, Corporate Finance**
**British Columbia Securities Commission**

**Anne-Marie Beaudoin**
**Corporate Secretary**
**Autorité des marchés financiers**

Dear Sirs/Mesdames:

**Re: CSA Notice and Request for Comment on Proposed Amendments to:**
- **National Instrument 51-102** ***Continuous Disclosure Obligations***
- **National Instrument 41-101** ***General Prospectus Requirements***
- **National Instrument 52-110** ***Audit Committees***

TSX Venture Exchange ("**TSXV**" or the "**Exchange**") welcomes the opportunity to comment on the above-referenced Notice and Request for Comment (the "**Request for Comment**") published by the Canadian Securities Administrators (the "**CSA**") on May 22, 2014.

As a general overarching comment, TSXV is supportive of the CSA's efforts to tailor and, as applicable, streamline requirements for venture issuers in the areas of continuous disclosure, corporate governance and prospectus offerings. The CSA's historic and continuing distinction of venture issuers from non-venture issuers is an important factor in supporting Canada's public venture capital market and facilitating the ability of early stage enterprises to access the Canadian public markets in a cost effective manner while also ensuring that such issuers provide adequate

disclosure to the public and comply with specified corporate governance practices. The CSA's proposals described in the Request for Comment appear to be a positive step in terms of further recognizing and distinguishing the disclosure and corporate governance considerations applicable to venture issuers as compared to non-venture issuers.

**A. Responses to Questions Posed in the Request for Comment:**

The Request for Comment sets forth eight questions for which the CSA requested specific feedback. Our responses to certain of these questions are as follows (enumerated in the manner set forth in the Request for Comment):

***1. We propose to permit venture issuers without significant revenue in the most recently completed financial year to provide the more tailored and focused "quarterly highlights" form of MD&A in interim periods. Venture issuers that have significant revenue would be required to provide existing interim MD&A for interim periods because we think that larger venture issuers should provide more detailed disclosure.***

***a. Do you agree that we have chosen the correct way to differentiate between venture issuers?***

***b. Should all venture issuers be permitted to provide quarterly highlights disclosure?***

The Exchange is supportive of the CSA's proposal to allow venture issuers to satisfy the interim period MD&A disclosure requirements by providing "quarterly highlights" disclosure in lieu of providing the full MD&A disclosure currently required by Form 51-102F1 *Management's Discussion & Analysis* ("**Form 51-102F1**"). The use of quarterly highlights should, however, not be limited to only those venture issuers without significant revenues. All venture issuers (with or without significant revenues) should be permitted to provide quarterly highlights disclosure in lieu of the full MD&A disclosure currently required by Form 51-102F1.

Allowing ventures issuers with significant revenues to provide quarterly highlights disclosure in lieu of the full MD&A disclosure should not present any material disclosure concerns for the market given that the quarterly highlights are required to discuss all matters that have materially affected a company's operations and liquidity in the quarter (or are reasonably likely to have a material effect going forward). Correspondingly, irrespective of whether or not the venture issuer is revenue generating, the quarterly highlights would require a summary discussion of the information pertinent to the issuer's operations and liquidity.

In the event that the CSA determines that it is necessary to differentiate between venture issuers for MD&A purposes based on a significant revenue threshold, we recommend that NI 51-102 (or its Companion Policy) include specific guidance as to what should be considered "significant revenue" for these purposes.

***2. We are proposing to clarify filing deadlines for executive compensation disclosure by both venture and non-venture issuers. In most cases, the disclosure is contained in an issuer's information circular and the filing deadline is driven by the issuer's corporate law or organizing documents, and the timing of its annual general meeting (AGM). Issuers may also include the disclosure in their Annual Information Form.***

***We are proposing to revise Section 9.3.1 of NI 51-102 to set the deadline for filing executive compensation disclosure by non-venture issuers at 140 days. For venture issuers, we are proposing a corresponding deadline of either 140 days or 180 days. For venture issuers whose corporate law or organizing documents permit a later AGM, an earlier deadline could result in an issuer filing its executive compensation disclosure twice: once as a stand-alone form to meet the deadline in Section 9.3.1 of NI 51-102 and a second time with the information circular filed for the AGM.***

***What is the most appropriate deadline applicable to venture issuers for filing executive compensation disclosure: 140 days, 180 days or some later date? Please explain.***

The Exchange is supportive of the CSA's proposal to implement a new tailored form of executive compensation disclosure for venture issuers. In terms of the appropriate deadline applicable to venture issuers for filing their annual executive compensation disclosure, the Exchange considers 180 days from the financial year end to be reasonable. This should provide issuers with sufficient time to complete the required disclosure while also ensuring that the disclosure is provided to the public within a reasonable period of time following the issuer's financial year end.

It should be noted that in discussions with the Exchange's Local Advisory Committees in June 2014, certain Committee members advised that it is not uncommon for venture issuers to hold their annual general meetings later in their financial year and, as such, it is routine for such issuers to complete their required executive compensation disclosure subsequent to 180 days from their financial year end. Correspondingly, the imposition of a specified deadline for filing executive compensation disclosure would necessitate a change to the disclosure practices of such issuers. The Exchange is sharing this feedback with the CSA for informational purposes only and suggests that the CSA take it into consideration when assessing the impact and appropriateness of a specified deadline for filing executive compensation disclosure.

***3. Do you think that a prospectus should always include BAR-level disclosure about a propose acquisition if***

- ***it is significant in the 40% to 100% range; and***
- ***any proceeds of the prospectus offering will be used to finance the proposed acquisition?***

***Why or why not?***

Yes. Please see our response to question 6 below.

***4. Do you think that an information circular should always include BAR-level disclosure about a propose acquisition if***

- ***it is significant in the 40% to 100% range; and***
- ***the matter to be voted on is the proposed acquisition?***

***Why or why not?***

Yes. Please see our response to question 6 below.

***5. Do you think we should require BAR-level disclosure in a prospectus where***

- ***financing has been provided (by a vendor or third party) in respect of a recently completed acquisition significant in the 40% to 100% range; and***
- ***any proceeds of the offering are allocated to the repayment of the financing.***

***Why or why not?***

Yes. Please see our response to question 6 below.

***6. If we were to require BAR-level disclosure in situations outlined above in questions 3, 4 and 5, the significance threshold for prospectus and information circular disclosure will not be harmonized with the threshold for continuous disclosure. Is this a problem?***

The Exchange is supportive of the CSA's proposal to increase the significance threshold for BARs from 40% to 100% for venture issuers (thereby reducing the instances where BARs are required). The Exchange, however, does not object to the significance threshold for prospectus and information circular disclosure remaining at 40% in the circumstances described in questions 3, 4 and 5 above and therefore not being harmonized with the threshold for continuous disclosure.

On a related note and of specific relevance to the Exchange are the financial statement requirements applicable to a private issuer (a "**Privco**") that indirectly lists on the Exchange by way of a Reverse Takeover, Change of Business or Qualifying Transaction (as such terms are defined in the Exchange's Corporate Finance Manual) with an existing Exchange-listed issuer (a "**Pubco**"). The Exchange considers it necessary for the applicable disclosure document filed in connection with such listing transactions (whether a prospectus, information circular or filing statement) to contain the financial statements of the Privco that would be required in an initial public offering prospectus for the Privco (if it were to file one). Given that it is possible for such indirect listing transactions to fall below the 100% significance threshold or not otherwise constitute a restructuring transaction (as defined in NI 51-102) for the Pubco (and therefore not trigger financial statement requirements for the Privco), the Exchange is concerned that if the CSA increases the significance threshold for prospectus disclosure from 40% to 100% there may be a material discrepancy between the financial statement requirements applicable to a Privco in a direct listing scenario as compared to an indirect listing scenario. Specifically, the Privco could potentially be in compliance with the prospectus-level disclosure requirement in both circumstances despite not having to provide financial statements in the latter. Within the context of Privco's indirectly listing on the Exchange, this discrepancy would be mitigated by the Exchange's prescribed financial statement requirements for Reverse Takeovers, Changes of Business and Qualifying Transactions, however, in the absence of these Exchange requirements, an increase in the significance threshold for prospectus disclosure from 40% to 100% may result in situations where a Privco can indirectly become a reporting issuer without having to provide any financial statements.

