

**NOTICE
REQUEST FOR COMMENTS****PROPOSED MULTILATERAL INSTRUMENT 52-111
AND COMPANION POLICY 52-111CP
REPORTING ON INTERNAL CONTROL OVER FINANCIAL REPORTING****AND****PROPOSED REPEAL AND REPLACEMENT OF
MULTILATERAL INSTRUMENT 52-109,
FORMS 52-109F1, 52-109FT1, 52-109F2 AND 52-109FT2
AND COMPANION POLICY 52-109CP
CERTIFICATION OF DISCLOSURE IN ISSUERS' ANNUAL AND INTERIM FILINGS****1. REQUEST FOR PUBLIC COMMENT**

Members of the Canadian Securities Administrators (the CSA), other than British Columbia (together the Publishing Jurisdictions), are publishing for a 120-day comment period the following documents:

- Multilateral Instrument 52-111 *Reporting on Internal Control over Financial Reporting* (the Proposed Internal Control Instrument);
- Companion Policy 52-111CP (the Proposed Internal Control Policy and together with the Proposed Internal Control Instrument, the Proposed Internal Control Materials);
- Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (the Revised Certification Instrument);
- Forms 52-109F1, 52-109FVT1, 52-109FM1, 52-109F1R, 52-109F1R – AIF, 52-109F2, 52-109FT2, 52-109FM2 and 52-109F2R (together, the Revised Certification Forms); and
- Companion Policy 52-109CP (the Revised Certification Policy and together with the Revised Certification Instrument and the Revised Certification Forms, the Revised Certification Materials).

The Revised Certification Materials are intended to replace the current Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (the Current Certification Instrument), Forms 52-109F1, 52-109FT1, 52-109F2 and 52-109FT2 (the Current Certification Forms) and the Companion Policy to the Current Certification Instrument (the Current Certification Policy and together with the Current Certification Instrument and Current Certification Forms, the Current Certification Materials). The Current Certification Materials came into effect in all CSA jurisdictions, except British Columbia and Québec, on March 30, 2004.

In Québec, the Current Certification Instrument will be adopted as a regulation made under section 331.1 of *The Securities Act* (Québec) once it is approved, with or without amendment, by the Minister of Finance, and will come into force on the date of its publication in the *Gazette officielle du Québec* or on any later date specified in the regulation. The Current Certification Policy will be implemented as a policy.

New Brunswick is in the process of publishing the Current Certification Materials and the proposed amendments to the Current Certification Instrument and the Current Certification Policy that were published by the other Publishing Jurisdictions on November 26, 2004. Both the Current Certification Materials and the proposed amendments will be adopted in New Brunswick by implementing instruments. It is expected that the Current Certification Instrument and the Current Certification Forms will be adopted as a rule and the Current Certification Policy will be adopted as a policy.

We invite comment on these materials generally. In addition, we have raised a number of questions for your specific consideration.

In determining whether to adopt the Proposed Internal Control Materials and the Revised Certification Materials, we will consider comments received in response to this Notice.

In the course of developing the Proposed Internal Control Materials, several of the Publishing Jurisdictions, including Alberta and Ontario, conducted consultations with market participants. Although the Alberta Securities Commission (the ASC) supports the objectives of the Proposed Internal Control Materials, because of feedback it received from issuers and investors, the ASC is still considering whether adoption of the Proposed Internal Control Materials is appropriate and whether any of the alternatives outlined under “7. Alternatives considered – Proposed Internal Control Materials” might sufficiently address the proposed objectives in a more cost-effective manner. The Manitoba Securities Commission shares the concerns expressed by the ASC with respect to the adoption of the Proposed Internal Control Materials.

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3. INTRODUCTION

Publishing Jurisdictions

The Proposed Internal Control Materials and the Revised Certification Materials are initiatives of the Publishing Jurisdictions. If adopted, the Proposed Internal Control Instrument, the Revised Certification Instrument and the Revised Certification Forms are expected to be adopted as:

- a rule in each of Alberta, Manitoba, Ontario, Québec, New Brunswick, Nova Scotia and Newfoundland and Labrador;
- a Commission regulation in Saskatchewan;
- a policy in each of Prince Edward Island and Yukon; and
- a code in each of the Northwest Territories and Nunavut.

It is expected that the Proposed Internal Control Policy and the Revised Certification Policy, if adopted, will be adopted as a policy in each of Alberta, Saskatchewan, Manitoba, Ontario, Québec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, Yukon, the Northwest Territories and Nunavut.

Purpose of Proposed Internal Control Materials and Revised Certification Materials

The objective of the proposals set out in the Proposed Internal Control Materials and the Revised Certification Materials is to improve the quality and reliability of financial and other

continuous disclosure reporting by reporting issuers. We believe that this in turn will help to maintain and enhance investor confidence in the integrity of our capital markets.

The Proposed Internal Control Materials and the Revised Certification Materials will also lend support to various other initiatives developed by the CSA by requiring issuers to develop appropriate systems that provide reasonable assurance regarding the reliability of disclosure made by issuers. These other initiatives include:

- a harmonized continuous disclosure rule that, among other things, mandates specific and expanded content for issuers' MD&A (National Instrument 51-102 *Continuous Disclosure Obligations*);
- an audit committee rule that mandates the establishment of an independent and financially literate audit committee (Multilateral Instrument 52-110 *Audit Committees*); and
- a proposed rule that requires issuers to disclose their corporate governance practices (National Instrument 58-101 *Corporate Governance Disclosure* and National Policy 58-201 *Corporate Governance Guidelines*).

The anticipated costs and benefits associated with the Proposed Internal Control Materials and the Revised Certification Materials are discussed below under “6. Anticipated costs and benefits – Proposed Internal Control Materials” and “10. Anticipated costs and benefits – Revised Certification Materials”.

Alternatives to the Proposed Internal Control Materials and the Revised Certification Materials considered are discussed below under “7. Alternatives considered – Proposed Internal Control Materials” and “11. Alternatives considered – Revised Certification Materials”.

4. BACKGROUND

Sarbanes-Oxley Act of 2002

In July 2002, the *Sarbanes-Oxley Act of 2002* (SOX) was enacted in the U.S. SOX prescribes a broad range of measures designed to restore the public's faith in the U.S. capital markets in the wake of several U.S. financial reporting scandals. These measures include:

- CEO and CFO certification of financial and other disclosure requirements implementing section 302 of SOX (the SOX 302 Rules); and
- internal control reporting requirements implementing section 404 of SOX (the SOX 404 Rules).

Canadian initiatives

Since our markets are connected to and affected by the U.S. markets, they are not immune from real or perceived erosion of investor confidence in the U.S. Therefore, we initiated domestic measures to address the issue of investor confidence and to maintain the reputation of our markets internationally.

On March 30, 2004, the Current Certification Materials came into force in the Publishing Jurisdictions (other than Québec). The Current Certification Materials are similar to the SOX 302 Rules and require a CEO and a CFO (or persons performing similar functions to a CEO or CFO) (certifying officers) to personally certify that, among other things:

- the issuer's annual filings and interim filings do not contain any misrepresentations;
- the financial statements and other financial information in the annual filings and interim filings fairly present the financial condition, results of operations and cash flows of the issuer;
- they have designed disclosure controls and procedures and internal control over financial reporting (or caused them to be designed under their supervision);
- they have evaluated the effectiveness of the issuer's disclosure controls and procedures and caused the issuer to disclose their conclusions regarding their evaluation; and
- they have caused the issuer to disclose certain changes in internal control over financial reporting.

Unlike the SOX 302 Rules, the Current Certification Materials do not require certifying officers to certify that they have disclosed to their audit committees and auditors significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting and certain fraud. The requirement for this representation under the SOX 302 Rules is based upon an evaluation of the effectiveness of internal control over financial reporting.

At the time that the Current Certification Materials came into force, the Publishing Jurisdictions indicated that they were developing, as a separate CSA initiative, an instrument which would require a report on management's assessment of an issuer's internal control over financial reporting. They also indicated that they were evaluating the extent to which auditor attestation of that report should be required.

The Proposed Internal Control Instrument will impose the following requirements in addition to the requirements of the Revised Certification Materials:

- an evaluation of the effectiveness of internal control over financial reporting against a suitable control framework;
- maintenance of evidence providing reasonable support for the evaluation of the effectiveness of internal control over financial reporting;

- reporting of material weaknesses in internal control over financial reporting; and
- an audit of internal control over financial reporting.

These requirements are similar to those under the SOX 404 Rules.

The Revised Certification Instrument will harmonize our certification requirements with those imposed by the SOX 302 Rules for all reporting issuers that are subject to the Proposed Internal Control Instrument.

Previously published proposed amendments to the Current Certification Materials

On November 26, 2004, the Publishing Jurisdictions published for comment proposed amendments to the Current Certification Materials (the Interim Certification Amendments). It is intended that the Interim Certification Amendments come into effect before the Revised Certification Materials come into effect. The Revised Certification Materials incorporate the Interim Certification Amendments. Please see the discussion of transition periods under “8. Summary of changes to Current Certification Materials – Significant changes to Current Certification Instrument and Current Certification Forms” for a summary of these amendments.

5. SUMMARY OF PROPOSED INTERNAL CONTROL MATERIALS

Scope of Application

Part 1 of the Proposed Internal Control Instrument establishes the scope of the Proposed Internal Control Instrument. It applies to all reporting issuers other than investment funds and venture issuers. In contrast, the Revised Certification Instrument applies to all reporting issuers other than investment funds. As a result, venture issuers are subject to the requirements of the Revised Certification Instrument, but are not required to comply with the Proposed Internal Control Instrument.

Under the Proposed Internal Control Instrument, a venture issuer is an issuer that, as at the applicable time, does not have any of its securities listed or quoted on any of the Toronto Stock Exchange, the New York Stock Exchange, the American Stock Exchange, the Nasdaq National Market, the Nasdaq SmallCap Market, the Pacific Exchange or a marketplace outside of Canada or the U.S.

Specific Request for Comment

1. Do you agree that the Proposed Internal Control Instrument should apply to all reporting issuers other than investment funds and venture issuers? If not, which issuers do you believe should be subject to the Proposed Internal Control Instrument?

The table set out below under “5. Summary of Proposed Internal Control Materials – Effective date and transition” provides a breakdown of issuers by market capitalization, which may be helpful in preparing your response to this question.

2. Do you believe that venture issuers should be subject to different requirements relating to internal control over financial reporting beyond what is required by the Revised Certification Materials? If so, what should be the nature of any different requirements?

Management’s assessment of internal control over financial reporting

Part 2 of the Proposed Internal Control Instrument requires management of every issuer, with the participation of the certifying officers, to evaluate the effectiveness of the issuer’s internal control over financial reporting as of the end of the issuer’s financial year.

Management

The Proposed Internal Control Instrument does not define “management”. This is intentional. The Proposed Internal Control Policy clarifies that we expect management to include at a minimum the issuer’s certifying officers. We believe, however, that it should be left to the discretion of the certifying officers, acting reasonably, to determine the other members of management for the purposes of the Proposed Internal Control Instrument.

Specific Request for Comment

3. Should the term “management” be formally defined? If so, what would be an appropriate definition?
4. If “management” is not defined, is the guidance in the Proposed Internal Control Policy adequate and appropriate?

Scope of evaluation

The Proposed Internal Control Instrument does not prescribe the scope of the evaluation of internal control over financial reporting. We believe that the scope of the evaluation should be left to the judgment of management, acting reasonably. This will allow management to tailor its evaluation to the particular circumstances of the issuer, taking into account the issuer’s size, nature of business and complexity of operations.

The Proposed Internal Control Policy, however, clarifies our expectations of the scope of the evaluation if the issuer has any of the following interests:

- an interest in an entity that is consolidated because the issuer controls that entity (a subsidiary);

- an interest in an entity that is consolidated because it is a variable interest entity (a VIE);
- an interest in an entity that is proportionately consolidated because the issuer jointly controls that entity (a joint venture);
- an interest in an entity that is accounted for using the equity method because the issuer has significant influence over that entity (an equity investment);
- an interest in an entity that is carried at cost because the issuer has neither control nor significant influence over that entity (a portfolio investment); or
- an interest in a business that the issuer acquired during the financial year.

Specific Request for Comment

5. Is the guidance set out in the Proposed Internal Control Policy with respect to the scope of the evaluation of internal control over financial reporting in relation to each of the circumstances set out above adequate and appropriate?

