

Note: [25 Sep 2009] – Proposed amendments to 51-102CP. Refer to Appendix B, Schedule B-2 of CSA Notice announcing proposed amendments to NI 51-102 and NI 71-102 dated 25 Sept 2009.

**Proposed Amendments to
Companion Policy 51-102CP Continuous Disclosure Obligations**

1. *Companion Policy 51-102CP Continuous Disclosure Obligations is amended.*
2. *Section 1.3 is amended by striking out “interim financial statements” and substituting “interim financial reports”.*
3. *Section 1.4 is amended by*
 - (a) *repealing subsection (5) and substituting the following:*
 - (5) **Reverse Takeover** – The definition of reverse takeover includes reverse acquisitions as defined or interpreted in Canadian GAAP and any other transaction in which an issuer issues enough voting securities as consideration for the acquisition of an entity such that control of the issuer passes to the securityholders of the acquired entity (such as a Qualifying Transaction, as that term is defined in the TSX Venture Exchange policies). In a reverse acquisition, although legally the entity (the legal parent) that issued the securities is regarded as the parent, the entity (the legal subsidiary) whose former securityholders now control the combined entity is treated as the acquirer for accounting purposes. As a result, for accounting purposes, the issuing entity (the legal parent) is deemed to be a continuation of the acquirer and the acquirer is deemed to have acquired control of the assets and business of the issuing entity in consideration for the issue of capital., *and*
 - (b) *adding the following after subsection (6):*
 - (7) **Accounting terms** – The Instrument uses accounting terms that are defined, or referred to, in Canadian GAAP. In certain cases, some of those terms are defined differently in securities legislation. In deciding which meaning applies, you should consider that National Instrument 14-101 *Definitions* provides that a term used in the Instrument and defined in the securities statute of a local jurisdiction has the meaning given to it in the statute unless: (a) the definition in that statute is restricted to a specific portion of the statute that does not govern continuous disclosure; or (b) the context otherwise requires.

For example, the term “associate” is defined in local securities statutes and Canadian GAAP. Securities regulatory authorities are of the view that the references to the term “associate” in the Instrument and its forms (e.g., item 7.1(g) of Form 51-102F5 *Information Circular*) should be given the

meaning of the term under local securities statutes since the context does not indicate that the accounting meaning of the term should be used.

- (8) **Acceptable accounting principles other than Canadian GAAP** – If an issuer is permitted under NI 52-107 to file financial statements in accordance with acceptable accounting principles other than Canadian GAAP, then the issuer may interpret any reference in the Instrument to a term or provision defined, or referred to, in Canadian GAAP as a reference to the corresponding term or provision in the other acceptable accounting principles.

4. Section 1.8 is repealed and the following substituted:

1.8 Acceptable Accounting Principles and Auditing Standards

An issuer filing any of the following items under the Instrument must comply with NI 52-107:

- (a) financial statements;
- (b) an operating statement for an oil and gas property as referred to in section 8.10 of the Instrument;
- (c) summarized financial information, including the aggregated amounts of assets, liabilities, revenue and profit or loss of a business as referred to in section 8.6 of the Instrument; or
- (d) financial information derived from a credit support issuer's financial statements as referred to in section 13.4 of the Instrument.

NI 52-107 sets out, among other things, the use of accounting principles other than Canadian GAAP or auditing standards other than Canadian Generally Accepted Auditing Standards (Canadian GAAS) in preparing or auditing financial statements.

5. Section 3.2 is repealed and the following substituted:

3.2 Audit of Comparative Annual Financial Statements

Section 4.1 of the Instrument requires a reporting issuer to file annual financial statements that include comparative information for the immediately preceding financial year and that are audited. The auditor's report must cover both the most recently completed financial year and the comparative period, except if the issuer changed its auditor during the periods presented in the annual financial statements and the new auditor has not audited the comparative period. In this situation, the auditor's report would normally refer to the predecessor's auditor's report or the issuer would include the predecessor auditor's reissued report on the prior

period's annual financial statements. This is consistent with Canadian Auditing Standard 710 *Comparative Information – Corresponding Figures and Comparative Financial Statements*.

6. *Section 3.3 is amended in the last sentence by adding “annual” before “financial statements”.*

7. *Section 3.4 is repealed and the following substituted:*

3.4 Auditor Involvement with an Interim Financial Report

(1) The board of directors of a reporting issuer, in discharging its responsibilities for ensuring the reliability of an interim financial report, should consider engaging an external auditor to carry out a review of the interim financial report.