***8. Do you think we should provide exceptions from our proposed audit committee composition requirements for venture issuers similar to the exceptions in sections 3.2 to 3.9 of NI 52-110? If so, which exceptions do you think are appropriate?***

The Exchange is supportive of the CSA's proposal to impose independence requirements on the audit committees of venture issuers. In terms of exceptions to these independence requirements, as the independence requirements are materially different and less onerous than the independence requirements applicable to non-venture issuers, it may not be necessary to offer venture issuers all of the same exceptions that are available to non-venture issuers in Part 3 of NI 52-110. That being said, it would appear reasonable for the exceptions set forth in sections 3.4 (Events Outside Control of Member) and 3.5 (Death, Disability or Resignation of a Member) to apply to venture issuers (whether in their current form or in a modified form specific to venture issuers).

On a related note, although the CSA proposal includes implementing certain audit committee independence requirements for venture issuers, it does not include a financial literacy requirement. The Exchange recommends that NI 52-110 require that at least one member of a venture issuer's audit committee be financially literate (having the same meaning as set forth in section 1.6 of NI 52-110). This would be a prudent means of helping ensure that a venture issuer's audit committee has the necessary knowledge and expertise to read and understand a set of financial statements.

Thank you for the opportunity to provide our comments and feedback on this CSA initiative. 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


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August 15, 2014

Alberta Securities Commission
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Dear Ms. Streu and M[e] Beaudoin:

**Re: Proposed Amendments to NI 51-102, NI 41-101 and NI 52-110 ("Proposed Amendments")**

The Small Company Advisory Group (SCAG) of the Chartered Professional Accountants of Canada (CPA Canada) provides CPA Canada with advice about the needs of small and medium Canadian public companies. Members of the SCAG all work in this important sector of the Canadian economy as senior executives, financial management, directors and audit committee members, or auditors.

In general, the SCAG is supportive of the Proposed Amendments as they are meant to help venture issuers focus on the disclosures that reflect investor needs and eliminate disclosures that may be less valuable to investors while also streamlining the disclosure requirements and enhancing governance requirements in a cost efficient manner.

Venture issuers are 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. Accordingly, the SCAG welcomes the Proposed Amendments outlined in the CSA Notice and Request for Comment.

We also would like to provide comments on the specific questions outlined in the Request for Comment.

***Quarterly Highlights***

1. a. Do you agree that we have chosen the correct way to differentiate between venture issuers?

Comments: *We do not agree with the use of significant revenue as the only metric to differentiate between venture issuers. A venture issuer could have significant capital expenditures or research and development costs but have no revenue – each of these venture issuers should be complying with the existing interim MD&A disclosure requirements.*

*We also believe that more guidance should be provided on what constitutes significant revenue. Metrics used to differentiate venture issuers should include significant capital expenditures and research & development costs to determine which issuers would be permitted to do the quarterly highlights instead of the MD&A.*

1. b. Should all venture issuers be permitted to provide quarterly highlights disclosure?

Comments: *Given there are some larger public companies on the venture exchange, we do not think that all venture issuers should be permitted to provide the quarterly highlights disclosure. We believe that only the venture issuers that meet the criteria outlined should be allowed to do the interim highlights disclosure.*

***Executive Compensation***

2. What is the most appropriate deadline applicable to venture issuers for filing executive compensation disclosure: 140 days, 180 days or some later date? Please explain.

*Comments*: *In terms of the most appropriate deadline applicable to venture issuers for filing executive compensation disclosure, we recommend 180 days as the most appropriate deadline to align the financial reporting deadlines with the executive compensation disclosures. If an earlier deadline of 140 days was used, venture issuers may have to file the same information twice, which is not a value-added activity and increases the chances of error.*

***BARs – on proposed and recently completed acquisitions***

3. Do you think that a prospectus should always include BAR-level disclosure about a proposed acquisition if

- it is significant in the 40% to 100% range, and
- any proceeds of the prospectus offering will be used to finance the proposed acquisition?

Why or why not?

Comments: *If the essence of the transaction is disclosed, through satisfying the requirement for **full, true and plain disclosure**, then BAR disclosure would not always be required.*

4. Do you think that an information circular should always include BAR-level disclosure about a proposed acquisition if

- it is significant in the 40% to 100% range, and
- the matter to be voted on is the proposed acquisition?

Why or why not?

Comments: *If the essence of the acquisition is disclosed, through satisfying the requirement for **full, true and plain disclosure**, then BAR disclosure would not always be required.*

5. Do you think we should require BAR-level disclosure in a prospectus where

- financing has been provided (by a vendor or third party) in respect of a recently completed acquisition significant in the 40% to 100% range, and
- any proceeds of the offering are allocated to the repayment of the financing.

Why or why not?

Comments: *If the essence of the financing is disclosed, through satisfying the requirement for **full, true and plain disclosure**, then BAR disclosure would not always be required.*

6. If we were to require BAR-level disclosure in the situations outlined above in questions 3, 4 and 5, the significance threshold for prospectus and information circular disclosure will not be harmonized with the threshold for continuous disclosure. Is this a problem?

Comments: *This question is not applicable as our answers are the same for 3, 4 and 5.*

7. If we do not require BAR-level disclosure in the situations outlined above in questions 3, 4, and 5, do you think an investor will be able to make an informed investment or voting decision?

Comments: *Once again, if the essence of the transaction is disclosed through satisfying the requirement for **full, true and plain disclosure**, then an investor should have sufficient information on which to make an informed investment or voting decision.*

**Audit Committees**

8. Do you think we should provide exceptions from our proposed audit committee composition requirements for venture issuers similar to the exceptions in sections 3.2 to 3.9 of NI 52-110? If so, which exceptions do you think are appropriate?

Comments: *We believe all these exceptions should be allowed for venture issuers.*

**Closing**

We support these steps being taken by the Canadian Securities Administrators to help venture issuers manage their reporting requirements on a cost effective basis while maintaining appropriate disclosures.

Yours truly,

Joan E. Dunne, CA
Chair, Small Company Advisory Group

Gordon Beal, CPA, CA, M. Ed
Vice-President, Research, Guidance and Support
Chartered Professional Accountants of Canada

Pension Investment
Association of Canada

Association canadienne des
gestionnaires de caisses de retraite

August 18, 2014

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: **Larissa Streu**
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**Anne-Marie Beaudoin**
**Corporate Secretary**
Authorité des marchés financiers
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Montreal, Quebec, H4Z 1G3
consultation-en-cours@lautorite.qc.ca

**RE: Proposed amendments to NI 51-102 Continuous Disclosure Obligations, NI 41-101 General Prospectus Requirements and NI 52-110 Audit Committees**

BY EMAIL

Dear Sir/Madam:

This submission is made by the Pension Investment Association of Canada ("PIAC") in reply to the request for comments published on May 22, 2014 by the Canadian Securities Administrators ("CSA") on proposed amendments to National Instruments 51-102, 41-101 and 52-110 ("Proposed Amendments").

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 and 2012 request for comments on the Proposed National Instrument 51-103 Ongoing Governance and Disclosure Requirements for Venture Issuers (the "Previous Proposals"), PIAC is generally supportive of regulatory changes that streamline disclosure requirements and reduce expenses for venture issuers, provided that investors remain adequately protected. We remain concerned that some of the provisions outlined in the Proposed Amendments 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.

*Quarterly highlights*

We welcome the CSA decision to maintain interim financial reports for venture issuers. We are comfortable with the proposal to require venture issuers without significant revenue in the most recently completed financial year to provide "quarterly highlights" form of MD&A in interim periods. We believe that the "quarterly highlights" form of MD&A should be subject to the same certification obligations as interim MD&A required from non-venture issuers.

*Executive Compensation Disclosure*

To avoid duplication of disclosure obligations, we would support a proposal to only require executive compensation disclosure in the information circular notwithstanding when an annual general meeting needs to be held.