Suitable control framework

The evaluation must be based upon a suitable control framework. The Proposed Internal Control Instrument does not prescribe the control framework that must be used. Instead the Proposed Internal Control Instrument requires management to use a suitable control framework established by a body or group that has followed an open and transparent process, including providing the public with an opportunity to provide comments, when developing the control framework.

The Proposed Internal Control Policy provides additional guidance on what constitutes a “suitable control framework”. In particular, it confirms that the following control frameworks satisfy the criteria of a suitable control framework:

- the *Risk Management and Governance/Guidance on Control* published by The Canadian Institute of Chartered Accountants’ Criteria of Control Board (CoCo);
- the *Internal Control – Integrated Framework* published by The Committee of Sponsoring Organizations of the Treadway Commission (COSO); and
- the *Turnbull Report* published by The Institute of Chartered Accountants in England and Wales.

This list is not intended to be exhaustive.

Specific Request for Comment

6. Are there any other control frameworks that should be identified in the Proposed Internal Control Policy as satisfying the criteria for a suitable control framework?
7. Are there any specific aspects of the identified control frameworks on which additional guidance is required to assist in their application by issuers that have limited formal structures for internal control over financial reporting?

Evidence

Part 2 of the Proposed Internal Control Instrument requires every issuer to maintain evidence to provide reasonable support for management's assessment of the effectiveness of the issuer's internal control over financial reporting.

The Proposed Internal Control Instrument does not prescribe the content of the evidence as we believe that it may vary depending on the issuer's size, nature of business and complexity of operations. The Proposed Internal Control Policy provides guidance on our minimum expectations for the content of the evidence.

The evidence must be maintained in a manner that ensures the trustworthiness and readability of the information recorded. The Proposed Internal Control Policy clarifies that the evidence may be maintained in a variety of formats.

In addition, the evidence must be maintained for the same period that the accounting records for the financial year to which the evidence relates are maintained in accordance with the *Income Tax Act* (Canada).

Specific Request for Comment

8. Is the guidance in the Proposed Internal Control Policy regarding the content of the evidence adequate and appropriate?
9. Are the requirements in the Proposed Internal Control Instrument regarding the manner in which the evidence must be maintained adequate and appropriate? Is the guidance in the Proposed Internal Control Policy regarding the manner in which the evidence may be maintained adequate and appropriate?
10. Is the requirement in the Proposed Internal Control Instrument on the period of time during which the evidence must be maintained adequate and appropriate?

Internal control report

Part 2 of the Proposed Internal Control Instrument also requires every issuer to file a report of management that describes management's assessment of the effectiveness of the issuer's internal control over financial reporting (an internal control report). An internal control report must be filed separately, but concurrently, with the issuer's annual financial statements and annual MD&A.

An internal control report must include:

- a statement of management's responsibility for establishing and maintaining adequate internal control over financial reporting for the issuer;
- a statement identifying the control framework used by management to evaluate the effectiveness of the issuer's internal control over financial reporting;
- management's assessment of the effectiveness of the issuer's internal control over financial reporting as of the end of the issuer's financial year, including a statement as to whether the internal control over financial reporting is effective;
- disclosure of any material weaknesses in the issuer's internal control over financial reporting identified by management;
- a statement that the auditors that audited the issuer's annual financial statements have issued an internal control audit report;
- disclosure of any limitations in management's assessment of the effectiveness of the issuer's internal control over financial reporting extending into a joint venture or a VIE in which the issuer has a material interest; and
- disclosure of any limitations in management's assessment of the effectiveness of the issuer's internal control over financial reporting extending into a business that was acquired by the issuer during the financial year.

The internal control report must be approved by the issuer's board of directors before it is filed.

Specific Request for Comment

11. Is it appropriate to require disclosure of any limitations in management's assessment of the effectiveness of an issuer's internal control over financial reporting extending into a joint venture, VIE or acquired business? If not, are there alternative ways of providing transparency with respect to any limitations in management's assessment?
12. Are there any other circumstances under which management may reasonably limit its assessment? Should disclosure of these circumstances be required?

Internal control audit report

Part 3 of the Proposed Internal Control Instrument requires every issuer to file a report in which the issuer's auditor expresses an opinion, or states that an opinion cannot be expressed, concerning management's assessment of the effectiveness of the issuer's internal control over financial reporting (an internal control audit report). The internal control audit report must be filed together with the internal control report.

An internal control audit report must:

- be prepared in accordance with the standard (the CICA Standard) for an audit of internal control over financial reporting performed in conjunction with an audit of financial statements established by the Auditing and Assurance Standards Board of The Canadian Institute of Chartered Accountants (the CICA);
- be dated the same date as the audit report on the annual financial statements;
- be signed by the auditor; and
- identify the internal control report in respect of which the internal control audit report has been prepared.

Auditing standard

As noted above, the internal control audit report must be prepared in accordance with the CICA Standard. In October 2004, the Auditing and Assurance Standards Board of the CICA (the AASB) issued for public comment an exposure draft of the proposed CICA Standard. The proposed CICA Standard is substantially the same as the Public Company Accounting Oversight Board's (the PCAOB) Auditing Standard No. 2, An Audit of Internal Control over Financial Reporting Performed in Conjunction with an Audit of Financial Statements (the PCAOB Standard). The exposure draft, together with background information about the project and the current status of the AASB's deliberations, is available on the CICA's website (www.cica.ca). The nature and scope of the audit engagement proposed in the exposure draft is an important element to be considered in assessing the implications of the Proposed Internal Control Materials. We therefore encourage you to review the Proposed Internal Control Materials in conjunction with the exposure draft.

Despite the preceding paragraph, auditors of foreign issuers may perform their audit and prepare their audit report in accordance with the PCAOB Standard. The term "foreign issuer" is defined in the Proposed Internal Control Instrument. The PCAOB Standard is available on the PCAOB's website (www.pcaobus.org).

No separate engagement

The internal control audit report and the audit report on the annual financial statements must be prepared by the same auditor. We believe that the audit of internal control over financial reporting and the audit of financial statements are interrelated and as a result, should be performed by the same auditor.

Auditor independence

Under the rules of professional conduct of the provincial and territorial institutes of Chartered Accountants, auditors are prohibited from providing certain non-audit services to issuers above a specified size threshold. Among other things, this permits an auditor expressing an opinion on financial statements of an issuer to provide certain non-audit services such as accounting, bookkeeping and internal audit so long as any resulting self-review threat is reduced to an acceptable level. The Proposed Internal Control Policy confirms that, if such services are provided to an issuer, the issuer's audit committee and the auditor should evaluate carefully whether the auditor's independence will be impaired for purposes of signing an internal control audit report.

Refiled internal control reports and internal control audit reports

Part 4 of the Proposed Internal Control Instrument requires an issuer to refile its internal control report and internal control audit report if it refiles its annual financial statements. The Proposed Internal Control Policy clarifies that if the annual MD&A is refiled but the annual financial statements are not refiled, it will not be necessary to refile the internal control report and internal control audit report.

Delivery of internal control reports and internal control audit reports

Part 5 of the Proposed Internal Control Instrument sets out the delivery requirement for internal control reports and internal control audit reports.

Language of internal control reports and internal control audit reports

Part 6 of the Proposed Internal Control Instrument specifies the language requirements for internal control reports and internal control audit reports.

Exemptions

Part 7 of the Proposed Internal Control Instrument provides for a number of exemptions.

52-111 transition issuers

We have included three exemptions for 52-111 transition issuers which have the effect of delaying the implementation of the reporting requirements of the Proposed Internal Control Instrument for these issuers. Please see “5. Summary of Proposed Internal Control Materials - Effective date and transition” for a further discussion of these exemptions.

Issuers that comply with SOX 404 Rules

Issuers that comply with the SOX 404 Rules are exempt from the Proposed Internal Control Instrument provided that they file with the securities regulatory authorities management’s annual report on internal control over financial reporting and the attestation report on management’s assessment of internal control over financial reporting prepared in accordance with the PCAOB Standard.

We believe that issuers that comply with the SOX 404 Rules should be exempt from the Proposed Internal Control Instrument because the requirements of the Proposed Internal Control Instrument and the SOX 404 Rules are substantially similar.

Foreign issuers

Certain foreign issuers are exempt from the Proposed Internal Control Instrument. We have included this exemption in order to be consistent with the basic scheme contemplated by National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers*.

Exchangeable security issuers and credit support issuers

Certain issuers of exchangeable securities and guaranteed debt securities are exempt from the Proposed Internal Control Instrument provided that they are exempt from National Instrument 51-102 *Continuous Disclosure Obligations*.

Asset-backed securities issuers

Certain issuers of asset-backed securities (ABS issuers) are exempt from the Proposed Internal Control Instrument. The term “asset-backed security” is defined in the Proposed Internal Control Instrument. ABS issuers are similarly exempt from the requirements of the SOX 404 Rules.

We are currently examining the continuous disclosure requirements imposed on ABS issuers as a separate initiative. Upon completing this review, we may consider imposing the requirements of the Proposed Internal Control Instrument or alternative requirements on ABS issuers.

Part 7 of the Proposed Internal Control Instrument also provides that exemptions from the Proposed Internal Control Instrument may be granted by the securities regulatory authority or regulator.

Specific Request for Comment

13. Are the exemptions from the Proposed Internal Control Instrument appropriate?
14. Are there any other classes of issuers that should be exempt from the Proposed Internal Control Instrument?

Effective date and transition

Part 8 of the Proposed Internal Control Instrument establishes the date that the Proposed Internal Control Instrument comes into force.

The provisions regarding internal control reports and internal control audit reports will apply for financial years ending on or after June 30, 2006. There are three exemptions from this implementation date which result in implementation of the Proposed Internal Control Instrument being phased-in over four years:

Exemption for 52-111 transition 1 issuers

Issuers with a market capitalization of \$250,000,000 or more but less than \$500,000,000 are exempt from the reporting requirements for financial years ending on or before June 29, 2007 provided that they file a notice of the exemption in the prescribed form with the securities regulatory authorities.

Exemption for 52-111 transition 2 issuers

Issuers with a market capitalization of \$75,000,000 or more but less than \$250,000,000 are exempt from the reporting requirements for financial years ending on or before June 29, 2008 provided that they file a notice of the exemption in the prescribed form with the securities regulatory authorities.

Exemption for 52-111 transition 3 issuers

Issuers with a market capitalization of less than \$75,000,000 are exempt from the reporting requirements for financial years ending on or before June 29, 2009 provided that they file a notice of the exemption in the prescribed form with the securities regulatory authorities.

Market capitalization will be calculated on the basis of a 20 trading-day weighted average as of June 30, 2005 (with an exception for an issuer who becomes a reporting issuer or ceases to be

a venture issuer after that date). The manner in which market capitalization is calculated is set out in the Proposed Internal Control Instrument.

The following table summarizes the implementation of the reporting requirements for reporting issuers in Canada:^{1, 2}

Category of reporting issuers³	Number of issuers	Approximate % of issuers	Approximate % of market capitalization⁴	First year-ends to which reporting requirements apply (either under the SOX 404 Rules or the Proposed Internal Control Instrument)
SEC registrants ⁵	175	13%	61%	November 15, 2004 or July 15, 2005 (if foreign private issuer or non-accelerated filer)
Non-venture issuers ⁶ with a market capitalization of greater than \$500,000,000	186	14%	31%	June 30, 2006
Non-venture issuers with a market capitalization of \$250,000,000 or more but less than \$500,000,000	127	10%	3%	June 30, 2007
Non-venture issuers with a market capitalization of \$75,000,000 or more but less than \$250,000,000	355	27%	4%	June 30, 2008
Non-venture issuers with a market capitalization of less than \$75,000,000	475	36%	1%	June 30, 2009
Total	1,318	100%	100%	
Venture issuers ⁷	2,317	-	-	Not applicable

¹All values are as of October 2004.

² Please see Specific Request for Comment #1 under “5. Summary of Proposed Internal Control Materials – Scope of Application” and Alternative #3 – More limited scope of application under “7. Alternatives considered – Proposed Internal Control Materials”, both of which refer to this table.

³ We have removed foreign issuers from this analysis because they would otherwise distort the numbers due to the size of the market capitalization of these issuers that have listings on the TSX but are very thinly traded there. As a result, “% of issuers” is calculated as the percent of Canadian-based issuers and “% of market capitalization” is calculated as the percent of domestic quoted market value.

⁴ Subject to footnote 2, the approximate percentage of market capitalization is calculated using the total TSX Quoted Market Value at the end of October 2004 (\$1,308 billion).

⁵ We have used interlisted issuers identified by the TSX as an approximation for SEC registrants. These issuers are not venture issuers; however, they are not included in the groups of non-venture issuers in the table above.