(2) Subsection 4.3(3) of the Instrument requires a reporting issuer to disclose if an auditor has not performed a review of the interim financial report, to disclose if an auditor was unable to complete a review and why, and to file a written report from the auditor if the auditor has performed a review and expressed a reservation in the auditor's interim review report. No positive statement is required when an auditor has performed a review and provided an unqualified communication. If an auditor was engaged to perform a review on an interim financial report applying review standards set out in the Handbook, and the auditor was unable to complete the review, the issuer's disclosure of the reasons why the auditor was unable to complete the review would normally include a discussion of

(a) inadequate internal control;

(b) a limitation on the scope of the auditor's work; or

(c) the failure of management to provide the auditor with the written representations the auditor believes are necessary.

(3) If a reporting issuer's annual financial statements are audited in accordance with Canadian GAAS, the terms “review” and “interim review report” used in subsection 4.3(3) of the Instrument refer to the auditor's review of, and report on, an interim financial report applying standards for a review of an interim financial report by the auditor as set out in the Handbook. However, if the reporting issuer's financial statements are audited in accordance with auditing standards other than Canadian GAAS, the corresponding review standards should be applied.

8. *Section 3.5 is amended by striking out “interim financial statements” and substituting “an interim financial report”.*

9. **Section 3.6 is amended by adding** “The test of whether “to a reasonable person it is impracticable to present prior-period information on a basis consistent with subsection 4.3(2)” is objective, rather than subjective. Securities regulatory authorities are of the view that a reporting issuer can rely on the exemption only if it has made every reasonable effort to present prior-period information on a basis consistent with subsection 4.3(2) of the Instrument. We are of the view that an issuer should only rely on this exemption in unusual circumstances and generally not related solely to the cost or the time involved in preparing the financial statements.” **after** “to do so.”.

10. **Section 3.9 is amended by**

(a) **in subsection (2), striking out** “for accounting purposes”, **and**

(b) **in subsection (3), striking out** “interim and annual financial statements” **and substituting** “interim financial reports and the annual financial statements”.

11. **The title of Part 4 is amended by adding** “AND PRESENTATION” **after** “DISCLOSURE”.

12. **Section 4.1 is amended by**

(a) **in the title, striking out** “Results” **and substituting** “Information”, **and**

(b) **in subsection (1), striking out** “interim financial statements” **and substituting** “each interim financial report”.

13. **Section 4.2 is amended by adding** “Canadian” **before** “GAAP should”.

14. **Part 4 is amended by adding the following after section 4.2:**

4.3 Presentation of Financial Information

Canadian GAAP provides an issuer two alternatives in presenting its income: (a) in one single statement of comprehensive income, or (b) in a statement of comprehensive income with a separate income statement. If an issuer presents its income using the second alternative, both statements must be filed to satisfy the requirements of this Instrument. (See subsections 4.1(3) and 4.3(2.1) of the Instrument).

15. **Section 4A.3 is amended by**

(a) **striking out** “This concept of materiality is consistent with the one contained in the Handbook.”,

(b) **striking out** “revenues, net income” **and substituting** “revenue, profit or loss”, **and**

- (c) **striking out** “A financial outlook relating to earnings is commonly referred to” **and substituting** “A financial outlook relating to profit or loss is commonly referred to”.
- 16. **Section 4A.9 is repealed.**
- 17. **Section 5.2 is amended by**
 - (a) **striking out** “or MD&A supplement”,
 - (b) **striking out** “interim and annual financial statements” **and substituting** “interim financial report or annual financial statements”, **and**
 - (c) **striking out** “capitalized, deferred or expensed” **and substituting** “expensed or recognized as assets”,
- 18. **Section 5.4 is amended by**
 - (a) **striking out** “or MD&A supplement”,
 - (b) **striking out** “interim and annual financial statements” **and substituting** “interim financial report or annual financial statements”.
- 19. **Section 5.5 is amended by striking out** “or MD&A supplement” **wherever it occurs.**
- 20. **Subsection 6.2(1) is amended by striking out** “income” **and substituting** “profit”.
- 21. **Subsection 8.1(3) is amended by striking out** “reporting currency” **and substituting** “presentation currency”.
- 22. **Section 8.2 is amended by**
 - (a) **in subsection (1),**
 - (i) **striking out** “income from continuing operations” **wherever it occurs and substituting** “acquisition test profit or loss”,
 - (ii) **striking out** “time of the acquisition” **wherever it occurs and substituting** “acquisition date”,
 - (iii) **striking out** “annual audited financial statements” **and substituting** “audited annual financial statements”, **and**
 - (iv) **striking out** “business acquisition or report” **and substituting** “business acquisition report”.