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 to the Previous Proposals, 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.

*Business Acquisition Reporting*

In the event of a significant business acquisition in the 40% to 100% range, we believe that financial statements are always useful because they provide certain asset specific information within the notes sections that would otherwise be unavailable post-merger/amalgamation. Given the value of the financial statements, we consider the proposed increase of the threshold from 40% to 100% of market capitalization of the issuer too high, as it would result in disclosure only within a limited set of circumstances. We believe that a prospectus should always include business acquisition reporting - level disclosure requirements about significant business acquisition in the 40% to 100% range.

*Audit Committee members*

We encourage the CSA to require stronger governance standards for venture issuers on the composition of its audit committees. We believe that the governance standards for audit committees should be consistent no matter the size of the issuer. Therefore, we would encourage the CSA to consider amendments that would require venture issuers to have an audit committee consisting of at least three members, all of whom are independent.

We appreciate this opportunity to comment. Please do not hesitate to contact Katharine Preston, Acting Chair of the Corporate Governance Committee (416-681-2944 or kpreston@optrust.com) if you wish to discuss any aspect of this letter in further detail.

Yours sincerely,

Michael Keenan
Chair

Canadian Coalition for GOOD GOVERNANCE

THE VOICE OF THE SHAREHOLDER

August 19, 2014

British Columbia Securities Commission
Alberta Securities Commission
Financial and Consumer Affairs Authority (Saskatchewan)
Manitoba Securities Commission
Ontario Securities Commission
Autorite des marches financiers
Financial and Consumer Services Commission (New Brunswick)
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island
Nova Scotia Securities Commission
Securities Commission of Newfoundland and Labrador
Superintendent of Securities, Northwest Territories
Superintendent of Securities, Yukon
Superintendent of Securities, Nunavut

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consultation-en-cours@lautorite.qc.ca

Dear Sir/Madam:

Re: CSA Notice and Request for Comment to
National Instrument 51-102 *Continuous Disclosure Obligations*
National Instrument 41-101 *General Prospectus Requirements* and
National Instrument *52-110 Audit Committees* (the "Request for Comment" or the "Proposed Amendments")

We have reviewed the Request for Comment released May 22, 2014 and we thank the Canadian Securities Administrators ("CSA") for the opportunity to provide you with our comments.

CCGG's members are Canadian institutional investors that together manage over $2.5 trillion in assets on behalf of pension funds, mutual fund unit holders, and other institutional and individual investors. CCGG promotes good governance practices in Canadian public companies in order to best align the interests of boards and management with those of their shareholders. We also seek to improve Canada's regulatory framework to strengthen the efficiency and effectiveness of the Canadian capital markets. A list of our members is attached to this submission.

In this comment letter we respond only to the corporate governance issues raised by the Request for Comment that are relevant to our members.

*Overview*

Listing on an exchange in Canada is a privilege and not a right: there must be appropriate protections for investors in those companies that have the imprimatur bestowed by a listing. As we commented previously on prior proposals to streamline venture issuer regulation,[1] we continue to believe that the Proposed Amendments overall will result in less protection for investors and have the potential to adversely affect the reputation of the Canadian capital markets among international investors. 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 existing regime already recognizes some of the unique aspects of venture issuers through less stringent governance disclosure requirements for them. The Proposed Amendments also eliminate information that is valuable to investors. The adoption of the Proposed Amendments also may have the unintended consequence of incentivizing issuers to list on the TSX-V rather than the TSX solely for the purpose of limiting their disclosure and governance obligations.

*Quarterly Reporting*

We are pleased that the Proposed Amendments continue to have quarterly reporting obligations for venture issuers and do not disagree with the proposal that venture issuers without significant revenue be able to file streamlined 'quarterly highlights" in each of the first three quarters. We believe that the quarterly highlights should be certified by management.

We do not think that venture issuers with significant revenue should be permitted to provide quarterly highlights disclosure.

*Increased Significant Acquisition Threshold and Reduced Business Acquisition Reporting*

The Proposed Amendments would increase the level at which an acquisition will be considered "significant", and thus require a venture issuer to file a Business Acquisition Report ("BAR"), from 40% to 100%. CCGG believes that increasing the threshold is inappropriate and that acquisitions in the 40% to 100% range are by nature significant. Information about such acquisitions should be publicly disclosed to shareholders with the amount of detail, including the financial information, required in a Form 51-102F4 BAR.

In addition, we disagree with the proposal to eliminate the requirement that BARs filed by venture issuers must include pro forma financial statements.

Further, CCGG is concerned with the issue that the Request for Comment highlights: namely, if the proceeds of a prospectus offering will be used to finance a proposed acquisition in the 40% to 100% range,

[1] CCGG's three earlier comment letters can be found at:
http://www.ccgg.ca/site/ccgg/assets/pdf/CSA_Multilateral_Consultation_Paper.pdf;
hnp://www.ccgg.ca/site/ccgg/assetsfpdf/Submission_to_CSA_re_Proposed_National_Instrument_51-103_Venture_Issuers_signed.pdf;
http://www.ccgg.ca/site/ccgg/assets/pdf/submi ssion_to_csa_re_venture_issuer_regulation. pdf

there will be no specific requirement in the Proposed Amendments to include any disclosure about the proposed acquisition in the prospectus. The prospectus would still be subject to the requirement to provide full, true and plain disclosure of all material facts relating to the securities to be distributed but, as the Request for Comment points out, if financial statements of the business being acquired are not viewed as necessary to meet the full, true and plain disclosure standard, there may be no financial statements related to the business to be acquired in the prospectus.

In answer to question 3 posed in the Request for Comment, i.e. "do you think that a prospectus should always include BAR-level discourse about a proposed acquisition if it is significant in the 40% to 100% range and any proceeds of the prospectus offering will be used to finance the proposed acquisition?", CCGG is of the view that it should always be included. Because CCGG does not believe that the BAR threshold should be raised from 40% to 100%, however, we believe the problem is better avoided by retaining the current 40% threshold.

On the same basis, CCGG would answer the following questions posed in the Request for Comment in the affirmative:

4. "Do you think that an information circular should always include BAR-level disclosure about a proposed acquisition if it is significant in the 40% to 100% range, and the matter to be voted on is the proposed acquisition?" and
5. "Do you think we should require BAR-level disclosure in a prospectus where financing has been provided (by a vendor or third party) in respect of a recently complete acquisition significant in the 40% to 100% range and any proceeds of the offering are allocated to the repayment of the financing?"

In response to question 6 in the Request for Comment as to whether it would be a problem if the significance threshold for prospectus and information circular disclosure are not harmonized with the threshold for continuous disclosure, which will occur if the Proposed Amendments are adopted, CCGG is of the view that there will be a logical inconsistency in the two disclosure regimes - the appropriate response is to not change the threshold in the continuous disclosure regime from 40% to 100%.

In response to question 7 in the Request for Comment, we do not believe that investors will be able to make a sufficiently informed investment or voting decision if BAR-level disclosure is not required in the prospectus and information circular situations referred to above.

*Reduced Compensation Disclosure*

We continue to maintain that all public companies should be providing the same level of executive compensation disclosure. We do not believe that the disclosure required under the current regime is a significant burden for issuers. Nor do we believe that what is proposed in the Request for Comment will in fact reduce the burden on venture issuers in any meaningful way, but at the same time it will keep important information from shareholders. The information revealed by comprehensive executive compensation disclosure goes beyond merely the amounts disclosed: it enables shareholders to gather information about whether a board is properly carrying out its stewardship role of overseeing management and ensuring that executive pay is aligned with company performance. Executive compensation may be the most tangible manifestation that shareholders have of how effectively this role is being carried out.

In particular, we believe that combining NEO and director compensation information into one table reduces the clarity and utility ofthat disclosure, while doing nothing to lessen the burden on venture issuers. It is implausible to suggest that separating the same information into two tables is more onerous than placing the same information in one table. It also has the effect of implying that the roles of management and directors, and the way they should be compensated for those roles, are similar, which is incorrect. We

believe it is especially important to be clear on the differences between these roles in the case of venture issuers since they are more likely to have related parties in executive and director roles. The Proposed Amendments also appear to contemplate aggregating the compensation for two different roles (e.g. CEO and director) into one figure within the table. We suggest that it should be very clear whether the CEO, for example, is receiving options in his or her capacity as CEO or as a director. To do otherwise would seem to defeat the purpose of the disclosure.