⁶ We have used TSX-listed issuers as an approximation for non-venture issuers.

⁷ We have used TSX Venture-listed issuers and NEX-listed issuers as an approximation for venture issuers.

We are proposing the phased-in implementation as we are conscious of the need to provide adequate time for an orderly implementation that achieves the objectives of the Proposed Internal Control Instrument, while taking into account concerns about the cost and limited availability of appropriate expertise, both within reporting issuers and among external advisors and auditors.

Specific Request for Comment

15. Is the phased-in implementation of the Proposed Internal Control Instrument appropriate?

16. Does the phased-in implementation adequately address the concerns regarding the cost and limited availability of appropriate expertise within reporting issuers and among external advisors and auditors? If not, how can these concerns be addressed?

Proposed Internal Control Policy

The purpose of the Proposed Internal Control Policy is to help users understand how the securities regulatory authorities interpret or apply certain provisions of the Proposed Internal Control Instrument. It also includes a discussion on the consequences of filing internal control reports and internal control audit reports containing misrepresentations.

6. ANTICIPATED COSTS AND BENEFITS – PROPOSED INTERNAL CONTROL MATERIALS

As with all regulatory initiatives, it is important to consider the costs and benefits (both quantifiable and unquantifiable) associated with the Proposed Internal Control Materials.

Adoption of the Proposed Internal Control Materials may have a number of potential implications. These include:

- promotion of an enhanced focus on internal control over financial reporting among reporting issuers in Canada;
- improvement in the quality and reliability of financial reporting;
- enhanced investor confidence in our capital markets, potential increase in capital investment in Canada and potential lower cost of capital for reporting issuers in Canada;
- the alignment of our regulatory system with the regulatory system in the U.S.;
- potential adverse effect on issuers' profitability and growth prospects as a result of the costs of compliance;
- potential decrease in the number of reporting issuers in Canada; and
- misconceptions regarding the objectives of the Proposed Internal Control Instrument, which is not designed to legislate against fraud, resulting in a false sense of security in investors.

The anticipated costs and benefits of implementing the Proposed Internal Control Materials are discussed in the paper entitled *The Cost and Benefits of Management Reporting and Auditor Attestation on Internal Controls over Financial Reporting* (the Internal Control CBA), which has been published together with this Notice, and is incorporated by reference into this Notice. The Internal Control CBA identifies both quantifiable and unquantifiable costs and benefits associated with the Proposed Internal Control Materials. The Internal Control CBA is available on the Ontario Securities Commission's website (at www.osc.gov.on.ca under "Policy & Regulation" – "Rules, Policies & Notices" – "Category 5 – Ongoing Requirements for Issuers and Insiders" - "52-111 – Reporting on Internal Control over Financial Reporting").

There has also been a significant amount of commentary emanating from the U.S. regarding the costs of compliance with the SOX 404 Rules. This commentary has indicated that:

- Compliance with the SOX 404 Rules is both time-consuming and costly and in some cases, diverting human and capital resources away from the core business.
- The costs of compliance with the SOX 404 Rules may be disproportionately higher for smaller issuers or issuers with complex or decentralized operations.
- Compliance with the SOX 404 Rules has increased the demand for internal accounting staff, auditors and consultants. This has led to, in certain markets, a shortage of such persons and an increase in the costs of the services provided by such persons.

Specific Request for Comment

17. Are there any costs or benefits associated with the Proposed Internal Control Materials that have not been identified in the Internal Control CBA? If so, what are they?
18. Do you believe that the benefits (both quantifiable and unquantifiable) justify the costs of compliance (both quantifiable and unquantifiable) for:
 - (a) issuers with a market capitalization of less than \$75 million?
 - (b) issuers with a market capitalization of \$75 million or more but less than \$250 million?
 - (c) issuers with a market capitalization of \$250 million or more but less than \$500 million?
 - (d) issuers with a market capitalization of greater than \$500 million?
 - (e) all issuers?

Why?

7. ALTERNATIVES CONSIDERED - PROPOSED INTERNAL CONTROL MATERIALS

We did consider proposing alternative instruments or policies which would contain less onerous or different requirements than those found in the Proposed Internal Control Materials.

In evaluating each of these alternatives, we considered its potential to achieve the following objectives: (i) improvement in the quality and reliability of financial reporting in Canada; (ii) promotion of an “internal control culture” through an enhanced focus on internal control over financial reporting in Canada; and (iii) maintenance and enhancement of the reputation of our markets. We also balanced these objectives with the transparency of the alternative to the marketplace, the costs of compliance for issuers and the practicality of the alternative from the perspective of issuers, their auditors and the securities regulatory authorities.

We did not identify any alternatives that we believed met all of the objectives discussed above to the same extent as the Proposed Internal Control Materials. Some of the alternatives considered are briefly discussed below.

Alternative #1 - No internal control audit report

This alternative would require issuers to comply with the requirements of the Proposed Internal Control Instrument other than the requirement to file an internal control audit report.

The costs of compliance with this alternative would be lower than the costs of compliance with the Proposed Internal Control Instrument.

While this alternative would enhance the focus on internal control over financial reporting to some extent, the depth to which management would evaluate the effectiveness of internal control over financial reporting would potentially vary significantly without the internal control audit. We believe that the audit provides greater assurance regarding the consistency in the quality and appropriateness of management’s evaluation. Without the audit requirement, it

would be difficult for investors to assess and compare the quality and results of management's evaluation of internal control over financial reporting. As a result, investors may assign a lower value to the internal control reports filed in accordance with this alternative as compared to those filed in accordance with the SOX 404 Rules. This in turn may affect the reputation of our markets.

Alternative #2 - Less prescriptive auditing standard

This alternative would require issuers to comply with the requirements of the Proposed Internal Control Instrument except that internal control audit reports would be required to be prepared in accordance with an alternative auditing standard that would be less prescriptive than the proposed CICA Standard and the PCAOB Standard.

The costs of compliance with this alternative may be lower than the costs of compliance with the Proposed Internal Control Instrument.

While this alternative would enhance the focus on internal control over financial reporting to some extent, it poses practical implementation problems for issuers, auditors and securities regulatory authorities. It would reduce the ability of issuers and auditors to learn from the experience of issuers and auditors complying with the SOX 404 Rules. Auditors may have to apply audit procedures in Canada that are different from those applied in the United States. This alternative would not enable us to implement internal control reporting requirements in a timely manner as a new auditing standard would have to be developed.

In addition, it may be difficult for investors to compare the internal control audit reports filed in accordance with this alternative with those filed in accordance with the SOX 404 Rules and to assign the appropriate value to each type of report. It is difficult to assess the effect this may have on the reputation of our markets.

Alternative #3 - More limited scope of application

This alternative would exempt non-venture issuers with a market capitalization of less than a specified amount (e.g. \$75 million, \$250 million or \$500 million) from the requirements of the Proposed Internal Control Instrument.

There is some evidence that the costs of compliance with the Proposed Internal Control Instrument may be disproportionately higher for smaller issuers. As a result, this alternative would eliminate the cost burden for smaller issuers, while issuers representing a significant percentage of the total TSX Quoted Market Value would still be subject to the Proposed Internal Control Instrument. Please see the table set out under "5. Summary of Proposed Internal Control Materials – Effective date and transition" which provides a breakdown of issuers by market capitalization.

This alternative, however, would create two levels of regulation among issuers listed on the TSX, Canada's senior exchange: issuers listed on the TSX with a market capitalization of greater than the specified amount would be subject to the Proposed Internal Control Instrument in addition to the Revised Certification Instrument and issuers listed on the TSX with a market capitalization of less than the specified amount would only be subject to the Revised Certification Instrument.

This alternative poses practical and transparency concerns. A mechanism to address issuers' market capitalization fluctuating above and below the specified amount would have to be developed. It would be more difficult for both issuers and investors to predict which issuers

would be subject to the requirements of the Proposed Internal Control Instrument in any given year. In addition, it may be less transparent to investors which issuers have complied with the Proposed Internal Control Instrument in any given year.

It also would not necessarily enhance the focus on internal control over financial reporting among smaller issuers listed on the TSX. This approach may affect the reputation of our senior exchange as not all of its listed issuers would be subject to requirements similar to the SOX 404 Rules.

Alternative #4 – Evaluation of entity-level controls only

This alternative would require management to evaluate only entity-level controls relating to financial reporting as at the end of the issuer's financial year and require the issuer to file a report of management's assessment of such controls and auditor attestation to that report. Entity-level controls include ethics, code of conduct and "tone at the top".

This alternative would enhance the focus on internal control over financial reporting with management and auditors concentrating on the "big picture" components of internal control over financial reporting.

It may also involve less work by management and auditors than the Proposed Internal Control Instrument, resulting in lower costs of compliance. It is difficult to estimate the extent of the cost reductions as management and auditors would still be required to perform a significant amount of work to support their assessment of the effectiveness of the entity-level controls. This work may include evaluating operating controls that support the entity-level controls.

This alternative, however, poses practical implementation problems for issuers, auditors and securities regulatory authorities. It would reduce the ability of issuers and auditors to learn from the experience of issuers and auditors complying with the SOX 404 Rules. Auditors may have to apply audit procedures in Canada that are different from those applied in the United States. This alternative would not enable us to implement internal control reporting requirements in a timely manner as a new auditing standard would have to be developed.

This alternative would also result in a significantly different scope of evaluation of internal control over financial reporting than the scope required under the SOX 404 Rules. It may be difficult for investors to compare the internal control audit reports filed in accordance with this alternative with those filed in accordance with the SOX 404 Rules and to assign the appropriate value to each type of report. Given the more limited scope of the entity-level control evaluation, investors may assign a lower value to internal control reports filed in accordance with this alternative. This in turn may affect the reputation of our markets.

Alternative #5 – Voluntary compliance

This alternative would implement the Proposed Internal Control Instrument as a recommended practice. Issuers would have the option of either complying with the internal control reporting requirements or explaining why it is appropriate that they did not comply. The market would be able to respond accordingly.

This alternative would eliminate the cost burden for issuers who chose not to comply with the internal control reporting requirements.

This alternative, however, would not necessarily enhance the focus on internal control over financial reporting in Canada. This in turn may affect the reputation of our markets.

In addition, this alternative poses practical and transparency concerns. It would be more difficult to predict which issuers would be complying with the requirements of the Proposed Internal Control Instrument in any given year. In addition, it may be less transparent to investors which issuers have complied with the Proposed Internal Control Instrument in any given year.

Issuers may also not choose to obtain an internal control audit report, which may raise concerns regarding the quality and appropriateness of management's evaluation.

Alternative #6 - Status quo

This alternative would not impose the requirements regarding internal control over financial reporting set out in the Proposed Internal Control Instrument. As a result, issuers would only be subject to the requirements regarding internal control over financial reporting set out in the Revised Certification Materials.

There would be no incremental costs of compliance associated with this alternative.

While this alternative would enhance the focus on internal control over financial reporting to some extent, the extent to which management would design internal control over financial reporting would potentially vary significantly without the formal requirement to evaluate internal control over financial reporting and obtain an internal control audit. We believe that the audit provides greater assurance regarding the consistency in the quality and appropriateness of management's design and evaluation of internal control over financial reporting.

As a result, we do not believe that the Revised Certification Materials alone achieve the objectives identified above to the same extent as the Revised Certification Materials combined with the Proposed Internal Control Materials.

Specific Request for Comment

19. Do you agree with our assessment of the identified alternatives?

20. What other alternatives, if any, would achieve the objectives identified above?

8. SUMMARY OF CHANGES TO CURRENT CERTIFICATION MATERIALS

The Current Certification Materials continue to be in force in all jurisdictions, except British Columbia and Québec. If the Revised Certification Materials are adopted, they will replace the Current Certification Materials.

Significant changes to Current Certification Instrument and Current Certification Forms

The most significant changes to the Current Certification Instrument and the Current Certification Forms are summarized below:

Requirement for disclosure controls and procedures and internal control over financial reporting
A new section has been added to clarify that every issuer must have disclosure controls and procedures and internal control over financial reporting.

Annual certificates

(i) *Transition periods*

Under the Current Certification Materials, issuers are permitted to file annual certificates in Form 52-109FT1 (a bare annual certificate) for financial years ending on or before March 30, 2005.

