

Overview and Review from the Alberta Securities Commission



Lara Gaede, CA, CFA
Associate Chief Accountant

A|S|C
Alberta Securities Commission



Agenda

- ASC Continuous Disclosure Review Program
- Summary of the results of the 2008 Program
- Looking to the future
- Implications of the Credit Crunch
- Conversion to IFRS
- Current requirements:
 - forward looking information
 - executive compensation
 - certifications



ASC Continuous Disclosure Review Program

- Purpose of the reviews
- Types of reviews
- How issuers are selected
- Review Process
- Outcomes of our reviews



Purpose of the Reviews

- Objectives of the ASC:
 - Fair and efficient capital market in Alberta
 - Protect investors
 - Coordinate and harmonize the regulation of Canada's capital markets
- How do CD reviews fit into these objectives?



Types of Reviews

- Full CD reviews – risk based
 - Annual and interim f/s, MD&A, Annual Reports
 - Information circular
 - Annual Information Form
 - Business Acquisition Reports
 - Certifications
 - Press Releases
 - Material Change Reports
 - Websites



Types of Reviews, cont.

- Issue-oriented reviews
 - Executive compensation
 - Corporate Governance
 - Credit crisis related measurement and disclosure issues
 - Transition to IFRS
 - O&G technical reports
 - Certificates



How Issuers are Selected

- Risk-based
- Referral
- Random



Review Process

- Analysts review all filings since the beginning of the year for which the most recent annual financial statements have been filed
- May look at insider reports, exempt distributions, websites, stock activity
- Letter is drafted
- File reviewed by Chief Accountant's Office
- Ongoing communication with issuer until resolution



Outcomes

- No changes required
- Request for prospective change
- Request for restatement
- Place in default
- Cease trade
- Refer to enforcement



Stats

- 119 full (compared to 57 in prior year)
- 3 high level (compared to 75 in prior year)
- 30 issue oriented (compared to 104 in prior year)
- Change in timing of release of report this year so current year is 11 months worth of files



Stats, cont.

- 56 results of restatement (69 in prior year)
- 42 reporting issuers (55 in prior year)
- 128 requests for prospective changes (compared to 79 in prior year)
- 5 placed in default (compared to 11 in prior year)
- 2 referred to enforcement (compared to 8 in prior year)



Deficiencies Identified

- Management Discussion and Analysis (MD&A)
- Forward Looking Information (FLI)
- Financial statement note disclosure
- Accounting for share purchase warrants
- New financial instruments disclosure
- New capital disclosure
- Going concern
- Compliance with other CD requirements



Management's Discussion and Analysis (MD&A)

- Lacking sufficient detail
 - What is the business?
 - How has the company performed historically?
 - Where is the company headed?
 - What distinguishes the company from its peers?
 - Bad news should be given equal prominence to good news



MD&A, cont.

- Example 1: O&G producer:
 - No disclosure of products or producing areas
- Example 2: Venture issuer:
 - No disclosure of technology and related application
 - No disclosure of customer base
 - meaningless variance analysis “revenue increased because sales went up”



MD&A, cont.

- Example 3: Exploration and production activities in a foreign jurisdiction
 - Insufficient details provided regarding terms of production sharing agreements



MD&A, cont.

- Related party transactions
- Summary of quarterly results
- Liquidity and capital resources
- Outstanding share data
- Disclosure controls and procedures & internal controls over financial reporting
- Non-GAAP performance measures



MD&A, cont.

- Overview of business
- Investor presentations
- IFRS changeover plans
- CPRB has published some guidance



Forward-Looking Information (FLI)

- NI 51-102 Part 4A
- Definition: qualitative and quantitative
- Applies to all FLI except:
 - Specific oil & gas and mining disclosure
 - Statements made to comply with an exemption
 - oral statements
- Based on assumptions that are reasonable in the circumstances



FLI, cont.

- When material FLI is disclosed:
 - Identify as FLI
 - Caution readers as to its use
 - State material assumptions
 - Discuss policies for updating



FLI, cont.

- FOFI or financial outlooks:
 - Explain purpose
 - Caution as to use
 - Disclose the date approved by management
 - Limit to period that can be reasonably estimated
 - Use accounting policies issuer expects to use



FLI, cont.

- Common errors:
 - Identify material FLI
 - State material assumptions
 - Distinguish between material assumptions and material risks



FLI, cont.