Further, we understand that one of the goals of the CSA in adopting the use of a Summary Compensation Table in 2008 was to provide shareholders with one aggregate number that would tell them what directors intended to pay each named executive officer in a particular year. By removing information about compensation securities from the Summary Compensation Table, and placing it in a separate Compensation Securities Table which does not require valuations, this goal is frustrated. The information is just as relevant to investors in venture issuers as it is for investors in other public companies.

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 intends to pay an executive at the time the award is 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 the 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. In any case, options should not be granted without an understanding of the value of those options. We question the monetary savings that the CSA states would be realized by venture issuers with the elimination of the need to have a valuation undertaken for options awarded since this must be done annually for accounting purposes in any event.

We note that under section 2.3 (3)(a) of proposed Form 51-102F6V, the Compensation Securities Table must be accompanied by a note that discloses "the total amount of compensation securities, and underlying securities, held by each named executive officer or director" but that it is not clear whether "amount" refers to number or value of securities held. CCGG believes both should be disclosed.

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.

Similarly, we do not support 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 link.

In summary, the proposed changes to compensation disclosure will be a step backwards in the progress that has been made since new executive compensation disclosure rules were adopted in 2008 and 2011 in order to make compensation decisions and their rationale clearer for the owners of public companies. In the end, owners of venture issuers, which comprise the majority of Canadian public companies, will have

significantly less meaningful executive compensation information than non-venture owners and CCGG believes this is not a positive step for the capital markets and cannot be justified on a cost/benefit analysis. While the proposal to replace interim MD&As with quarterly financials for venture issuers without significant revenue will no doubt reduce the time and cost burden on venture issuers while continuing to provide necessary information to investors, the same will not be true of the proposed executive compensation disclosure. We question the statement that investors will benefit because the disclosure would be more "concise, salient and easier to understand". While the disclosure may be more concise it will not be more salient or easier to understand and in fact will prove the opposite: investors will not have all the information they need to make a meaningful assessment of executive compensation decisions.

*Composition of Audit Committee*

We support the CSA's move to introduce a mandatory independence standard to the composition of audit committees of venture issuers, which are currently exempt from the independence requirements of National Instrument 52-110 *Audit Committees*.[2] We suggest, however, that the CSA should go further and introduce a more stringent independence requirement, as well as an expectation of financial literacy, for members of venture issuer audit committees.

The proposed amendments would require that for venture issuers:

- Audit committees be composed of at least three members, and
- A majority of the members of the audit committee must not be executive officers, employees or control persons of the venture issuer or of an affiliate of the venture issuer

The first requirement is the same as for non-venture issuers. The second, however, falls short of the non-venture requirements in two ways: (i) only a majority of the members must reflect the specified standard of independence whereas for non-venture issuers all of the audit committee members must be independent and (ii) the standard of independence required is not as stringent. CCGG believes that both of these shortcomings should be remedied.

It is CCGG's view that the audit committees of all public companies should be wholly independent, given the unique importance of the audit committee role in protecting the investors' interests. The proposed independence requirements for venture issuers would permit legal and other advisors, consultants and family members of executive officers or employees to sit on the audit committee and we do not believe this is any more appropriate for smaller public companies than it is for larger more established ones. At the very least, CCGG suggests that if CCGG's views are not accepted and thus the less stringent standard of independence is retained, then all of the members of the audit committee must meet that standard and not just a majority. Further, the chair of the audit committee should be independent.

Similarly, while all of the members of a non-venture issuer's audit committee must be financially literate, there are no financial literacy requirements for audit committees of venture issuers. Given that the applicable definition of 'financially literate' is not demanding[3], CCGG believes that this minimum level of expertise and understanding should be required of the audit committee members of venture issuers.

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[2] Section 6.1 of National Instrument 52-110 *Audit Committees*. We noted in an earlier submission to the CSA on venture issuer regulation, however, that venture issuers were already subject to audit committee independence standards by virtue of the CBCA, OBCA and the TSX-V listing requirements.

[3] Companion Policy 52-110CP *to National Instrument 52-110 Audit Committees, Part 4, Financial Literacy, Financial Education and Experience:* "an individual is financially literate if he or she has the ability to read and understand a set of financial statements that present a breadth and level of complexity that are generally comparable to the issues that can reasonably be expected to be raised by the issuer's financial statements".

In response to question 8 posed in the Request for Comment, if the Proposed Amendments with respect to audit committee independence are adopted we do not believe that exemptions similar to those found in sections 3.2 to 3.9 of NI 52-110 should be provided.

***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 ofthe 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.

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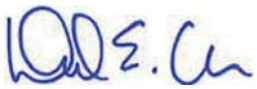
We thank you again for the opportunity to provide you with our comments. If you have any questions regarding the above, please feel free to contact our Executive Director, Stephen Erlichman, at 416.847.0524 or serlichman@ccgg .ca or our Director of Policy Development, Catherine McCall at 416.868.3582 or cmccall@ccgg.ca.

Yours very truly,



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

INCLUDES COMMENT LETTERS

# CCGG MEMBERS

Alberta Investment Management Corporation (AIMCo)
Alberta Teachers' Retirement Fund Board
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BlackRock Asset Management Canada Limited
BMO Harris Investment Management Inc.
BNY Mellon Asset Management Canada Ltd.
British Columbia Investment Management Corporation (bcIMC)
Burgundy Asset Management Ltd.
Canada Pension Plan Investment Board (CPPIB)
Canada Post Corporation Registered Pension Plan
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Manulife Asset Management Limited
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Workers' Compensation Board - Alberta
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**Collaboration Partner**
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INCLUDES COMMENT LETTERS

100 Lombard Street, Suite 302, Toronto, ON M5C 1M3

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**Delivered By Email**

August 19, 2014

British Columbia Securities Commission
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Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island
Nova Scotia Securities Commission
Securities Commission of Newfoundland and Labrador
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Registrar of Securities, Yukon
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Me Anne-Marie Beaudoin
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Montréal, QC H4Z 1G3

Dear Sirs/Mesdames:

**Re: Proposed Amendments to Disclosure Regime for Venture Issuers**

We are pleased to offer our comments on the proposed amendments to the disclosure and governance regime for venture issuers, published on May 22, 2014.

Siskinds LLP is one of the leading plaintiff securities class action firms in Canada. We act in a broad range of shareholder rights litigation, with a focus on representing institutional and retail shareholders in securities class actions arising out of misleading disclosure. We are or have been counsel in a number of cases against issuers that are "venture issuers" under Canadian securities rules.

We previously submitted a comment letter in respect of proposed National Instrument 51-103 – *Ongoing Governance and Disclosure Requirements for Venture Issuers*. For your convenience, we enclose a copy of that letter. We reiterate the general observations in our

earlier comment letter as to why it is important that there be a robust disclosure and governance regime for venture issuers, including that:

- there is a heightened risk of fraud among venture issuers;
- there are economic limitations on the ability of investors to obtain a remedy against venture issuers, which means that there is a need for more robust public regulation; and
- fraud among venture issuers is likely to have a greater impact on retail investors, who are proportionately more likely to invest in venture issuers.

Other than the proposed requirement for venture issuers' audit committees to have a majority of independent members (which proposal we support), we do not support the proposed amendments and urge the CSA to abandon them. Venture issuers already have the benefit of significant exemptions from disclosure and governance obligations under Canadian securities rules, and any further relaxation of the rules for venture issuers would need to be based on a compelling justification. While the current proposed amendments are not as extensive as the amendments proposed in National Instrument 51-103, we see no compelling justification for the current proposed amendments.