An additional transition period has been added during which issuers will be permitted to file annual certificates in Form 52-109FM1 (a modified annual certificate). The modified annual certificates are permitted for financial years ending on or before June 29, 2006 and do not require the certifying officers to represent that:

- they are responsible for establishing and maintaining internal control over financial reporting;
- they have designed internal control over financial reporting, or caused it to be designed under their supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with GAAP; and
- they have caused the issuer to disclose in the issuer's MD&A any change in the issuer's internal control over financial reporting that occurred during the period between the end of the most recent interim period and the end of the issuer's financial year that materially affected, or is reasonably likely to materially affect, the issuer's internal control over financial reporting.

(ii) *Required form of full annual certificates*

Following the transition periods discussed above:

- An issuer that is not a 52-109 transition issuer or a venture issuer must file annual certificates in Form 52-109F1 (a full annual certificate for issuers required to comply with the Proposed Internal Control Instrument).
- A venture issuer must file annual certificates in Form 52-109FVT1 (a full annual certificate for issuers not required to comply with the Proposed Internal Control Instrument).
- A 52-109 transition issuer may file annual certificates in Form 52-109FVT1 for the financial years in respect of which it is not required to comply with the reporting requirements of the Proposed Internal Control Instrument, following which it must file annual certificates in Form 52-109F1.

Under the Revised Certification Instrument, a venture issuer is an issuer that, as at the applicable time, does not have any of its securities listed or quoted on any of the Toronto

Stock Exchange, the New York Stock Exchange, the American Stock Exchange, the Nasdaq National Market, the Nasdaq SmallCap Market, the Pacific Exchange or a marketplace outside of Canada or the U.S.

There are three classes of 52-109 transition issuers which are defined in the Revised Certification Instrument. Generally speaking, 52-109 transition issuers are issuers with a market capitalization of less than \$500,000,000.

(iii) *Differences between forms of full annual certificates*

There are two primary differences between Form 52-109F1 and Form 52-109FVT1. First, Form 52-109F1 includes a representation that an issuer’s certifying officers have disclosed, based on their most recent evaluation of internal control over financial reporting, to the issuer’s auditors and audit committee:

- all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the issuer’s ability to record, process, summarize and report financial information; and
- any fraud, whether or not material, that involves management or other employees who have a significant role in the issuer’s internal control over financial reporting.

“Significant deficiency”, “material weakness” and “audit committee” are defined in the Revised Certification Instrument. This representation is contained in the form of certificate required under the SOX 302 Rules. It is based upon an evaluation of internal control over financial reporting, which is a requirement of the Proposed Internal Control Instrument. As issuers who are permitted or required to file annual certificates in Form 52-109FVT1 for a financial year are not subject to the requirements of the Proposed Internal Control Instrument for that financial year, this representation has not been included in Form 52-109FVT1.

Second, Form 52-109FVT1 contains a representation that the issuer is not required to comply with the requirements of the Proposed Internal Control Instrument.

(iv) *Summary of annual certificate filing requirements*

The annual certificate filing requirements (as amended by the Revised Certification Instrument) are summarized in the table below and are illustrated in Appendix A:

Implementation date	Type of certificate	Summary of representations of certifying officers ¹
Financial years ending on or before March 30, 2005	Bare Form 52-109FT1	<ul style="list-style-type: none"> • The certifying officers have reviewed the annual filings. • Based on the certifying officers’ knowledge, the issuer’s annual filings do not contain any misrepresentations.

Implementation date	Type of certificate	Summary of representations of certifying officers ¹
		<ul style="list-style-type: none"> Based on the certifying officers' knowledge, the financial statements and other financial information in the annual filings fairly present the financial condition, results of operations and cash flows of the issuer.
Financial years ending after March 30, 2005 but on or before June 29, 2006	Modified Form 52-109FM1	<ul style="list-style-type: none"> The representations in the bare certificate plus the following: <ul style="list-style-type: none"> The certifying officers are responsible for establishing and maintaining disclosure controls and procedures and have designed (or caused to be designed) such disclosure controls and procedures. The certifying officers have evaluated the effectiveness of disclosure controls and procedures and caused the issuer to disclose their conclusions.
Financial years ending after June 29, 2006	Full – subject to the Proposed Internal Control Instrument Form 52-109F1	<p><i>If the issuer is required to comply with the Proposed Internal Control Instrument:</i></p> <ul style="list-style-type: none"> The representations in the modified certificate plus the following: <ul style="list-style-type: none"> The certifying officers are responsible for establishing and maintaining internal control over financial reporting and have designed (or caused to be designed) such internal control over financial reporting. The certifying officers have caused the issuer to disclose certain changes in internal control over financial reporting. Based on their evaluation of internal control over financial reporting, the certifying officers have disclosed to the issuer's auditors and the audit committee certain significant deficiencies in internal control over financial reporting and fraud.
	Full – not subject to the Proposed	<p><i>If the issuer is not required to comply with the Proposed Internal Control Instrument:</i></p>

Implementation date	Type of certificate	Summary of representations of certifying officers ¹
	Internal Control Instrument <i>Form 52-109FVT1</i>	<ul style="list-style-type: none"> • The representations in the modified certificate plus the following: <ul style="list-style-type: none"> • The certifying officers are responsible for establishing and maintaining internal control over financial reporting and have designed (or caused to be designed) such internal control over financial reporting. • The certifying officers have caused the issuer to disclose certain changes in internal control over financial reporting. • The issuer is not required to comply with the requirements of the Proposed Internal Control Instrument.

¹ Please see the Revised Certification Forms for the prescribed wording of the required representations.

Interim certificates

(i) *Transition periods*

Under the Current Certification Materials, issuers are not required to file interim certificates in Form 52-109F2 (a full interim certificate) until they are required to file full annual certificates.

An additional transition period for interim certificates has been added. Under the Revised Certification Instrument, issuers are permitted to file interim certificates in Form 52-109FM2 (a modified interim certificate) for permitted interim periods. As in the case of the modified annual certificates, the modified interim certificates do not require the certifying officers to represent that:

- they are responsible for establishing and maintaining internal control over financial reporting;
- they have designed internal control over financial reporting, or caused it to be designed under their supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with GAAP; and
- they have caused the issuer to disclose in the issuer's MD&A any change in the issuer's internal control over financial reporting that occurred during the issuer's most recent period that materially affected, or is reasonably likely to materially affect, the issuer's internal control over financial reporting.

Permitted interim periods are those interim periods that occur before the first financial year in respect of which an issuer is required to file full annual certificates.

(ii) *Summary of interim certificate filing requirements*

The interim certificate filing requirements (as amended by the Revised Certification Instrument) are summarized in the table below and are illustrated in Appendix B:

Implementation date	Type of certificate	Summary of representations of certifying officers ¹
Interim periods occurring before the first financial year in respect of which modified annual certificates are required	Bare <i>Form 52-109FT2</i>	<ul style="list-style-type: none"> • The certifying officers have reviewed the interim filings. • Based on the certifying officers' knowledge, the issuer's interim filings do not contain any misrepresentations. • Based on the certifying officers' knowledge, the financial statements and other financial information in the interim filings fairly present the financial condition, results of operations and cash flows of the issuer.
Interim periods occurring before the first financial year in respect of which full annual certificates are required	Modified <i>Form 52-109FM2</i>	<ul style="list-style-type: none"> • The representations in the bare certificate plus the following: <ul style="list-style-type: none"> • The certifying officers are responsible for establishing and maintaining disclosure controls and procedures and have designed (or caused to be designed) such disclosure controls and procedures.
Interim periods occurring after the first financial year in respect of which full annual certificates are required	Full <i>Form 52-109F2</i>	<ul style="list-style-type: none"> • The representations in the modified certificate plus the following: <ul style="list-style-type: none"> • The certifying officers are responsible for establishing and maintaining internal control over financial reporting and have designed (or caused to be designed) such internal control over financial reporting. • The certifying officers have caused the issuer to disclose certain changes in internal control over financial reporting.

¹ Please see the Revised Certification Forms for the prescribed wording of the required representations.

Definition of “annual filings”

The definition of “annual filings” has been amended to include the issuer’s internal control report, if any. A definition of “internal control report” has also been added. As a result of these amendments, certifying officers will be required to certify the issuer’s internal control reports. This requirement is consistent with the SOX 302 Rules.

Refiled financial statements, MD&A and AIFs

New sections have been added to clarify that:

- an issuer must refile its annual certificates for a financial year if the issuer refiles its annual financial statements, annual MD&A or AIF for that financial year; and
- an issuer must refile its interim certificates for an interim period if the issuer refiles its interim financial statements or interim MD&A for that interim period.

The required form for the refiled certificates is Form 52-109F1R or Form 52-109F2R, as applicable.

Voluntarily filed AIFs

A new section has been added to clarify that a venture issuer must refile its annual certificates for a financial year if the issuer voluntarily files an AIF for that financial year after the issuer has filed its annual financial statements, annual MD&A and annual certificates for that financial year. The required form for the refiled certificates is Form 52-109F1R-AIF.

Specific Request for Comment

21. Is it necessary or appropriate to require a venture issuer to refile its annual certificates for a financial year when it voluntarily files an AIF for that financial year after it has filed its annual financial statements, annual MD&A and annual certificates for that financial year?
22. Since the AIF may be voluntarily filed several months after the issuer’s annual financial statements and annual MD&A, there may be a significant gap between the time that the annual financial statements and annual MD&A are filed and the time that the annual certificates are refiled. Is this timing gap problematic?

Language of certificates

A new part has been added to clarify the language requirements for annual certificates and interim certificates.

Significant changes to Current Certification Policy

The most significant changes to the Current Certification Policy are summarized below:

Non-corporate entities

A new section has been added to provide guidance on the application of the Revised Certification Materials to non-corporate entities.

Prescribed form

A new section has been added to remind issuers that the language of annual certificates and interim certificates is prescribed.

Paper copies of the signed certificates

A new section has been added to clarify the filing requirements for annual certificates and interim certificates.

One person acting as CEO and CFO

A new section has been added to provide guidance on the filing requirements of an issuer that has one person acting as CEO and CFO.

Guidance regarding certification extending into underlying entities

A new section has been added to provide guidance on the procedures to be undertaken by certifying officers of an issuer that has an interest in certain underlying entities such as a subsidiary, a VIE, a joint venture, an equity investment or a portfolio investment.

Specific Request for Comment

23. Is the guidance regarding the treatment of underlying entities set out in the Revised Certification Policy adequate and appropriate?

9. SUMMARY OF REVISED CERTIFICATION MATERIALS

Revised Certification Instrument

Part 1 contains definitions of certain terms and phrases used in the Revised Certification Materials. It also establishes the scope of application of the Revised Certification Instrument.

Part 2 contains the requirement of every issuer to have disclosure controls and procedures and internal control over financial reporting.

Part 3 deals with the annual certificate requirements.

Part 4 deals with the interim certificate requirements.

Part 5 deals with the requirement to refile annual certificates and interim certificates upon the refiling of annual or interim financial statements, annual or interim MD&A or AIFs and upon the voluntary filing of an AIF subsequent to the filing of the issuer's annual financial statements, annual MD&A and annual certificates.

Part 6 deals with the language requirements of the annual certificates and interim certificates.

Part 7 provides for a number of exemptions, including exemptions for certain issuers that comply with the SOX 302 Rules, certain foreign issuers, certain exchangeable security issuers and certain credit support issuers. It also provides that exemptions from the Revised Certification Instrument may be granted by the securities regulatory authority or regulator.

Part 8 deals with the coming into force of the Revised Certification Instrument. Section 8.1 provides for the revocation of the Current Certification Instrument while section 8.2 establishes the date that the Revised Certification Instrument comes into force.

Revised Certification Forms

The Revised Certification Forms are the required forms of annual certificates and interim certificates.

Revised Certification Policy

The purpose of the Revised Certification Policy is to help users understand how the securities regulatory authorities interpret or apply certain provisions of the Revised Certification Instrument. It also includes a discussion on the consequences of filing annual certificates and interim certificates containing misrepresentations.

10. ANTICIPATED COSTS AND BENEFITS – REVISED CERTIFICATION MATERIALS

As with all regulatory initiatives, it is important to consider the costs and benefits (both quantifiable and unquantifiable) associated with the Revised Certification Materials.

The anticipated costs and benefits of implementing the Current Certification Materials are discussed in the paper entitled *Investor Confidence Initiatives: A Cost-Benefit Analysis* published on June 27, 2003. The Revised Certification Materials are meant to address the implementation of the Proposed Internal Control Materials and to improve the effectiveness of the Current Certification Materials. We believe that any incremental costs associated with the Revised Certification Materials have been addressed in the Internal Control CBA.

