

Notice of Amendments to**National Instrument 44-101 *Short Form Prospectus Distributions***

October 22, 2004

Introduction

On January 30, 2004 we (the members of the Canadian Securities Administrators (CSA)) published for comment proposed amendments (the Proposed Amendments) to National Instrument 44-101 *Short Form Prospectus Distributions* (the Instrument), Form 44-101F3 *Short Form Prospectus* (the Form), and Companion Policy 44-101CP (the Companion Policy). The purpose of the Proposed Amendments was to make the financial statement requirements of the Instrument consistent with the financial statement requirements in National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency* (NI 52-107).

The amendments (the Final Amendments) to the Instrument, Form and Companion Policy have now been finalized and will be implemented or, subject to ministerial approval in certain jurisdictions are expected to be implemented, by each member of the CSA, as

- a rule in each of Alberta, British Columbia, Manitoba, Ontario and Nova Scotia;
- a regulation in Québec and Saskatchewan; and
- a policy in all other jurisdictions represented by the CSA.

In Ontario, the Final Amendments and other required materials were delivered to the Minister of Finance on October 20, 2004. The Minister may approve or reject the Final Amendments or return them for further consideration. If the Minister approves them or does not take any further action the Final Amendments will come into force on January 4, 2005.

In Québec, the Final Amendments are a regulation made under section 331.1 of *The Securities Act* (Québec) and must be approved, with or without amendment, by the Minister of Finance. The Final Amendments will come into force on the date of their publication in the *Gazette officielle du Québec* or on any later date specified in the regulation. It must also be published in the Bulletin.

Provided all necessary ministerial approvals are obtained, the Final Amendments will come into force on January 4, 2005.

Text of the Final Amendments

The text of the Final Amendments accompany this notice.

Substance, Purpose and Background

The Instrument requires all financial statements to be prepared using Canadian generally accepted accounting principles and audited using Canadian generally accepted auditing standards. However, NI 52-107, which came into force on March 30, 2004, permits financial statements to be prepared using foreign generally accepted accounting principles and audited using foreign generally accepted auditing standards in certain circumstances. As a result of the implementation of NI 52-107, we proposed amending the Instrument, Form and Companion Policy so that these documents would be consistent with NI 52-107.

Summary of Written Comments Received by the CSA

On January 30, 2004 we published the Proposed Amendments for public comment. The comment period expired on April 29, 2004. We received one submission from the following commenter:

Osler, Hoskin & Harcourt
Barristers & Solicitors
Box 50, 1 First Canadian Place
Toronto, Ontario
Canada M5X 1B8
T: 416-362-2111
F: 416-862-6666

The appendix to this notice provides a summary of the comments in the submission, together with our responses. We found the comments useful and thank the commenter for taking the time to make a submission.

We revised the Proposed Amendments in response to the comments, but because those revisions have not materially changed the Proposed Amendments, we did not republish the amendments for a second comment period.

Summary of Differences between the Final Amendments and the Proposed Amendments

There are no noteworthy changes between the Final Amendments and the Proposed Amendments. The differences between the Final Amendments and the Proposed Amendments are substantially described in our responses to the comments.

Questions

Please refer your questions to any of:

Michael Moretto
Associate Chief Accountant, Corporate Finance
British Columbia Securities Commission
(604) 899-6767 or (800) 373-6393 (if calling from B.C. or Alberta)
mmoretto@bcsc.bc.ca

Rosann Youck
Senior Legal Counsel
British Columbia Securities Commission
(604) 899-6656
ryouck@bcsc.bc.ca

Fred Snell
Chief Accountant
Alberta Securities Commission
(403) 297-6553
fred.snell@seccom.ab.ca

Mavis Legg
Manager, Securities Analysis
Alberta Securities Commission
(403) 297-2663
mavis.legg@seccom.ab.ca

Charlotte Howdle
Securities Analyst
Alberta Securities Commission
(403) 297-2990
charlotte.howdle@seccom.ab.ca