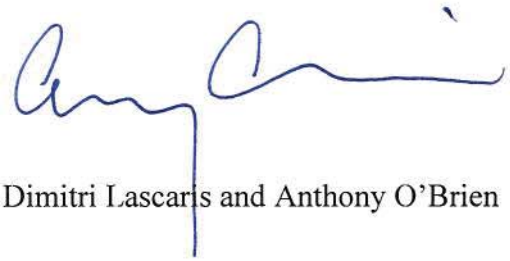
We are particularly concerned by the proposal to replace interim MD&As with "quarterly highlights" for venture issuers without "significant revenue". As we stated in our previous comment letter, interim MD&As provide highly valuable disclosure and they should be retained. If an issuer elects to become a reporting issuer in Canada, investors have expectations as to the body of disclosure that will be made available to them on a continuous basis and, in our view, interim MD&As form part of the body of disclosure that investors expect to receive.

We also note that there is no definition or guidance in the rules with respect to the meaning of "significant revenue". We note that the term already appears in National Instrument 51-102, but it currently serves to expand the disclosure obligations of venture issuers, not to limit those obligations as under the current proposals. It is not appropriate to leave this entirely to the discretion of issuers.

Thank you for your consideration of our comments.

Yours truly,

Siskinds LLP



Per:
A. Dimitri Lascaris and Anthony O'Brien

680 Waterloo Street, London, ON N6A 3V8

SISKINDS | THE LAW FIRM

EMAIL dimitri.lascaris@siskinds.com

**Delivered by Email**

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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Anne-Marie Beaudoin
Corporate Secretary
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800, square Victoria, 22e étage
C.P. 246, tour de la Bourse
Montreal, QC H4Z 1G3

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.

August 20, 2014

British Columbia Securities Commission
Alberta Securities Commission
Financial and Consumer Affairs Authority (Saskatchewan)
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Financial and Consumer Services Commission (New Brunswick)
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island
Nova Scotia Securities Commission
Securities Commission of Newfoundland and Labrador
Superintendent of Securities, Northwest Territories
Superintendent of Securities, Yukon
Superintendent of Securities, Nunavut

**Also, address comments ONLY to the following for distribution to other participating CSA members**

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Vancouver, British Columbia V7Y 1L2
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M[e] Anne-Marie Beaudoin
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consultation-en-cours@lautorite.qc.ca

Dear Sirs/Mesdames:

**Re: Proposed amendments to NI 51-102**

Thank you for the opportunity to comment on the proposed amendments to NI 51-102. We agree with several of the proposed amendments, and with the concept of relieving some of the documentation and regulatory burden placed upon venture issuers. We have reviewed the request for comments and provided below our responses to selected questions.

Conceptually, we agree with the idea of reduced disclosure requirements – the quarterly highlights – for those venture issuers who have yet to generate significant revenue. However, we believe that a definition of "significant revenue", and detailed application instruction, is needed in order to improve understanding and consistency of implementation amongst venture issuers. Further, as the annual MD&A requirements are not being changed under the proposal, we would expect many venture issuers would simply roll forward the annual MD&A disclosures, rather than investing time to revise and revamp the MD&A to provide only quarterly highlights. As a result, we anticipate that ongoing cost savings as a result of this proposed change will be minimal; in fact, on initial implementation, we would expect costs to increase as venture issuers would likely face professional fees from their legal counsel and/or financial consultants in the review of the first quarterly highlights report.

For executive compensation, we support the current requirement to disclose a maximum of 5 individuals and 3 years. For many venture issuers, there are only a few executives, and the majority of these issuers' expenses tend to be management and executive salaries. As many venture issuers are cash constrained, or pre-revenue, we believe that, instead of limiting disclosure to a maximum of three individuals (the CEO, the CFO, and the next highest paid executive), investors' and stakeholders' needs might be better served by requiring that a minimum of three individuals' (including the CEO and CFO) compensation be disclosed.

We support the proposal to eliminate the requirement to disclose the grant date fair value of stock options and other share-based awards to executives as this information is available in the financial statements. The financial statement disclosure of detailed information about stock options and other equity-based awards issued, held and exercised, will provide sufficient information for investors to assess how, and to what extent, the issuer's executives are being compensated. For many venture issuers, the grant date fair value of awards tends to distort the true compensation paid to executives and board members, as many of these options and other share-based awards expire unexercised.

Although we support the elimination of grant date fair value of stock options and other share-based awards to executives, we believe there is merit to retaining disclosure of executive compensation for 3 years. Investors rely on management to ensure appropriate stewardship of the issuer, and a third year of disclosure may show trends and provide better insight into evaluating changes in executive compensation against the issuer's performance.

That being said, we support the proposal to reduce, from three to two, the number of years of audited historical financial statements and related disclosures in the "Description of the business and history". For many venture issuers, the third year is not as relevant in an initial public offering (IPO). As noted above, investors are more likely to rely on strong management than on the historical performance of the issuer, when making investment decisions in many IPO situations. We note that two years of historical financial information is also consistent with requirements for IPO filings with the Securities and Exchange Commission.

Below are our *responses* to the **questions** raised in the proposal for comment.

**1. We propose to permit venture issuers without significant revenue in the most recently completed financial year to provide the more tailored and focused "quarterly highlights" form of MD&A in interim periods. Venture issuers that have significant revenue would be required to provide existing interim MD&A for interim periods because we think that larger venture issuers should provide more detailed disclosure.**

**a. Do you agree that we have chosen the correct way to differentiate between venture issuers?**

*In theory, we agree with differentiating between venture issuers; however, while revenues may be a key differentiator, we believe that other key measures should also be considered, such as market capitalization, total assets, or total expenditures. For example, for resource issuers, a more appropriate measure might be exploration expenditures or capitalized expenditures.*

*Also, we believe that the key measure or measures selected should be clearly defined – for example, what constitutes "significant revenue".*

*We further believe that the test should not be performed only once per year, as events such as commencement of revenue generation activities, a significant acquisition, or cessation of revenue generating activities should be taken into account to ensure that investors are being provided with relevant and useful information during the year. Accordingly, the test should be performed on a quarterly basis.*

**b. Should all venture issuers be permitted to provide quarterly highlights disclosure?**

*No. The information requirements of MD&A provide a useful format for presenting information to investors and shareholders, disclosures that are familiar to these parties. While quarterly highlights may be useful for smaller pre revenue venture companies, many venture issuers have revenues and the current MD&A disclosures provide useful information for shareholders and investors.*

**Question relating to executive compensation disclosure**

**2. We are proposing to clarify filing deadlines for executive compensation disclosure by both venture and non-venture issuers. In most cases, the disclosure is contained in an issuer's information circular and the filing deadline is driven by the issuer's corporate law or organizing documents, and the timing of its annual general meeting (AGM). Issuers may also include the disclosure in their Annual Information Form.**

**We are proposing to revise Section 9.3.1 of NI 51-102 to set the deadline for filing executive compensation disclosure by non-venture issuers at 140 days. For venture issuers, we are proposing a corresponding deadline of either 140 days or 180 days. For venture issuers whose corporate law or organizing documents permit a later AGM, an earlier deadline could result in an issuer filing its executive compensation disclosure twice: once as a stand-alone form to meet the deadline in Section 9.3.1 of NI 51-102 and a second time with the information circular filed for the AGM.**

**What is the most appropriate deadline applicable to venture issuers for filing executive compensation disclosure: 140 days, 180 days or some later date? Please explain.**

*We feel that 140 days is an adequate deadline for filing and since the audited financial statements are due within 120 days of year end, venture issuers should have all the information necessary in order to file within 140 days. This also provides timely information to shareholders and potential investors.*

**Questions relating to BARs - proposed and recently completed acquisitions**

**Under the Previous Proposals, the venture issuer prospectus requirements for acquisition financial statements were to be harmonized with the proposed changes to the significance threshold in a BAR. We received limited stakeholder comments on this proposal. In the process of preparing the Proposed Amendments, we identified a potential policy concern that may justify a difference between the BAR requirements and the prospectus and information circular requirements in respect of certain proposed acquisitions.**