11. ALTERNATIVES CONSIDERED – REVISED CERTIFICATION MATERIALS

The proposed amendments to the Current Certification Materials are intended to improve the effectiveness of this instrument which we believe will better serve issuers, investors and other market participants. The proposed amendments to the Current Certification Materials also address consequential amendments resulting from the Proposed Internal Control Materials. No other alternatives were considered.

12. CONSEQUENTIAL AMENDMENTS

We are considering amending the prospectus rules to require internal control reports and internal control audit reports to be included or incorporated by reference in certain prospectuses. Any such amendments will be published for public comment.

13. RELATED INSTRUMENTS

The Proposed Internal Control Materials and the Revised Certification Instrument are related to:

- National Instrument 51-102 *Continuous Disclosure Obligations*;
- National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers*;
- National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency*;
- National Instrument 52-108 *Auditor Oversight*; and
- Multilateral Instrument 52-110 *Audit Committees*.

14. RELIANCE ON UNPUBLISHED STUDIES, ETC.

In developing the Proposed Internal Control Materials and the Revised Certification Materials, we did not rely upon any significant unpublished study, report or other written materials.

15. COMMENTS

Interested parties are invited to make written submissions on the Proposed Internal Control Materials and the Revised Certification Materials. Submissions received by June 6, 2005 will be considered. **Due to timing concerns, comments received after the deadline will not be considered.**

Submissions should be addressed to the following securities regulatory authorities:

Alberta Securities Commission
Saskatchewan Securities Commission
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Nova Scotia Securities Commission
New Brunswick Securities Commission
Office of the Attorney General, Prince Edward Island
Securities Commission of Newfoundland and Labrador
Registrar of Securities, Government of Yukon
Registrar of Securities, Department of Justice, Government of the Northwest Territories
Registrar of Securities, Legal Registries Division, Department of Justice, Government of Nunavut

Please deliver your comments to the addresses below. Your comments will be distributed to the other participating CSA members.

John Stevenson, Secretary
Ontario Securities Commission
20 Queen Street West
Suite 1900, Box 55
Toronto, Ontario M5H 3S8
Fax: (416) 593-2318
E-mail: jstevenson@osc.gov.on.ca

Anne-Marie Beaudoin, Directrice du secrétariat
Autorité des marchés financiers
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800, square Victoria
C.P. 246, 22e étage
Montréal, Québec, H4Z 1G3
Fax: (514) 864-6381
E-mail: consultation-en-cours@lautorite.com

A diskette containing the submissions (in Windows format, preferably Word) should also be submitted.

Comment letters submitted in response to requests for comments are placed on the public file in certain jurisdictions and form part of the public record, unless confidentiality is requested. Comment letters will be circulated among the securities regulatory authorities, whether or not confidentiality is requested. Although comment letters requesting confidentiality will not be placed in the public file, freedom of information legislation in certain jurisdictions may require securities regulatory authorities in those jurisdictions to make comment letters available. Persons submitting comment letters should therefore be aware that the press and members of the public may be able to obtain access to any comment letters.

16. QUESTIONS

Questions may be referred to:

Ontario Securities Commission

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**17. TEXT OF PROPOSED INTERNAL CONTROL MATERIALS AND REVISED
CERTIFICATION MATERIALS**

The text of the Proposed Internal Control Materials and the Revised Certification Materials follows.

February 4, 2005

**APPENDIX A
SAMPLE FORM OF ANNUAL CERTIFICATE**

Legend		
For financial years ending on or before March 30, 2005	Bare certificate	Plain text
For financial years ending after March 30, 2005 but on or before June 29, 2006	Modified certificate	Plain text + bold text
For financial years ending after June 29, 2006	Full certificate – subject to the Proposed Internal Control Instrument	<i>If the issuer is required to comply with the Proposed Internal Control Instrument:</i> Plain text + bold text + single-underlined text + shaded text
	Full certificate - not subject to the Proposed Internal Control Instrument	<i>If the issuer is not required to comply with the Proposed Internal Control Instrument:</i> Plain text + bold text + single-underlined text + double-underlined text

I, *identify (i) the certifying officer, (ii) his or her position at the issuer, (iii) the name of the issuer and (iv) if the certifying officer's title is not "chief executive officer" or "chief financial officer" of the issuer, whether the certifying officer is providing the certificate in the capacity of a chief executive officer or a chief financial officer*, certify that:

1. I have reviewed the annual filings (as this term is defined in Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*) of *identify issuer* (the issuer) for the financial year ended *state the relevant date*;
2. Based on my knowledge, the annual filings do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make a statement not misleading in light of the circumstances under which it was made, with respect to the period covered by the annual filings;
3. Based on my knowledge, the annual financial statements together with the other financial information included in the annual filings fairly present in all material respects the financial condition, results of operations and cash flows of the issuer, as of the date and for the periods presented in the annual filings;
4. **The issuer's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures and internal control over financial reporting for the issuer, and we have:**
 - (a) **designed such disclosure controls and procedures, or caused them to be designed under our supervision, to provide reasonable assurance that**

material information relating to the issuer, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which the annual filings are being prepared;

- (b) designed such internal control over financial reporting, or caused it to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with the issuer's GAAP;
- (c) evaluated the effectiveness of the issuer's disclosure controls and procedures as of the end of the period covered by the annual filings and have caused the issuer to disclose in the annual MD&A our conclusions about the effectiveness of the disclosure controls and procedures as of the end of the period covered by the annual filings based on such evaluation; and**
- (d) caused the issuer to disclose in the annual MD&A any change in the issuer's internal control over financial reporting that occurred during the period beginning on <insert the date immediately following the end of the most recent interim period> and ended <insert financial year end> that has materially affected, or is reasonably likely to materially affect, the issuer's internal control over financial reporting; and

5. The issuer's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the issuer's auditors and the audit committee (or persons performing the equivalent functions):

- (a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the issuer's ability to record, process, summarize and report financial information; and
- (b) any fraud, whether or not material, that involves management or other employees who have a significant role in the issuer's internal control over financial reporting.

5. The issuer is not required to comply with the requirements of Multilateral Instrument 52-111 Reporting on Internal Control over Financial Reporting for the financial year ended <state the relevant date>.

Date: <insert date of filing>

[Signature]

[Title]

<if the certifying officer's title is not "chief executive officer" or "chief financial officer", indicate whether the certifying officer is providing the certificate in the capacity of a chief executive officer or chief financial officer>

**APPENDIX B
SAMPLE FORM OF INTERIM CERTIFICATE**

Legend		
Interim periods occurring before the first financial year in respect of which modified annual certificates are required	Bare certificate <i>Form 52-109FT2</i>	Plain text
Interim periods occurring before the first financial year in respect of which full annual certificates are required	Modified certificate <i>Form 52-109FM2</i>	Plain text + bold text
Interim periods occurring after the first financial year in respect of which full annual certificates are required	Full certificate <i>Form 52-109F2</i>	Plain text + bold text + single-underlined text

I, *identify (i) the certifying officer, (ii) his or her position at the issuer, (iii) the name of the issuer and (iv) if the certifying officer's title is not "chief executive officer" or "chief financial officer" of the issuer, whether the certifying officer is providing the certificate in the capacity of a chief executive officer or a chief financial officer*, certify that:

1. I have reviewed the interim filings (as this term is defined in Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*) of *identify the issuer*, (the issuer) for the interim period ended *state the relevant date*;
2. Based on my knowledge, the interim filings do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make a statement not misleading in light of the circumstances under which it was made, with respect to the period covered by the interim filings;
3. Based on my knowledge, the interim financial statements together with the other financial information included in the interim filings fairly present in all material respects the financial condition, results of operations and cash flows of the issuer, as of the date and for the periods presented in the interim filings;
4. **The issuer's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures and internal control over financial reporting for the issuer, and we have:**
 - (a) **designed such disclosure controls and procedures, or caused them to be designed under our supervision, to provide reasonable assurance that material information relating to the issuer, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which the interim filings are being prepared;**

(b) designed such internal control over financial reporting, or caused it to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with the issuer's GAAP; and

(c) caused the issuer to disclose in the interim MD&A any change in the issuer's internal control over financial reporting that occurred during the three months ended <insert end of interim period>that has materially affected, or is reasonably likely to materially affect, the issuer's internal control over financial reporting.

Date: <insert date of filing>

[Signature]

[Title]

<if the certifying officer's title is not "chief executive officer" or "chief financial officer", indicate whether the certifying officer is providing the certificate in the capacity of a chief executive officer or chief financial officer>

**MULTILATERAL INSTRUMENT 52-111
REPORTING ON INTERNAL CONTROL OVER FINANCIAL REPORTING**

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PART 1 – DEFINITIONS, INTERPRETATION AND APPLICATION

Definitions

1.1 In this Instrument,

"52-111 transition 1 issuer" means an issuer whose listed equity securities have an aggregate market value of \$250,000,000 or more but less than \$500,000,000 on the market capitalization date;

"52-111 transition 2 issuer" means an issuer whose listed equity securities have an aggregate market value of \$75,000,000 or more but less than \$250,000,000 on the market capitalization date;

"52-111 transition 3 issuer" means an issuer whose listed equity securities have an aggregate market value of less than \$75,000,000 on the market capitalization date;

"52-111 transition issuers" means a 52-111 transition 1 issuer, a 52-111 transition 2 issuer or a 52-111 transition 3 issuer;

"asset-backed security" has the meaning ascribed to it in NI 51-102;¹

"annual financial statements" means the annual financial statements required to be filed under NI 51-102;

"CICA Standard" means the standard, established by the Auditing and Assurance Standards Board of The Canadian Institute of Chartered Accountants, for an audit of internal control over financial reporting performed in conjunction with an audit of financial statements, as amended from time to time;

"foreign issuer" has the meaning ascribed to it in NI 52-107;²

"interim financial statements" means the interim financial statements required to be filed under NI 51-102;

¹ "Asset-backed security" is defined in NI 51-102 as a security that is primarily serviced by the cash flows of a discrete pool of mortgages, receivables or other financial assets, fixed or revolving, that by their terms convert into cash within a finite period and any rights or other assets designed to assure the servicing or the timely distribution of proceeds to securityholders.

² "Foreign issuer" is defined in NI 52-107 as an issuer, other than an investment fund, that is incorporated or organized under the laws of a foreign jurisdiction, unless

(a) outstanding voting securities of the issuer carrying more than 50 per cent of the votes for the election of directors are owned, directly or indirectly, by residents of Canada; and

(b) any of the following apply:

(i) the majority of the executive officers or directors of the issuer are residents of Canada;

(ii) more than 50 per cent of the consolidated assets of the issuer are located in Canada; or

(iii) the business of the issuer is administered principally in Canada.

"internal control audit report" means a report in which a participating audit firm expresses an opinion, or states that an opinion cannot be expressed, concerning management's assessment of the effectiveness of an issuer's internal control over financial reporting;³

"internal control over financial reporting" means a process designed by, or under the supervision of, the issuer's chief executive officer and chief financial officer, or persons performing similar functions, and effected by the issuer's board of directors, management and other personnel, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with the issuer's GAAP and includes those policies and procedures that:

(a) pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of the issuer,

(b) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with the issuer's GAAP, and that receipts and expenditures of the issuer are being made only in accordance with authorizations of management and directors of the issuer, and

(c) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the issuer's assets that could have a material effect on the annual financial statements or interim financial statements;⁴

"internal control report" means a report of management that describes management's assessment of the effectiveness of an issuer's internal control over financial reporting;

"investment fund" has the meaning ascribed to it in NI 51-102;⁵

"issuer's GAAP" has the meaning ascribed to it in NI 52-107;⁶

"joint venture" has the meaning ascribed to it in the Handbook;

"listed equity securities" means equity securities listed or quoted on an exchange or marketplace;

³ This definition is derived from 17 CFR 210.1-02(a)(2) (*Definitions of terms used in Regulation S-X*); however, the term has been changed to "internal control audit report" rather than "attestation report on management's assessment of internal control over financial reporting" to conform to the wording in the proposed CICA Standard.

⁴ This is the same as the definition of "internal control over financial reporting" set out in Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (MI 52-109).

⁵ "Investment fund" is defined in NI 51-102 as a mutual fund or non-redeemable investment fund.

⁶ "Issuer's GAAP" is defined in NI 52-107 as the accounting principles used to prepare an issuer's financial statements, as permitted by NI 52-107.