- (b) *in subsection (2), adding the following as a new paragraph after the first paragraph:*

Subsection 8.12(2) provides an exemption from this reconciliation requirement if the business or related businesses prepared financial statements in accordance with Canadian GAAP applicable to private enterprises provided certain conditions are met. This exemption is not available in Ontario. The requirement in subsection 8.3(13) to translate the financial statements of the business or related businesses into the same presentation currency as the reporting issuer still applies.,

- (c) *in subsection (3), adding “annual” before “financial statements” in the first three occurrences,*

- (d) *adding the following after subsection (3):*

(3.1) **Application of Significance Tests for Business Combinations Achieved in Stages** – IFRS 3 (revised 2008) *Business Combinations*, requires that when a business combination is achieved in stages the acquirer’s previously held equity interest in the acquiree is remeasured at its acquisition date fair value with any resulting gain or loss recognized in profit or loss. The remeasurement of the previously held equity interest should not be included in the asset or the investment test and the resulting gain or loss from remeasurement should not be included in the profit or loss test. (See subsection 8.3(4.1) of the Instrument),

- (e) *repealing subsection (4) and substituting the following:*

(4) **Application of Investment Test for Significance of an Acquisition** – One of the significance tests set out in subsections 8.3(2) and (4) of the Instrument is whether the reporting issuer’s consolidated investments in and advances to the business or related businesses exceed a specified percentage of the consolidated assets of the reporting issuer. In applying this test, the “investments in” the business should be determined using the consideration transferred, measured in accordance with the issuer’s GAAP, including any contingent consideration. In addition, any payments made in connection with the acquisition which would not constitute consideration transferred but which would not have been paid unless the acquisition had occurred, should be considered part of investments in and advances to the business for the purpose of applying the significance tests. Examples of such payments include loans, royalty agreements, lease agreements and agreements to provide a pre-determined amount of future services. For purposes of the investment test, “consideration transferred” should be adjusted to exclude the carrying value of assets transferred by the reporting issuer to the business or related businesses that will remain with the business or related businesses after the acquisition., *and*

(f) *in subsection (5), adding “annual” before “financial statements” wherever it occurs.*

23. Section 8.3 is amended by

(a) *in subsection (3), striking out “date of the acquisition” and substituting “acquisition date”, and*

(b) *in subsection (4),*

(i) *in the title, striking out “Income Test” and substituting “Profit or Loss Test”,*

(ii) *striking out “optional income test” wherever it occurs and substituting “optional profit or loss test”, and*

(iii) *striking out “income from continuing operations” wherever it occurs and substituting “acquisition test profit or loss”.*

24. Section 8.5 is amended by

(a) *in the title, striking out “Step-By-Step Acquisitions” and substituting “Multiple Investments in the Same Business”,*

(b) *striking out “increases its investments in a business by way of a step-by-step purchase as described in the Handbook” and substituting “has made multiple investments in the same business”, and*

(c) *adding “annual” before “financial statements” wherever it occurs.*

25. Subsection 8.6(4) is amended by

(a) *in clause (i), striking out “balance sheet” and substituting “statement of financial position”,*

(b) *in clause (ii),*

(i) *in the title, striking out “Revenues” and substituting “Revenue”,*

(ii) *striking out “Income statements” and substituting “Statements of comprehensive income”, and*

(iii) *striking out “revenues” and substituting “revenue”.*

26. *Section 8.7 is amended by*

- (a) *in subsection (1),*
 - (i) *striking out* “pro forma statements” *and substituting* “pro forma financial statements”,
 - (ii) *striking out* “results of operations” *and substituting* “financial performance”, *and*
 - (iii) *striking out* “extraordinary items or”,
- (b) *in subsection (2),*
 - (i) *in the title, striking out* “Balance Sheet and Income Statements” *and substituting* “Statement of Financial Position”, *and*
 - (ii) *striking out* “balance sheet” *wherever it occurs and substituting* “statement of financial position”,
- (c) *in subsection (3), striking out* “an income statement” *and substituting* “a statement of comprehensive income”,
- (d) *in subsection (4),*
 - (i) *striking out* “purchase price allocation” *and substituting* “acquisition date amounts of assets acquired and liabilities assumed”, *and*
 - (ii) *striking out* “balance sheet” *and substituting* “statement of financial position”,
- (e) *repealing subsection (5) and substituting the following:*
 - (5) **Acceptable Adjustments** – Pro forma adjustments are generally limited to those directly attributable to the specific acquisition transaction for which there are firm commitments and for which the complete financial effects are objectively determinable. See subsection (9) for other pro forma adjustments if the acquisition statements have been prepared using Canadian GAAP applicable to private enterprises.
- (f) *in subsection (7),*
 - (i) *in the title, striking out* “Earlier Interim Financial Statements” *and substituting* “an Earlier Interim Financial Report”, *and*