**Specifically, if proceeds of a prospectus offering will be used to finance a proposed acquisition significant in the 40% to 100% range, the proposed amendments to the BAR requirements would result in no specific requirement to include any disclosure about the proposed acquisition in the prospectus (see Section 35.6 of Form 41-101F1 and Item 10 of Form 44-101F1). The prospectus would, however, be subject to the general requirement to provide full, true and plain disclosure of all material facts relating to the securities to be distributed.**

**In cases where prospectus proceeds are financing an acquisition of a business significant in the 40% to 100% range, if financial statements of the business are not necessary to meet the full, true and plain disclosure standard, there may be no financial statements of the business to be acquired in the prospectus. Similarly, if a matter being submitted to a vote of security holders is in respect of a proposed acquisition significant in the 40% to 100% range, the proposed amendments to the BAR requirements would result in no specific requirement to include BAR-level disclosure about the proposed acquisition in an information circular (see section 14.2 of Form 51-102F5). The information circular would however be subject to the requirement to briefly describe the matter to be acted upon in sufficient detail to enable reasonable security holders to form a reasoned judgment concerning the matter (see section 14.1 of Form 51-102F5).**

**Where the matter being submitted to a vote of security holders is in respect of a proposed acquisition significant in the 40% to 100% range, if financial statements of the business are not required for there to be sufficient detail to enable reasonable security holders to form a reasoned judgement concerning the matter, there may be no financial statements of the business to be acquired in the information circular.**

3. **Do you think that a prospectus should always include BAR-level disclosure about a proposed acquisition if:**

- **it is significant in the 40% to 100% range, and**
- **any proceeds of the prospectus offering will be used to finance the proposed acquisition?**

**Why or why not?**

*We feel that BAR level disclosure should always be provided in the 40% to 100% level, as this provides shareholders and potential investors with a means to assess the financial impact of a proposed or completed acquisition. Increasing the threshold from 40% to 100% is too large an increment as many venture issuers could double in size, while providing shareholders and investors with no information to assess the impact of the acquisition. While we agree that the proposed changes would streamline and reduce costs and time for venture issuers, we feel that investors would be at a disadvantage absent this financial information, while insiders would have a clearer picture of the potential impact of acquisitions, which would not provide a level playing field. This is particularly important to new investors if the proceeds are to be used to finance an acquisition (i.e. using the new investor's funds). BAR level disclosure provides an easy-to-interpret numerical snap-shot of the impact of an acquisition, which investors can evaluate before making an investment decision.*

**4. Do you think that an information circular should always include BAR-level disclosure about a proposed acquisition if:**

- **it is significant in the 40% to 100% range, and**
- **the matter to be voted on is the proposed acquisition?**

**Why or why not?**

*Similar response to above. Shareholders should have access to BAR level disclosure to evaluate the financial impact of an acquisition on their company, prior to voting.*

**5. Do you think we should require BAR-level disclosure in a prospectus where:**

- **financing has been provided (by a vendor or third party) in respect of a recently completed acquisition significant in the 40% to 100% range, and**
- **any proceeds of the offering are allocated to the repayment of the financing.**

**Why or why not?**

*Similar response to above – albeit the vendor or third party should be knowledgeable enough to perform their own due diligence prior to financing an acquisition. The new investors who will be participating in the prospectus financing will not have had the benefit of the due diligence process and so should be provided BAR level disclosure in order to be able to assess the financial impact of the acquisition.*

**6. If we were to require BAR-level disclosure in the situations outlined above in questions 3, 4 and 5, the significance threshold for prospectus and information circular disclosure will not be harmonized with the threshold for continuous disclosure. Is this a problem?**

*We believe that the significance thresholds should be the same. The continuous disclosure rules are complex and having different significance thresholds will further complicate matters. This additional complexity is incongruent with the CSA's objective of making the filing process easier and less costly for venture issuers.*

**7. If we do not require BAR-level disclosure in the situations outlined above in questions 3, 4, and 5, do you think an investor will be able to make an informed investment or voting decision?**

*No. Absent BAR level disclosure in the 40% to 100% significance range, we believe that investors will not have sufficient information to be able to make an informed investment decision. BAR level disclosure provides information about the impact of an acquisition or proposed acquisition that stakeholders find very useful when making investment decisions. Specifically, pro forma financial statements included in a BAR provide a numerical portrayal of an acquisition or proposed acquisition that is unlikely to be fully captured in a narrative discussion as required by the prospectus rules requiring full, true, and plain disclosure.*

**Questions relating to audit committees**

**We propose to require venture issuers to have an audit committee consisting of at least three members, the majority of whom could not be executive officers, employees or control persons of the issuer. NI 52-110 currently provides non-venture issuers with certain exceptions from their audit committee independence requirement (for example, for initial public offerings or in cases of death, disability or resignation of member). We are not proposing the same exceptions for venture issuers because the proposed venture issuer audit committee composition requirements are not as onerous as the non-venture issuer independence requirements.**

**8. Do you think we should provide exceptions from our proposed audit committee composition requirements for venture issuers similar to the exceptions in sections 3.2 to 3.9 of NI 52-1107 If so, which exceptions do you think are appropriate?**

*We would recommend that no exceptions be provided. We agree that requiring a majority of the audit committee members be independent will enhance the governance of venture issuers and serve to improve scrutiny of quarterly reporting (as, unlike in the US, there is no requirement for auditor involvement during the quarters). We acknowledge that this requirement may potentially increase costs for many venture issuers, especially junior resource issuers, as their current audit committee members are often also management.*

Yours Truly,

MNP LLP

Jody MacKenzie, CA

Director, Assurance Professional Standards

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

August 20, 2014

British Columbia Securities Commission
Alberta Securities Commission
Financial and Consumer Affairs Authority (Saskatchewan)
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Financial and Consumer Services Commission (New Brunswick)
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island
Nova Scotia Securities Commission
Securities Commission of Newfoundland and Labrador
Superintendent of Securities, Northwest Territories
Superintendent of Securities, Yukon
Superintendent of Securities, Nunavut

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**RE: Venture Issuer Disclosure - CSA Notice and Request for Comment Proposed Amendments to NI 51-102 *Continuous Disclosure Obligations*, NI 41-101 *General Prospectus Requirements* and NI 52-110 *Audit Committees***

FAIR Canada is pleased to offer comments on proposed amendments to National Instrument 51-102 *Continuous Disclosure Obligations* ("**NI 51-102**"), National Instrument 41-101 *General Prospectus Requirements* ("**NI 41-101**"), and National Instrument 52-110 *Audit Committees* ("**NI 52-110**") along with proposed changes to Companion Policy 51-102CP to NI 51-102 and Companion Policy 41-101CP to NI 41-101 (the "**Proposed Amendments**"). The Proposed

Amendments are intended to streamline and tailor disclosure by venture issuers and carry forward some of the previous proposals contained in requests for comments issued by the CSA in July 2011 and September 2012.

FAIR Canada is a national, charitable 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.

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**FAIR Canada Comments and Recommendations – Executive Summary:**

General Comments:

1. FAIR Canada is supportive of the objective of tailoring and streamlining disclosure and governance requirements for venture issuers and increasing guidance to simplify compliance and reduce costs to venture issuers. FAIR Canada also supports efforts to improve disclosure to reflect the needs and expectations of venture issuer investors. However, we continue to be of the view reducing the disclosure and governance standards applicable to venture issuers is not an appropriate method to achieve the stated goals.

2. In addition, FAIR Canada does not understand how the Proposed Amendments, which are purportedly aimed at improving investor usefulness and reflective of the needs of venture issuer investors, can be introduced in the absence of retail investor consultation. The Proposed Amendments refer to a venture issuer investor survey conducted in 2011. However, that survey was limited to consultation with nine investors consisting of three portfolio managers, two investment advisors, and one each of an institutional advisor, underwriter/dealer, research analyst and investment banker.[1] Whilst these individuals can be considered investors, FAIR Canada believes that a survey conducted with a representative sample of investors is necessary in order to obtain information about their needs and expectations. Significant changes to disclosure requirements should not be introduced prior to such retail investor consultation.

3. 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 venture market. This is not a responsible course of action for regulators who have a mandate to protect investors nor would it improve confidence in the venture capital market. Regulators and the exchange have worked hard to improve the reputation of the venture exchange since the days of the Vancouver stock exchange.