"market capitalization date" means:

(a) June 30, 2005;

(b) in the case of an issuer that becomes a reporting issuer after June 30, 2005, the date on which the issuer becomes a reporting issuer; or

(c) in the case of a reporting issuer that ceases to be a venture issuer after June 30, 2005, the date on which the reporting issuer ceased to be a venture issuer;

"marketplace" has the meaning ascribed to it in National Instrument 21-101 *Marketplace Operation*;⁷

"material weakness" has the meaning ascribed to it in the CICA Standard;⁸

"MD&A" has the meaning ascribed to it in NI 51-102;⁹

"NI 51-102" means National Instrument 51-102 *Continuous Disclosure Obligations*;

"NI 52-107" means National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency*;

"notice of 52-111 exemption" means a notice that includes:

(a) the financial year for which the notice is being filed;

(b) a statement that the issuer is a 52-111 transition issuer;

⁷ **"Marketplace"** is defined in National Instrument 21-101 *Marketplace Operation* to mean:

(a) an exchange,

(b) a quotation and trade reporting system,

(c) a person or company not included in paragraph (a) or (b) that

(i) constitutes, maintains or provides a market or facility for bringing together buyers and sellers of securities;

(ii) brings together the orders for securities of multiple buyers and sellers, and

(iii) uses established, non-discretionary methods under which the orders interact with each other, and the buyers and sellers entering the orders agree to the terms of the trade, or

(d) a dealer that executes a trade of an exchange-traded security outside of a marketplace, but does not include an inter-dealer bond broker.

⁸ The definition in the proposed CICA Standard is:

"Material weakness" means a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the annual or interim financial statements will not be prevented or detected."

⁹ **"MD&A"** is defined in NI 51-102 as a completed Form 51-102F1 *Management's Discussion & Analysis* or, in the case of an SEC issuer, a completed Form 51-102F1 or management's discussion and analysis prepared in accordance with Item 303 of Regulation S-K or item 303 of Regulation S-B under the 1934 Act.

(c) the calculation of the aggregate market value of the issuer's listed equity securities on the market capitalization date; and

(d) a statement that the issuer is not required to file an internal control report and internal control audit report for the identified financial year;

"participating audit firm" has the meaning ascribed to it in National Instrument 52-108 *Auditor Oversight*;¹⁰

"PCAOB Standard" means Auditing Standard No. 2, An Audit of Internal Control Over Financial Reporting Performed in Conjunction With an Audit of Financial Statements adopted by the Public Company Accounting Oversight Board, as amended from time to time;

"Sarbanes-Oxley Act" means the Sarbanes-Oxley Act of 2002, Pub.L. 107-204, 116 Stat. 745 (2002), as amended from time to time;

"significant deficiency" has the meaning ascribed to it in the CICA Standard;¹¹

"U.S. marketplace" has the meaning ascribed to it in NI 51-102;¹²

"variable interest entity" has the meaning ascribed to it in the Handbook; and

"venture issuer" means an issuer that, as at the applicable time, did not have any of its securities listed or quoted on any of the Toronto Stock Exchange, a U.S. marketplace, or a marketplace outside of Canada or the United States of America; where the "applicable time" in respect of:

(a) the Instrument other than paragraph (c) of the definition of market capitalization date in section 1.1, is the end of the applicable financial year; and

(b) paragraph (c) of the definition of market capitalization date in section 1.1, is the date on which securities of an issuer are listed or quoted on any of the Toronto Stock Exchange, a U.S. marketplace, or a marketplace outside of Canada or the United States of America.

¹⁰ "Participating audit firm" is defined in National Instrument 52-108 *Auditor Oversight* as a public accounting firm that has entered into a participation agreement and that has not had its participation status terminated, or, if its participation status was terminated, has been reinstated in accordance with CPAB by-laws.

¹¹ The definition in the proposed CICA Standard is:
""Significant deficiency" means a control deficiency, or combination of control deficiencies, that adversely affects an issuer's ability to initiate, authorize, record, process or report external financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the entity's annual or interim financial statements that is more than inconsequential will not be prevented or detected."

¹² "U.S. marketplace" is defined in NI 51-102 as an exchange registered as a 'national securities exchange' under section 6 of the 1934 Act, or the Nasdaq Stock Market.

Application

1.2 This Instrument applies to all reporting issuers other than investment funds and venture issuers.

Calculation of the aggregate market value of an issuer's listed equity securities

1.3 For the purposes of this Instrument, the aggregate market value of the listed equity securities of an issuer is the aggregate of the market value of each class of its listed equity securities outstanding on the market capitalization date, calculated by multiplying

1. the total number of listed equity securities of the class outstanding on the market capitalization date, by
2. the weighted average of the market price for the listed equity securities of the class outstanding on the exchange or marketplace on which that class of listed equity securities is principally traded for each of the 20 trading days immediately following the market capitalization date.

PART 2 – MANAGEMENT'S ASSESSMENT OF INTERNAL CONTROL OVER FINANCIAL REPORTING

Annual evaluation of effectiveness of internal control over financial reporting

2.1 The management of an issuer must evaluate, with the participation of the issuer's chief executive officer and chief financial officer, or in the case of an issuer that does not have a chief executive officer or a chief financial officer, persons performing similar functions to a chief executive officer or chief financial officer, the effectiveness of the issuer's internal control over financial reporting as of the end of a financial year.¹³

Control framework for evaluation

2.2(1) Management must base its evaluation of the effectiveness of an issuer's internal control over financial reporting on a suitable control framework.

2.2(2) A suitable control framework must be established by a body or group that has followed an open and transparent process, including providing the public with an opportunity to provide comments, when developing the control framework.¹⁴

Evidence

2.3(1) An issuer must maintain evidence to provide reasonable support for management's assessment of the effectiveness of the issuer's internal control over financial reporting.¹⁵

¹³ This section is derived from 17 CFR 240.13a-15(c) (*Controls and procedures*) and 17 CFR 240.15d-15(c) (*Controls and procedures*).

¹⁴ This section is derived from 17 CFR 240.13a-15(c) (*Controls and procedures*) and 17 CFR 240.15d-15(c) (*Controls and procedures*).

2.3(2) An issuer must maintain the evidence required under subsection (1) in a manner that will ensure the trustworthiness and readability of the information recorded.¹⁶

2.3(3) The evidence required under subsection (1) must be maintained for the same period that the accounting records for the financial year to which the evidence relates are maintained in accordance with the *Income Tax Act* (Canada).

Filing of internal control report

2.4 An issuer must file an internal control report separately but concurrently with the filing of its annual financial statements and annual MD&A.¹⁷

Form and content of internal control report

2.5(1) An internal control report must include:

- (a) a statement of management's responsibility for establishing and maintaining adequate internal control over financial reporting for an issuer;
- (b) a statement identifying the control framework used by management to evaluate the effectiveness of the issuer's internal control over financial reporting;
- (c) management's assessment of the effectiveness of the issuer's internal control over financial reporting as of the end of the issuer's financial year, including a statement as to whether the internal control over financial reporting is effective;
- (d) disclosure of any material weaknesses in the issuer's internal control over financial reporting identified by management;
- (e) a statement that the participating audit firm that audited the issuer's annual financial statements has issued an internal control audit report;
- (f) disclosure of any limitations in management's assessment of the effectiveness of the issuer's internal control over financial reporting extending into a joint venture or a variable interest entity in which the issuer has a material interest; and

¹⁵ This section is derived from 17 CFR 229.308 (*Instruction to Item 308*), 17 CFR 249.220f (*Instruction to Item 15*) and 17 CFR 249.240f (*Instruction to paragraph (c) of General Instruction B.6*).

¹⁶ This requirement is similar to requirements set forth in Canada Revenue Agency's Information Circular 78-10R3 *Books and Records Retention/Destruction*.

¹⁷ This section is derived from 17 CFR 229.308(a) (*Management's annual report on internal control over financial reporting*), 17 CFR 249.220f (*Item 15(b) – Management's annual report on internal control over financial reporting*) and 17 CFR 249.240f (*Paragraph (c) of General Instruction B.6 – Management's annual report on internal control over financial reporting*).

(g) disclosure of any limitations in management's assessment of the effectiveness of the issuer's internal control over financial reporting extending into a business that was acquired by the issuer during the financial year.¹⁸

2.5(2) Despite paragraph (1)(g), management must not limit its assessment of the effectiveness of an issuer's internal control over financial reporting extending into a business as at the end of a financial year where the business was acquired in the immediately preceding financial year.

2.5(3) An internal control report must be dated a date that is on or before the date of the internal control audit report prepared in respect of the internal control report.

Approval of internal control report

2.6 An issuer's board of directors must approve an internal control report required to be filed under section 2.4 before the internal control report is filed.

PART 3 – INTERNAL CONTROL AUDIT REPORT

Filing of internal control audit report

3.1(1) An issuer must file an internal control audit report for the same financial year for which an internal control report has been filed.

3.1(2) The internal control audit report must be filed by the issuer together with the internal control report.

Form and content of internal control audit report

3.2(1) An internal control audit report must:

- (a) be prepared in accordance with the CICA Standard;
- (b) be dated the same date as the auditor's report on the annual financial statements;
- (c) be signed by the participating audit firm; and
- (d) identify the internal control report in respect of which the internal control audit report has been prepared.¹⁹

¹⁸ The requirements set out in paragraphs (a) through (e) in this section are derived from 17 CFR 229.308(a) (*Management's annual report on internal control over financial reporting*), 17 CFR 249.220f (*Item 15(b) – Management's annual report on internal control over financial reporting*) and 17 CFR 249.240f (*Paragraph (c) of General Instruction B.6 – Management's annual report on internal control over financial reporting*). The requirements set out in paragraphs (f) and (g) of this section are derived from Office of the Chief Accountant, Division of Corporate Finance: *Management's Report on Internal Control Over Financial Reporting and Certification of Disclosure in Exchange Act Periodic Reports – Frequently Asked Questions (revised October 6, 2004)*.

3.2(2) Despite paragraph (1)1, an internal control audit report in respect of an internal control report of a foreign issuer may be prepared in accordance with the PCAOB Standard.

3.2(3) An internal control audit report may be combined with the auditor's report on the annual financial statements.²⁰

No separate engagement

3.3 An internal control audit report and auditor's report on annual financial statements for a financial year must be prepared by the same participating audit firm.²¹

PART 4 – REFILED INTERNAL CONTROL REPORTS AND INTERNAL CONTROL AUDIT REPORTS

Refiled annual financial statements

4.1(1) If an issuer refiles its annual financial statements for a financial year, it must refile its internal control report and internal control audit report for that financial year.

4.1(2) The refiled internal control report and internal control audit report must be filed by the issuer separately but concurrently with the filing of its refiled annual financial statements.

PART 5 – DELIVERY OF INTERNAL CONTROL REPORT AND INTERNAL CONTROL AUDIT REPORT

Delivery

5.1 An issuer that must send its annual financial statements and annual MD&A for a financial year to a person or company under NI 51-102 must also send to the person or company, concurrently and without charge, a copy of its internal control report and internal control audit report for that financial year.

¹⁹ This section is derived from 17 CFR 210.2-02(f) (*Accountants' reports and attestation reports on management's assessment of internal control over financial reporting*).

²⁰ This section is derived from 17 CFR 210.2-02(f) (*Accountants' reports and attestation reports on management's assessment of internal control over financial reporting*).

²¹ This section is derived from section 404(b) of the Sarbanes-Oxley Act.

PART 6 – LANGUAGE OF INTERNAL CONTROL REPORTS AND INTERNAL CONTROL AUDIT REPORTS

French or English –

6.1(1) An issuer must file the internal control reports and the internal control audit reports required to be filed under this Instrument in French or in English.

6.1(2) Despite subsection (1), if an issuer files an internal control report or an internal control audit report only in French or only in English but delivers to securityholders a version of the document in the other language, the issuer must file that other version not later than when it is first delivered to securityholders.

6.1(3) In Québec, an issuer must comply with linguistic obligations and rights prescribed by Québec law.

PART 7 - EXEMPTIONS

Exemption for 52-111 transition 1 issuers

7.1 – A 52-111 transition 1 issuer is exempt from the requirements of this Instrument for a financial year ending on or before June 29, 2007 provided that the issuer files a notice of 52-111 exemption with the securities regulatory authorities separately but concurrently with its annual financial statements and annual MD&A for that financial year.

Exemption for 52-111 transition 2 issuers

7.2 A 52-111 transition 2 issuer is exempt from the requirements of this Instrument for a financial year ending on or before June 29, 2008 provided that the issuer files a notice of 52-111 exemption with the securities regulatory authorities separately but concurrently with its annual financial statements and annual MD&A for that financial year.