- Example 1:
 - “...and we assume no obligation to update...”
- Example 2:
 - “...forward looking statements involve numerous assumptions...”
 - Press release indicating material increase in future potential production rates with no disclosure of assumptions
- Great examples of acceptable disclosure in report



Financial Statement Note Disclosure

- Lack of sufficient insight
 - Vague related party disclosure
 - Failure to disclose sufficient detail about the acquisition of a business
 - Incomplete discussion of key features in significant contracts
 - Disclosure of detailed assumptions and inputs used in fair value models where there were no observable market prices



Accounting for Share Purchase Warrants

- Change to conversion terms
- Unit issuances



New Financial Instrument Disclosure

- Objective
- Deficiencies:
 - Failure to identify and provide meaningful discussion of the types of risks facing the issuer
 - Failure to provide sensitivity analysis for market risks applicable to the business
 - Failure to provide disclosure that enables a comparison of carrying value to fair value for each class of financial assets and liabilities



New Capital Disclosures

- Required to disclose qualitative and quantitative disclosures about what is managed as capital



Going Concern

- Requirement to assess whether the going concern assumption is appropriate
- Where assumption is questioned, disclose the assumptions used to support conclusion



Other CD Requirements

- Business Acquisition Reports (BARs)
 - Inventory qualification in audit report
 - Appropriate interim statements not included
 - Inappropriate interim statements included
 - Failure to file
- Reverse takeovers
- Change of year end
- Material contracts



Certificates

- NI 52-109 Certification of Disclosure
- New requirements effective for annual and interim periods ending on or after December 31, 2008
- Many new certificates to deal with different situations



Certificates, cont.

- Types of certificates
 - Certification of Annual Filings Full Certificates
 - Certification of Annual Filings Venture Issuer Basic Certificate
 - Certification of Annual Filings Following an IPO, RTO or becoming a Non-Venture Issuer
 - Certification of Refiled Annual Filings
 - Certification of Annual Filings in Connection with Voluntarily Filed AIF
 - Interim certificates for first 4 categories above



Certificates, cont.

- Scope limitations
- Date of certificate
- Venture considerations: inconsistencies between MD&A and certificate
- Non-Venture issuers: conclusion on effectiveness of internal controls over financial reporting



Executive Compensation

- NI 51-102, Form 51-102F6 Executive Compensation
- Objective:
 - “...to communicate the compensation the board of directors intended the company to pay...”
- Financial years on or after December 31, 2008
- Significant change from prior requirements



Executive Compensation, Cont.

- Named Executive Officer:
 - CEO
 - CFO
 - 3 other most highly compensated executive officers with income > \$150,000
 - Executives that left partway through year
- Inclusion of all compensation
- External management companies



Executive Compensation, Cont.

- Compensation Discussion and Analysis
- Performance graph
- Option-based awards
- Summary compensation table
- Incentive plan awards
- Pension plan benefits
- Termination and change in control benefits
- Director compensation



IFRS

- CSA Staff Notice 52-320 – Disclosure of Expected Changes in Accounting Policies Relating to Changeover to IFRS
 - Changeover January 1, 2011
 - Form 51-102F1 MD&A section 1.13(a)
 - Description of new standard
 - Disclosure of methods of adoption
 - Effects on financial statements
 - Effects on business



IFRS, cont.

- CSA Staff Notice 52-320, cont.
 - Interim & annual MD&A 3 years prior to changeover
 - If developed discuss plan
 - Accounting policies
 - Information technology and data systems
 - Internal control over financial reporting
 - Disclosure controls and procedures
 - Financial reporting expertise
 - Business activities
 - Impact on financial reporting if available



IFRS, cont.

- CSA Staff Notice 52-320, cont.
 - Interim MD&A 2 years before changeover
 - Progress and changes
 - Annual MD&A 2 years before changeover
 - Preparation for changeover
 - Major identified differences in policies
 - Annual and interim MD&A for the year before changeover
 - More detail, quantitative impacts if available
 - Policies available under IFRS 1



IFRS, cont.

- CSA Staff Notice 52-321 – Early Adoption of IFRS, Use of US GAAP and Reference to IFRS-IASB
 - Update on CSA Concept Paper 52-402 Possible changes to securities rules relating to IFRS
 - Exemptive relief required to early adopt
 - Readiness of staff, BOD, auditors, investors
 - Implications on obligations under securities law
 - Revise any interims
 - Domestic SEC issuers can use US GAAP



Credit Crisis

- CSA Staff Notice 51-328 CD Considerations Related to Current Economic Conditions
 - MD&A
 - Liquidity & capital resources
 - Distributed cash
 - Critical accounting estimates
 - Forward looking information
 - Going concern
 - Impairment
 - Financial instruments



Credit Crisis, cont.

- CSA Staff Notice 51-328, cont.
 - Capital disclosures
 - Defined benefit pension plans
 - Non-GAAP financial measures
 - Junior resources companies



Priorities in 2009

- Credit crisis
- FLI
- Certifications
- Executive Compensation
- IFRS
- Environmental Reporting



Questions?



Contact Personnel

Lara Gaede, CA, CFA

Associate Chief Accountant

(403) 297-4223 lara.gaede@asc.ca

Fred Snell, CA, FCA

Chief Accountant

(403) 297-6553 fred.snell@asc.ca