4. FAIR Canada suggests that there are other alternatives available which would reduce compliance costs while at the same time clarifying obligations and thereby increase

[1] See description of investor survey at (2012) 35 OSCB (supp-4) at 234.

compliance with the existing rules. These alternatives should be explored in lieu of the Proposed Amendments. Alternatives are suggested at paragraphs 1.4 and 2.16 below.

5. Moreover, resources should be focused on measures to improve compliance with existing continuous disclosure requirements of reporting issuers. CSA Staff Notice 51-341 *Continuous Disclosure Review Program Activities for the fiscal year ended March 31, 2014* found that 76% of those subject to a full review or an issue-oriented review were deficient and required improvements to their disclosure (or resulted in the issuer being referred to enforcement, ceased traded or placed on the default list) [2]. Education and guidance (among other measures) to improve required disclosure would clearly be of benefit to investors and issuers. This should be the immediate priority.

6. FAIR Canada is of the view that benchmarking the type and level of disclosure provided in other jurisdictions would be worthwhile. We disagree with the position taken by the CSA that benchmarking to other jurisdictions such as Australia, the United Kingdom, Hong Kong or the United States is not appropriate. We urge the CSA to explain its statement that "The venture market in Canada is unique and is not directly comparable to most other markets."[3] FAIR Canada believes that benchmarking to other jurisdictions is an appropriate part of the policy-making process and should be undertaken for this initiative. Any significant differences warranting a different approach can be noted in the exercise.

Comments on the Proposed Amendments:

7. Quarterly Interim Management's Discussion and Analysis ("**MD&A**"): FAIR Canada recommends that MD&A be required for the interim financial reports. Reducing the level of disclosure by replacing MD&A with quarterly highlights will result in a gap in continuous disclosure information, making it more difficult for investors to determine whether to invest in or sell shares of a particular venture issuer. It would also allow too much time to lapse between regulators' receipt of such information for purposes of review and investigation of possible issues. The proposed amendment to replace MD&A with quarterly highlights is not in the interest of venture issuers or venture issuer investors as it will lead to reduced confidence in Canadian venture markets and will reduce the level of investor protection.

8. Business Acquisition Reports ("**BARs**"): FAIR Canada does not support the proposed changes to the requirement to disclose BARs. Investors should receive financial statements regarding business acquisition transactions when proceeds are being used to finance a proposed acquisition that is significant in the 40% to 100% range. If any amendment to BARs is made, the significance level should be lowered rather than raised. Investors should not be provided with less information regarding a venture issuer's business acquisition activities than they are currently.

[2] (2014), 37 OSCB 6661 at 6662, available online at <http://www.osc.gov.on.ca/documents/en/Securities-Category5/csa_20140717_51-341_cdr-activities-fiscal-end.pdf>.

[3] CSA Republication and Request for Comment, September 13, 2012, (2012) OSCB (Supp-4) at page 24..

9. Audit Committees: FAIR Canada supports the proposed enhanced requirements for impartiality by venture issuer audit committees which would result in a rule similar to that already required of TSXV listed issuers. We also recommend that audit committee members be required to be financially literate (as required of non-venture issuer audit committee members) and that the CSA consider requiring that the majority of audit committee members also be "independent" as defined by NI 52-110 or some other suitable definition. Such reforms would increase governance standards.

10. Executive Compensation Disclosure: FAIR Canada continues to disagree with the proposal to reduce the level of disclosure provided regarding executive compensation. Less executive compensation disclosure will weaken corporate governance of venture issuers. We fail to see how reducing the level of disclosure provided to investors will improve the usefulness of such information as is stated in the Proposed Amendments.[4] FAIR Canada recommends that the format and/or manner in which information is disclosed be reconsidered and tested on retail investors before lessoning the amount of disclosure in an attempt to improve its usefulness.

Other Comments

11. 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.

12. FAIR Canada continues to strongly recommend that the CSA address the conflict of interest between the listing regulatory responsibilities and listing commercial operations of the TSX and TSXV.

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## 1. General Comments

1.1. FAIR Canada supports the objective of tailoring and streamlining the disclosure and governance requirements for venture issuers and increasing guidance to simplify compliance and reduce costs to venture issuers. FAIR Canada also supports efforts to improve disclosure to reflect the needs and expectations of venture issuer investors. However, we continue to be of the view that reducing the disclosure and governance standards applicable to venture issuers is not an appropriate method to achieve the stated goals.

1.2. FAIR Canada also questions why a proposed instrument, purportedly aimed at improving investor usefulness, has been introduced in the absence of any consultation with retail investors. This would suggest a less-than-optimal process for an investor-focused initiative.

[4] (2014), 37 OSCB 5145.

The Proposed Amendments refer to a venture issuer investor survey conducted in 2011. However, that survey was limited to consultation with nine investors consisting of three portfolio managers, two investment advisors, and one each of an institutional advisor, underwriter/dealer, research analyst and investment banker.[5] Whilst these individuals can be considered investors, FAIR Canada believes that a survey conducted with a representative sample of investors is necessary in order to obtain information about their needs and expectations. Eliminating important information from disclosure requirements should not proceed until such consultation with retail investors has been conducted and analyzed.

1.3. 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 venture market. This would not be a responsible course of action for regulators who have a mandate to protect investors nor would it improve confidence in the venture capital market. Regulators and the exchange have worked hard to improve the reputation of the venture exchange since the days of the Vancouver stock exchange. Our specific concerns are set out below.

1.4. As we commented in response to earlier proposals[6], 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 a manual covering all venture issuer regulatory requirements 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 Proposed Amendments do 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.

1.5. In addition, further measures to improve compliance with existing continuous disclosure requirements of reporting issuers are clearly needed. CSA Staff Notice 51-341 *Continuous Disclosure Review Program Activities for the fiscal year ended March 31, 2014* found that 76% of those subject to a full review or an issue-oriented review were deficient and required improvements to their disclosure (or resulted in the issuer being referred to enforcement, ceased traded or placed on the default list).[7] Education and guidance (among other measures) to improve required disclosure would clearly be of benefit to investors and issuers.

[5] See description of investor survey at (2012) 35 OSCB (supp-4) at 234.

[6] We made earlier submissions In 2010, 2011 and 2012. See our earlier submissions on our website at http://faircanada.ca/standing-committee-review-of-osc/submissions/.

[7] Supra, note 2..

## 2. Comments on the Proposed Amendments

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

2.1. FAIR Canada supports the proposal to require interim financial reports for venture issuers for each of the 3, 6 and 9 month interim periods. As we noted in our letter of December 12, 2012, FAIR Canada recommends that MD&A be required for the interim financial reports. Reducing the level of disclosure by replacing MD&A with quarterly highlights will result in a gap in continuous disclosure information, making it more difficult for investors to determine whether to invest in or sell 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.

2.2. The proposal requires that those with "significant revenue" will be required to provide MD&A. However, those who determine they do not have "significant" revenue, will not be required to provide MD&A and will only provide quarterly highlights. As a result, such venture issuers will provide less information and investors may not obtain information about related party transactions, stock options and warrants, operating expenses or account payable information that would be relevant to their decision to sell or purchase securities. Such reduced disclosure would not be in the interests of investors or venture issuers since it will lead to reduced confidence and an increase in the cost of capital (at a minimum, in this subset of venture issuers). FAIR Canada is of the view that these negative consequences far outweigh the purported benefits to investors "...because less time would be required to read through the quarterly highlights to locate salient information about a venture issuer's operations" or through a reduction in the time and cost burden to venture issuers of producing interim MD&A.[8]

2.3. FAIR Canada believes that the existing requirements in section 5.3 of NI 51-102 and Item 1.15 of Form 51-102F1 which require a venture issuer that has not had significant revenue from operations in either of its last two financial years to disclose in its MD&A, on a comparative basis, a breakdown of material components of:

(a) Exploration and evaluation (E&E) assets
(b) Expensed research and development costs;
(c) Intangible assets arising from development;
(d) General and administration costs, and
(e) Any material costs.

allow an investor to understand where and how the money was spent and is important information for investors to receive.