Exemption for 52-111 transition 3 issuers

7.3 A 52-111 transition 3 issuer is exempt from the requirements of this Instrument for a financial year ending on or before June 29, 2009 provided that the issuer files a notice of 52-111 exemption with the securities regulatory authorities separately but concurrently with its annual financial statements and annual MD&A for that financial year.

Exemption for issuers that comply with U.S. laws

7.4 An issuer is exempt from the requirements in this Instrument for a financial year if:

- (a) the issuer is in compliance with U.S. federal securities laws implementing the internal control report requirements in sections 404(a) and (b) of the Sarbanes-Oxley Act; and

(b) management's annual report on internal control over financial reporting and the attestation report on management's assessment of internal control over financial reporting included in the issuer's annual report for the financial year is filed promptly after it is filed with the SEC.²²

Exemption for foreign issuers

7.5 An issuer is exempt from the requirements in this Instrument if it qualifies for the relief contemplated by, and is in compliance with the requirements and conditions set out in, sections 5.4 and 5.5 of National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers*.²³

Exemption for certain exchangeable security issuers

7.6 An issuer is exempt from the requirements in this Instrument if it qualifies for the relief contemplated by, and is in compliance with the requirements and conditions set out in, section 13.3 of NI 51-102.²⁴

Exemption for certain credit support issuers

7.7 An issuer is exempt from the requirements in this Instrument if it qualifies for the relief contemplated by, and is in compliance with the requirements and conditions set out in, section 13.4 of NI 51-102.²⁵

Exemption for asset-backed securities issuers

7.8 An issuer is exempt from the requirements in this Instrument if it is an issuer of asset-backed securities.²⁶

General exemption

7.9(1) The regulator or securities regulatory authority may grant an exemption from this Instrument, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.

7.9(2) Despite subsection (1), in Ontario only the regulator may grant such an exemption.²⁷

²² This is similar to the exemption contained in section 7.1 of MI 52-109.

²³ This is similar to the exemption contained in section 7.2 of MI 52-109.

²⁴ This is similar to the exemption contained in section 7.3 of MI 52-109.

²⁵ This is similar to the exemption contained in section 7.4 of MI 52-109.

²⁶ Issuers of asset-backed securities are not required to comply with the SEC rules implementing section 404 of the Sarbanes-Oxley Act.

²⁷ This is similar to the exemption contained in section 7.5 of MI 52-109.

PART 8 - EFFECTIVE DATE, TRANSITION AND CITATION

Effective date

8.1 This Instrument comes into force on [●].²⁸

Transition

8.2 The provisions of the Instrument regarding internal control reports and internal control audit reports apply for financial years ending on or after June 30, 2006.²⁹

Citation

8.3 This rule may be cited or referred to as either MSC Rule 2005-* or Multilateral Instrument 52-111.

²⁸ This Instrument is intended to come into force on the same date as the amended and restated MI 52-109.

²⁹ Under the SEC rules implementing section 404 of the Sarbanes-Oxley Act, a foreign private issuer must comply with the annual internal control report for its first financial year ending on or after July 15, 2005.

**COMPANION POLICY 52-111CP
TO MULTILATERAL INSTRUMENT 52-111 REPORTING ON INTERNAL CONTROL
OVER FINANCIAL REPORTING**

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PART 1 – GENERAL

1.1 Introduction and purpose -

- (1) Multilateral Instrument 52-111 *Reporting on Internal Control over Financial Reporting* (the Instrument) sets out additional disclosure requirements for all reporting issuers, other than investment funds and venture issuers.
- (2) The purpose of this Companion Policy (the Policy) is to help you understand how the provincial and territorial securities regulatory authorities interpret or apply certain provisions of the Instrument.

- 1.2 **Application to non-corporate entities** - The Instrument applies to both corporate and non-corporate entities. Where the Instrument or the Policy refers to a particular corporate characteristic, such as a board of directors, the reference should be read to include any equivalent characteristic of a non-corporate entity.

PART 2 –MANAGEMENT’S ASSESSMENT OF EFFECTIVENESS OF INTERNAL CONTROL OVER FINANCIAL REPORTING

- 2.1 **No formal requirement for interim evaluation** - The Instrument does not require interim evaluations of internal control over financial reporting. We recognize that some controls operate continuously while others operate only at certain times, such as the end of a financial year. The management of an issuer should perform evaluations of the design and operation of the issuer’s internal control over financial reporting over a period of time that is adequate for it to determine whether, as of the end of the issuer’s financial year, the design and operation of the issuer’s internal control over financial reporting are effective.¹

2.2 Management -

- (1) Section 2.1 of the Instrument requires management of an issuer to evaluate the effectiveness of internal control over financial reporting. The Instrument does not define “management”. We would expect that management, for the purposes of the Instrument, includes the chief executive officer and chief financial officer of an issuer, or in the case of an issuer that does not have a chief executive officer or chief financial officer, all persons performing similar functions to a chief executive officer or chief financial officer; however, we believe that it should be left to the discretion of the chief executive officer and chief financial officer (or persons performing similar functions to a chief executive officer or chief financial officer), each acting reasonably, to determine the other members of management for the purposes of the Instrument.

¹ This section is derived from the “Final Rule: Management’s Report on Internal Control Over Financial Reporting and Certification of Disclosure in Exchange Act Periodic Reports” issued by the SEC on June 18, 2003 (the SEC Release) – see “C. Quarterly Evaluations of Internal Control over Financial Reporting – 3. Final Rules”.

- (2) Where an issuer does not have a chief executive officer or chief financial officer, each person who performs similar functions to a chief executive officer or chief financial officer must participate in the evaluation of the effectiveness of the issuer's internal control over financial reporting. It is left to the discretion of the issuer, acting reasonably, to determine who those persons are.
- (3) In the case of an income trust reporting issuer (as described in proposed National Policy 41-201 *Income Trusts and Other Indirect Offerings*) where executive management resides at the underlying business entity level or in an external management company, we would generally consider the chief executive officer and chief financial officer of the underlying business entity or the external management company to be persons performing functions in respect of the income trust similar to a chief executive officer and chief financial officer.
- (4) In the case of a limited partnership reporting issuer with no chief executive officer and chief financial officer, we would generally consider the chief executive officer and chief financial officer of its general partner to be persons performing functions in respect of the limited partnership reporting issuer similar to a chief executive officer and chief financial officer.

2.3 **Scope of evaluation -**

- (1) The assessment of an issuer's internal control over financial reporting should be based upon procedures sufficient to evaluate its design and to test its operating effectiveness.²
- (2) The controls subject to such assessment include:
 - (a) controls over initiating, authorizing, recording, processing and reporting significant accounts and disclosures and related assertions included in the financial statements;
 - (b) controls related to the initiation and processing of non-routine and non-systematic transactions, such as accounts involving judgments and estimates;
 - (c) controls related to the selection and application of appropriate accounting policies that are in accordance with the issuer's GAAP;
 - (d) anti-fraud programs and controls;
 - (e) controls, including information technology general controls, on which other controls are dependent;

² This section is derived from the SEC Release – see “B. Management’s Annual Assessment of, and Report on, the Company’s Internal Control over Financial Reporting – 3. Final Rules – d. Method of Evaluating”.

- (f) controls over the period-end financial reporting process, including controls over procedures used to enter transaction totals into the general ledger, to initiate, authorize, record and process journal entries in the general ledger and to record recurring and nonrecurring adjustments to the financial statements (for example, consolidating adjustments, report combinations and reclassifications); and
 - (g) controls that have a pervasive impact such as those within the control environment, including the “tone at the top”, assignment of authority and responsibility, consistent policies and procedures and issuer wide programs that apply to all locations and business units.³
- (3) The nature of an issuer’s testing activities will largely depend on the circumstances of the issuer and the significance of a control. Inquiry alone, however, will not generally provide an adequate basis for management’s assessment. This statement should not be interpreted to mean that management personally must conduct the necessary activities to evaluate the design and test the operating effectiveness of the issuer’s internal control over financial reporting. Activities, including those necessary to provide management with the information on which it bases its assessment, may be conducted by non-management personnel acting under the supervision of management. Management, however, has overall responsibility for the preparation of the internal control report.⁴

2.4 **Control framework for evaluation -**

- (1) The Instrument does not mandate the use of a particular control framework in recognition of the fact that other evaluation standards exist and may be developed in the future that may satisfy the intent of the Instrument.
- (2) A suitable control framework should:
 - (a) be free from bias;
 - (b) permit reasonably consistent qualitative and quantitative measurements of an issuer’s internal control over financial reporting;
 - (c) be sufficiently complete so that those relevant factors that would alter a conclusion about the effectiveness of an issuer’s internal control over financial reporting are not omitted; and
 - (d) be relevant to an evaluation of internal control over financial reporting.

³ This section is derived from the SEC Release – see “B. Management’s Annual Assessment of, and Report on, the Company’s Internal Control over Financial Reporting – 3. Final Rules – d. Method of Evaluating” and the proposed CICA Standard.

⁴ This section is derived from the SEC Release – see “B. Management’s Annual Assessment of, and Report on, the Company’s Internal Control over Financial Reporting – 3. Final Rules – d. Method of Evaluating”.

- (3) Without limiting the generality of subsections (1) and (2), the following control frameworks satisfy our criteria for the purposes of section 2.2 of the Instrument:
- (a) the *Risk Management and Governance (formerly: Guidance of the Criteria of Control Board)* published by The Canadian Institute of Chartered Accountants;
 - (b) the *Internal Control – Integrated Framework* published by The Committee of Sponsoring Organizations of the Treadway Commission; and
 - (c) the *Turnbull Report* published by The Institute of Chartered Accountants in England and Wales.
- (4) The control frameworks referred to in subsection (3) include in their definition of “internal control” three general categories: effectiveness and efficiency of operations, reliability of financial reporting and compliance with applicable laws and regulations. The term “internal control over financial reporting”, as defined in the Instrument, is a subset of internal controls addressed in these control frameworks. The definition in the Instrument does not encompass the elements of these control frameworks that relate to effectiveness and efficiency of an issuer’s operations and an issuer’s compliance with applicable laws and regulations, with the exception of compliance with the applicable laws and regulations directly related to the preparation of financial statements, such as the securities regulatory authorities’ financial reporting requirements.⁵

2.5 Evidence -

- (1) The Instrument requires that an assessment of the effectiveness of internal control over financial reporting be supported by evidence. We expect this evidence to include information about the design of internal control over financial reporting and the testing processes used by management. We believe that this evidence should provide reasonable support:
- (a) for the evaluation of whether the control is designed to prevent or detect material misstatements or omissions in the issuer’s financial disclosure; and
 - (b) for the conclusion that the tests were appropriately planned and performed and that the results of the tests were appropriately considered.⁶

⁵ This section is derived from the SEC Release – see “B. Management’s Annual Assessment of, and Report on, the Company’s Internal Control over Financial Reporting – 3. Final Rules – a. Evaluation of Internal Control Over Financial Reporting” and “A. Definition of Internal Control – 1. Proposed Rule and 3. Final Rules”.

⁶ This section is derived from the SEC Release – see “B. Management’s Annual Assessment of, and Report on, the Company’s Internal Control over Financial Reporting – 3. Final Rules – d. Method of Evaluating”.

- (2) To provide reasonable support for management's assessment of the effectiveness of internal control over financial reporting, the evidence should include:
- (a) the design of controls over relevant assertions related to all significant accounts and disclosures in the financial statements;
 - (b) information about how significant transactions are initiated, authorized, recorded, processed and reported;
 - (c) sufficient information about the flow of transactions to identify the points at which material misstatements due to error or fraud could occur;
 - (d) a listing of controls designed to prevent or detect fraud, including who performs the controls and related segregation of duties;
 - (e) a listing of controls over period-end financial reporting processes;
 - (f) a listing of controls over safeguarding of assets; and
 - (g) results of management's testing and evaluation.⁷
- (3) The evidence may be in written or non-written form.
- (4) The evidence may be in bound or loose-leaf form or in photographic film form or may be entered or recorded by any system of mechanical or electronic data processing or by any other information storage device that is capable of reproducing any required information in intelligible form within a reasonable time.⁸

2.6 **Subsidiaries, variable interest entities, joint ventures, equity and portfolio investments -**

- (1) ***Underlying entities*** - An issuer may have a variety of long term investments. In particular, an issuer may have any of the following interests (referred to in this section as underlying entities):
- (a) an interest in an entity which is consolidated because the issuer controls that entity (a subsidiary);
 - (b) an interest in an entity which is consolidated because it is a variable interest entity (a VIE);

⁷ This section is derived from the proposed CICA Standard.