- (ii) *striking out* “pro forma statements” *and substituting* “pro forma financial statements”, *and*
- (g) *in subsection (8), striking out* “these statements” *and substituting* “these financial statements”.
- (h) *adding the following after subsection (8):*
 - (9) **Pro Forma Financial Statements where Acquisition Statements are Prepared in Accordance with Canadian GAAP applicable to Private Enterprises** – Except in Ontario, section 3.11 of NI 52-107 permits acquisition statements included in a business acquisition report to be prepared in accordance with Canadian GAAP applicable to private enterprises in certain circumstances. If an issuer includes acquisition statements prepared in accordance with Canadian GAAP applicable to private enterprises in a business acquisition report, then those acquisition statements do not have to be reconciled to the issuer’s GAAP under subsection 3.11(6) of NI 52-107. However, section 3.14 of NI 52-107 requires that pro forma financial statements must be presented using principles that are consistent with the issuer’s GAAP. To comply with this requirement, when preparing the pro forma financial statements, the issuer should consider disclosing the adjustments necessary to achieve consistency with the issuer’s GAAP.

The pro forma statement of financial position should present the following information:

- (i) the statement of financial position of the reporting issuer prepared in accordance with the issuer’s GAAP,
- (ii) the balance sheet of the acquired business or related businesses prepared in accordance with Canadian GAAP applicable to private enterprises,
- (iii) pro forma adjustments attributable to the specific acquisition transaction that reflect the reporting issuer’s accounting for the acquisition that includes new values for the business’ assets and liabilities, and
- (iv) a pro forma statement of financial position combining items (i) through (iii).

The pro forma income statement should present the following information:

- (i) the income statement of the reporting issuer prepared in accordance with the issuer’s GAAP,

- (ii) the income statement of the acquired business or related businesses prepared in accordance with Canadian GAAP applicable to private enterprises,
- (iii) pro forma adjustments attributable to the specific acquisition transaction and other adjustments relating to the acquired business to adjust amounts from Canadian GAAP applicable to private enterprises to the issuer's GAAP, and
- (iv) a pro forma income statement combining items (i) through (iii).

The phrase "pro forma adjustments attributable to the specific acquisition transaction" in this subsection are the types of adjustments described in subsection (5).

27. *Section 8.8 is amended by striking out "date of the acquisition" and substituting "acquisition date".*
28. *Subsection 8.9(2) is amended by*
- (a) *adding "annual" before "financial statements",*
 - (b) *striking out "income statements" and substituting "statements of comprehensive income", and*
 - (c) *striking out "cash flow" and substituting "cash flows".*
29. *Subsection 8.10(2) is amended by*
- (a) *in the title, striking out "Interim Financial Statements" and substituting "an Interim Financial Report", and*
 - (b) *striking out "interim financial statements" wherever it occurs and substituting "interim financial report".*
30. *Part 13 is amended by*
- (a) *striking out*

Department of Justice, Northwest Territories
Legal Registries
P.O. Box 1320
1st Floor, 5009-49th Street
Yellowknife, NWT X1A 2L9
Attention: Director, Legal Registries

and substituting

Department of Justice, Northwest Territories

Securities Office
P.O. Box 1320
1st Floor, 5009-49th Street
Yellowknife, NWT X1A 2L9
Attention: Superintendent of Securities,

(b) *under* “Department of Justice, Nunavut”, *striking out* “Director, Legal Registries Division” *and substituting* “Superintendent of Securities”, *and*

(c) *striking out*

Registrar of Securities, Government of Yukon

Corporate Affairs J-9
P.O. Box 2703
Whitehorse, Yukon
Y1A 5H3
Attention: Registrar of Securities

and substituting

Superintendent of Securities, Government of Yukon

Corporate Affairs J-9
P.O. Box 2703
Whitehorse, Yukon
Y1A 5H3
Attention: Superintendent of Securities.

31. *The following is added after Part 13:*

PART 14 TRANSITION

14.1 Transition – Application of Amendments

The amendments to this Policy which came into effect on January 1, 2011 only apply to periods relating to financial years beginning on or after January 1, 2011.

32. *Appendix A is amended by, in the footnote, striking out “Balance sheet” and substituting “Statement of financial position”.*

33. *These amendments only apply to periods relating to financial years beginning on or after January 1, 2011.*

34. *These amendments become effective on January 1, 2011.*