[8] CSA Notice and Request for Comment, (2014), 37 OSCB 5105, at 5145.

**Major Acquisitions: Reduction in the Instances when Business Acquisition Reports must be Filed**

2.4. Under the Proposed Amendments, as with the September 2012 and July 2011 proposals, the significance test for financial statement disclosure would be lowered so that instead of requiring reporting of acquisitions that are 40 per cent significant, only acquisitions that are 100 per cent 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 continues to disagree that 100% or more of the market capitalization of the venture issuer is the correct threshold indicative of a transformational transaction for venture issuers. If any amendment to BARs is made, the significance level should be lowered rather than raised.

2.5. 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 requirement to file BARs. FAIR Canada continues to question 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." [9] Benchmarking to other jurisdictions is an important part of the policy-making process. If Canadian venture issuers are subject to less disclosure than other jurisdictions, then those venture issuers seeking out lower standards may choose to list here or may end up listing here if unable to meet the higher standards elsewhere. Such an approach will not serve the interests of venture issuer investors, nor the long term interests of venture issuers themselves as it will reduce confidence in the Canadian venture issuer market.

2.6. FAIR Canada agrees with the CSA's comment that "The proposed 100% threshold test would mean that venture issuer investors would face reduced disclosures on transformational business acquisition transactions, which would then reduce their awareness of a venture issuer's business acquisition activities."[10] Accordingly FAIR Canada does not support reducing disclosures to investors on business acquisition activities. FAIR Canada believes that the current BARs requirements should be retained and BARs should be provided when the acquisition is significant.

2.7. FAIR Canada urges the CSA to undertake a consultation with retail investors before making any such change to the requirement for BARs. The CSA 2014 Consultation Document states that results from a 2011 CSA Venture issuer investor survey "...suggest that investors may not view this reduction in business acquisition disclosure as significant in their decision to invest in a venture issuer. When asked to rank the importance of certain forms of disclosure, in making an investment decision, BARs were considered an important but not essential source of information."[11]

[9] Supra, at Note 3.
[10] (2014) 37 OSCB 5144.
[11] (2014), 37 OSCB 5144-5145.

2.8. FAIR Canada's understanding is that the 2011 investor survey referred to was limited to consultation with nine investors consisting of three portfolio managers, two investment advisors, and one each of an institutional advisor, underwriter/dealer, research analyst and investment banker.[12] Whilst these individuals can be considered to be investors, FAIR Canada believes that a survey conducted with a representative sample of investors is necessary in order to obtain information about their needs and expectations. FAIR Canada believes that consultation with a broader sample of retail investors is necessary before any conclusions can be made about the likely impact on retail investor's decision-making. Significant changes to disclosure requirements should not be introduced prior to such retail investor consultation.

2.9. In FAIR Canada's view, benefits from the reduction in reporting time and cost do not outweigh the cost of reducing protections to investors and reducing confidence in the Canadian venture market. FAIR Canada agrees with the CSA when it states that "Changes to the existing reporting and disclosure requirements could be taken by venture issuer investors as an indicator of reduced market quality amongst venture issuers. It is possible that this perception could reduce confidence in the venture market..."[13] FAIR Canada does not agree, as the CSA suggests, that this would only result in a temporary effect until investors become more comfortable with the proposed reporting regime.[14] In FAIR Canada's view, such changes could have a long-term effect on investor confidence in the venture issuer market.

2.10. Questions in the Proposed Amendments document relating to BARs call into question the appropriateness of the significance level that the CSA has set for requiring BARs and suggests that benchmarking to other jurisdictions could be of real assistance to policy-makers in determining when a business acquisition is "significant" or "material" and therefore needs to be disclosed.

**Audit Committees**

2.11. FAIR Canada supports enhanced requirements for impartiality by venture audit committees. The Proposed Amendments would require venture issuers to have an audit committee consisting of at least three members, the majority of whom could not be executive officers, employees or control persons of the venture issuer or an affiliate of the venture. This rule would be similar to that already required of TSXV-listed issuers and would not necessitate any change for issuers listed on the TSXV.[15] FAIR Canada recommends that audit committee members be required to be financially literate (as required of non-venture issuer audit committee members) and that the CSA consider requiring that the majority of audit committee members also be "independent" as that is defined by NI 52-110 or another suitable definition. Such reforms would increase governance standards for venture issuers.

[12] See description of investor survey at (2012) 35 OSCB (supp-4) at 234.
[13] (2012) 35 OSCB (supp-4) at 235.
[14] (2102) 35 OSCB (supp-4) at 235.
[15] TSXV Policy 3.1, available online at http://www.tmx.com/en/pdf/Policy3-1.pdf.

**Executive Compensation Disclosure**

2.12. FAIR Canada continues to be 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); that the number of individuals for whom disclosure is required should be reduced from a maximum of five to a maximum of three; that the requirement for venture issuers to calculate and disclose the grant date fair value of stock options and other share-based awards in the compensation table should be eliminated; 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.

2.13. 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. Having this information along with disclosure of the amount realized by the executive at the time it is earned (or "exercised") would allow investors to compare the two amounts. It also allows directors to consider the amount of money transferred to its executives at the time such options are granted, thereby assisting directors in justifying such transfers of wealth to shareholders**.** The Canadian Council of Good Governance has taken the same position.[16]

2.14. FAIR Canada questions why venture issuers would not want to know the fair value of the stock options they provide to an executive at the time it is granted. This should be viewed as necessary information in order to justify to shareholders that the compensation granted to that individual is appropriate. Accordingly, eliminating this required disclosure may result in directors not having information that they need in order to fulfil their duties in a robust manner. Such a change should not be implemented solely to allow for the possibility of monetary savings from the elimination of the need to have a valuation undertaken for options awarded in order to comply with regulatory requirements.

2.15. FAIR Canada fails to see how reducing the level of disclosure provided to investors improves the usefulness of such information, as is stated in the Proposed Amendments.[17] FAIR Canada recommends that the format and/or manner in which information is disclosed be reconsidered and tested on retail investors (for both venture issuers and non-venture issuer investors) before taking the more drastic step of lessoning the amount of disclosure in order to improve its usefulness.

2.16. 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

[16] Letter from Canadian Council of Good Governance to CSA dated December 11, 2012 at page 3, available online at https://www.osc.gov.on.ca/documents/en/Securities-Category5-Comments/com_20121211_51-103_chornousd.pdf.

[17] (2014), 37 OSCB 5145.

listed issuer's website. Implementing such a change could reduce the size of many information circulars by 50 per cent or more.

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

3.1. FAIR Canada recommends that TSX and TSXV 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).

3.2. Our understanding is that the TSXV 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.[18] 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 TSXV and the issuer and would be difficult for a shareholder to enforce against an issuer incorporated in the British Virgin Islands or in China (for example).

**4. Address Listings Conflict of Interest**

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

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 convenience. Feel free to contact Neil Gross at 416-21403497 (neil.gross@faircanada.ca) or Marian Passmore at 416-214-3441 (marian.passmore@faircanada.ca).

[18] 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.

Sincerely,

Canadian Foundation for Advancement of Investor Rights

From: Ron Hozjan [redacted]
Sent: Wednesday, August 20, 2014 12:09 PM
To: Larissa M. Streu
Subject: CSA Notice and request for comments - NI 51-102, 41-101, 52-110

Tamarack Valley is very pleased that the Commissions are collectively looking at ways of reducing the high fixed costs issuers are faced with every time they attempt to reduce their cost of capital by going public or by attempting to raise equity through the public markets.

Tamarack is supportive of of the Commissions efforts of balancing appropriate disclosure to incoming shareholders with the cost reduction of preparing such disclosure and would be supportive of such cost reduction measures going forward.

Tamarack believes the success of the public markets in Canada will be dependant on controlling costs of being public as there seems to be an endless supply of private equity capital and foreign capital available to Canadian based resource companies.

Thank you for providing an opportunity for industry to share their thoughts on these topics.

Regards,
Ron Hozjan
VP Finance & CFO