Bob Bouchard
Director, Corporate Finance
Manitoba Securities Commission
(204) 945-2555
bbouchard@gov.mb.ca

Bill Slattery
Deputy Director, Corporate Finance and Administration
Nova Scotia Securities Commission
(902) 424-7355
slattejw@gov.ns.ca

Laura Moschitto
Chief Accountant's Office
Ontario Securities Commission
(416) 593-8217
lmoschitto@osc.gov.on.ca

Marcel Tillie
Corporate Finance
Ontario Securities Commission
(416) 593-8078
mtillie@osc.gov.on.ca

Rosetta Gagliardi
Conseillère en réglementation
Autorité des marchés financiers
(514) 395-0558 ext. 2405

Sylvie Anctil-Bavas
Spécialiste – expertise comptable
Autorité des marchés financiers
(514) 395-0558 ext. 2402
sylvie.anctil-bavas@lautorite.qc.ca

Eric Boutin
Analyste
Autorité des marchés financiers
(514) 395-0558 ext. 4447
eric.boutin@lautorite.qc.ca

Ian McIntosh
Deputy Director, Corporate Finance
Saskatchewan Financial Services Commission – Securities Division
(306) 787-5867
imcintosh@sfsc.gov.sk.ca

**Appendix to CSA Notice of Amendments
of National Instrument 44-101 *Short Form Prospectus Distributions*
Summary of Comments on the Proposed Amendments
and CSA Responses**

The following summarizes the comments on the Proposed Amendments submitted by Osler Hoskin & Harcourt, and provides our response to those comments. We thank the commenter for making its submission.

The section references set out below are to the relevant sections in the amending instruments that accompany this notice.

Part I Comments on the Proposed Amendments to the Instrument and Form

Section 1.1(d)

The commenter suggested amending the definition of “US GAAS” to encompass the new Public Company Accounting Oversight Board (PCAOB), which has authority to set auditing standards and establish rules related to independence requirements for auditors.

Response: We have repealed the definition as it is no longer required because we have repealed paragraph 10.2(b), which was the only provision that used that term. However, we would not have altered the definition in any case. The definition of US GAAS in NI 52-107 would include both the auditing standards developed by the PCAOB and the auditing standards developed by the American Institute of Certified Public Accountants (AICPA) because both are generally accepted in the United States under different circumstances. Further, since PCAOB rules on independence require SEC approval, the current definition in NI 52-107 will encompass any independence rules developed by the PCAOB.

Section 1.2(c) and (d) and section 1.3(c)

The commenter suggested adding a reference to section 6.2(3) of NI 52-107 in these sections to provide relief from the requirement to provide an audit report with respect to the annual financial statements of an acquired business.

Response: We have not made the suggested change. Section 6.2(3) of NI 52-107 does not create a requirement to have an audit report. It specifies how the auditor’s report must be prepared if the acquisition statements must be audited. The requirement to audit the financial statements remains in NI 44-101.

Section 1.3

In addition to the comment noted above the commenter suggested deleting the reference to “financial information” because there is no requirement to audit financial information.

Response: We agreed and have deleted the reference to financial information.

New section 1.4(d)

The commenter noted that the reference to “1(6)” in section 7.3(2)(a) of the Instrument should be corrected to read “1(5)” instead.

Response: We agreed and have made the suggested correction.

Section 2.1

The commentator noted that the reconciliation to Canadian GAAP in Item 20 of Form 44-101F3 may not always be required.

Response: We agreed and have clarified the wording.

Part II Comments on the Proposed Amendments to the Companion Policy**Section 1.1**

The commenter suggested we add a sentence that would remind issuers that NI 52-107 requires all audited financial statements to be accompanied by an audit report.

Response: We agreed and have clarified the wording as suggested.

Section 1.2

The commenter suggested adding “or incorporated by reference” so that financial statements incorporated by reference into a short form prospectus would also be explicitly captured.

Response: We have clarified the wording to capture financial statements incorporated by reference.