⁸ This requirement is similar to requirements in federal legislation (such as the *Canada Business Corporations Act* and *Trust and Loan Companies Act*).

- (c) an interest in an entity which is proportionately consolidated because the issuer jointly controls that entity (a joint venture);
- (d) an interest in an entity which is accounted for using the equity method because the issuer has significant influence over that entity (an equity investment); or
- (e) an interest in an entity which is carried at cost because the issuer has neither control nor significant influence over that entity (a portfolio investment).

In this section, the term entity is meant to capture a broad range of structures, including, but not limited to, corporations.

- (2) ***Evaluation of effectiveness of internal control over financial reporting*** - If an issuer has an interest in an underlying entity, the nature of that underlying entity will impact the procedures required to be undertaken by management in its evaluation of the effectiveness of the issuer's internal control over financial reporting.
- (3) ***Expectations regarding access to underlying entity*** - In the case of an issuer with an interest in a subsidiary, we expect management to have access to the subsidiary to evaluate the issuer's internal control over financial reporting extending into the subsidiary.

In the case of an issuer with an interest in a joint venture or a VIE, we acknowledge that management may not always have access to the underlying entity to evaluate the issuer's internal control over financial reporting extending into the underlying entity. We expect management to take all *reasonable* steps to evaluate the issuer's internal control over financial reporting. It is left to the discretion of management, acting reasonably, to determine what constitutes "reasonable steps".

In the case of an issuer with an interest in a portfolio investment or an equity investment, management will often not have access to the underlying entity to evaluate the issuer's internal control over financial reporting extending into the underlying entity.

- (4) ***No access*** - When management does not have access to the underlying entity to evaluate the issuer's internal control over financial reporting extending into the underlying entity:
 - (a) in the case of an issuer with a material interest in a joint venture or a VIE, management is required to disclose this scope limitation in the internal control report. This disclosure should include the magnitude of the amounts proportionately consolidated or consolidated into the issuer's annual financial statements.
 - (b) in the case of an issuer with an equity investment or a portfolio investment, management should evaluate the effectiveness of the internal control over financial reporting that was required to be designed under Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (MI 52-

109). These requirements are discussed in subparagraph 5.6(5)(c)(ii) and paragraph 5.6(5)(d) of the companion policy to MI 52-109.

- (5) ***Factors affecting access*** - Whether management has the necessary access to a joint venture or a VIE to evaluate an issuer's internal control over financial reporting extending into the joint venture or VIE is a question of fact. While the factors to consider in making this assessment are the same as those listed in paragraph 5.6(5)(f) (in the case of a joint venture) or paragraph 5.6(5)(g) (in the case of a VIE) of the companion policy to MI 52-109, the outcome of the analysis may be different. Management may have the ability to evaluate the effectiveness of internal control over financial reporting extending into the joint venture or VIE even though the chief executive officer and chief financial officer (or persons performing similar functions to a chief executive officer or chief financial officer) do not have the ability to design internal control over financial reporting extending into the joint venture or VIE.

For all joint ventures and VIEs created on or after **[insert the date the Instrument comes into force]**, we expect an issuer to negotiate for the necessary access to evaluate the issuer's internal control over financial reporting extending into the joint venture or VIE.

2.7 **Business acquisitions** -

- (1) ***General expectation*** - Except as discussed in section 2.6, we expect management to have access to each consolidated or proportionately consolidated entity to evaluate an issuer's internal control over financial reporting extending into the entity. We acknowledge, however, that it may not be feasible to assess an issuer's internal control over financial reporting extending into a business as at the end of a financial year during which the business was acquired by the issuer.
- (2) ***Factors affecting feasibility of assessing internal control over financial reporting extending into an acquired business*** - Whether it is feasible for management to assess an issuer's internal control over financial reporting extending into a business as at the end of a financial year during which the business was acquired by the issuer is a question of fact. It may depend on, among other things:
- (i) whether the business acquired has been subject to the Instrument, the U.S. federal securities laws implementing the internal control report requirements in sections 404(a) and (b) of the Sarbanes-Oxley Act or substantially similar requirements;
 - (ii) the size and complexity of the business acquired;
 - (iii) the terms of the acquisition agreement;
 - (iv) the length of time between the date of the acquisition agreement, the closing date of the acquisition and the date of management's assessment of internal control over financial reporting; and

- (v) whether the business was acquired under a hostile take-over bid.
- (3) **Disclosure of scope limitation** - If it is not feasible for management to assess an issuer's internal control over financial reporting extending into a business as at the end of a financial year during which the business was acquired by the issuer, management is required to disclose this scope limitation in the internal control report. This disclosure should include the magnitude of the amounts relating to the acquired business consolidated into the issuer's annual financial statements.
- 2.8 **Interaction between the Instrument and MI 52-109** - Nothing in the Instrument relieves a chief executive officer and chief financial officer (or persons performing similar functions to a chief executive officer or chief financial officer) of their obligations under MI 52-109.

PART 3 - INTERNAL CONTROL AUDIT REPORT

3.1 No separate engagement -

- (1) Section 3.3 of the Instrument provides that the participating audit firm that prepares the auditor's report on the financial statements must be the same as the participating audit firm who prepares the internal control audit report. Because the participating audit firm is required to audit management's assessment of internal control over financial reporting, management and the participating audit firm will need to coordinate their processes of documenting and testing the internal control over financial reporting. However, we remind issuers and participating audit firms that the independence provisions of the rules of professional conduct adopted by the provincial and territorial institutes of Chartered Accountants prohibit a participating audit firm in Canada from providing certain non-audit services to an audit client. Under these rules of professional conduct, participating audit firms may assist management in documenting internal control over financial reporting without compromising their independence. When the participating audit firm is engaged to assist management in documenting internal control over financial reporting, management must be actively involved in the process. We remind issuers and participating audit firms that under the rules of professional conduct management cannot delegate its responsibility to assess its internal control over financial reporting to the participating audit firm. The Instrument does not amend the rules of professional conduct.⁹
- (2) The evaluation of independence for the purposes of signing the internal control audit report is distinct from the evaluation of independence for the purposes of signing the auditor's report on the financial statements. The CICA Standard and the PCAOB Standard require a participating audit firm to be independent in order to sign the internal control audit report.

⁹ This section is derived from the SEC Release – see “B. Management’s Annual Assessment of, and Report on, the Company’s Internal Control over Financial Reporting – 3. Final Rules – b. Auditor Independence Issues”.

- (3) Under the CICA Standard and the PCAOB Standard, to qualify as independent, the participating audit firm should not:
- (a) act as management or as an employee of an issuer;
 - (b) audit its own work;
 - (c) serve in a position of being an advocate for an issuer; or
 - (d) have a mutual or conflicting interest with an issuer.
- (4) Under the rules of professional conduct of the provincial and territorial institutes of Chartered Accountants, participating audit firms are prohibited from providing certain non-audit services to issuers above a specified size threshold. In certain circumstances, however, the rules of professional conduct allow these services to be provided to smaller issuers. When such services are provided to an issuer, the issuer's audit committee and the participating audit firm should evaluate whether the participating audit firm's independence has been impaired for the purposes of signing an internal control audit report. In doing so, the audit committee and the participating audit firm should evaluate carefully the nature of the services provided to determine whether the participating audit firm:
- (a) has acted as a control or has designed a control for the issuer; and
 - (b) will be auditing its own work in signing the internal control audit report.
- (5) Non-audit services which should be considered carefully in an evaluation of independence for the purposes of signing an internal control audit report include:
- (a) preparation of the annual financial statements for the financial year in respect of which the internal control audit report is provided; and
 - (b) design or implementation of a hardware or software system that aggregates source data underlying the annual financial statements for the financial year in respect of which the internal control audit report is provided.
- 3.2 **Combined audit reports** - Under the CICA Standard and the PCAOB Standard, a participating audit firm may prepare a "combined audit report" in relation to an issuer, which combines the auditor's report on the financial statements with the internal control audit report. In determining whether a "combined audit report" should be filed, the participating audit firm and the issuer should consider whether the auditor's report on the financial statements is expected to be included or incorporated by reference in another document that may be filed or delivered to the securities regulatory authorities.

PART 4 – REFILED ANNUAL MD&A

- 4.1 **Refiled annual MD&A** - If the annual MD&A for a financial year is refiled but the annual financial statements for that financial year are not refiled, it will not be necessary to refile the internal control report and internal control audit report for that financial year.

PART 5 – EXEMPTIONS

5.1 Issuers that comply with U.S. laws -

- (1) The exemptions in section 7.3 of the Instrument are based on our view that the investor confidence aims of the Instrument do not justify requiring issuers to comply with the internal control report and internal control audit report requirements in the Instrument if such issuers comply with substantially similar requirements under U.S. laws, as those laws may be amended from time to time.
- (2) As a condition to being exempt from the internal control report and internal control audit report requirements under section 7.3 of the Instrument, issuers must file the reports that they filed with the SEC in compliance with its rules implementing the requirements prescribed in sections 404(a) and 404(b) of the Sarbanes-Oxley Act.¹⁰

PART 6 – LIABILITY FOR REPORTS CONTAINING MISREPRESENTATIONS

6.1 Liability for internal control reports containing misrepresentations -

- (1) Officers providing an internal control report containing a misrepresentation potentially could be subject to quasi-criminal, administrative or civil proceedings under securities law.
- (2) Officers providing an internal control report containing a misrepresentation could also potentially be subject to private actions for damages either at common law or, in Québec, under civil law, or under the *Securities Act* (Ontario) when amendments which create statutory civil liability for misrepresentations in continuous disclosure are proclaimed in force. The liability standard applicable to a document required to be filed with the Ontario Securities Commission, including an internal control report, will depend on whether the document is a “core” document as defined under Part XXIII.1 of the *Securities Act* (Ontario). Internal control reports are currently not included in the definition of “core document” but would be included in the definition of “document”.
- (3) In any action commenced under Part XXIII.1 of the *Securities Act* (Ontario) a court has the discretion to treat multiple misrepresentations having common subject matter or content as a single misrepresentation. This provision could permit a court in appropriate

¹⁰ The provisions of this part are similar to the provisions of Part 6 of the companion policy to MI 52-109.

cases to treat a misrepresentation in an issuer's financial statements and a misrepresentation made by officers in an internal control report that relate to the underlying financial statements as a single misrepresentation.

- (4) Liability for misrepresentations under Part XXIII.1 of the *Securities Act* (Ontario) is limited to, among others, each officer of the issuer who authorized, permitted or acquiesced in the release of the internal control report. The term "officer" is defined in the *Securities Act* (Ontario) to include certain persons acting in specified positions as well as persons designated as "officers" in an issuer's by-laws. Accordingly, it is possible that certain members of management that are involved in the preparation of the internal control report are not "officers" and as a result, are not exposed to liability under Part XXIII.1 of the *Securities Act* (Ontario) for a misrepresentation in an internal control report.

6.2 **Liability for internal control audit reports containing misrepresentations -**

- (1) Participating audit firms providing an internal control audit report containing a misrepresentation potentially could be subject to quasi-criminal, administrative or civil proceedings under securities law.
- (2) Participating audit firms providing an internal control audit report containing a misrepresentation could also potentially be subject to private actions for damages either at common law or, in Québec, under civil law, or under the *Securities Act* (Ontario) when amendments which create statutory civil liability for misrepresentations in continuous disclosure are proclaimed in force. The liability standard applicable to a document required to be filed with the Ontario Securities Commission, including an internal control audit report, will depend on whether the document is a "core" document as defined under Part XXIII.1 of the *Securities Act* (Ontario). Internal control audit reports are currently not included in the definition of "core document" but would be included in the definition of "document".
- (3) In any action commenced under Part XXIII.1 of the *Securities Act* (Ontario) a court has the discretion to treat multiple misrepresentations having common subject matter or content as a single misrepresentation. This provision could permit a court in appropriate cases to treat a misrepresentation in an auditor's report on the financial statements and a misrepresentation in an internal control audit report that relates to the auditor's report on the financial statements as a single misrepresentation.¹¹

¹¹ The provisions of this part are similar to the provisions of Part 7 of the companion policy to MI 52-109.

MULTILATERAL INSTRUMENT 52-109
CERTIFICATION OF DISCLOSURE IN ISSUERS' ANNUAL AND INTERIM FILINGS

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PART 1 – DEFINITIONS AND APPLICATION

Definitions

1.1 In this Instrument,

"52-109 transition 1 issuer" means an issuer that satisfies the following conditions:

- (a) it is not a venture issuer; and
- (b) its listed equity securities have an aggregate market value of \$250,000,000 or more but less than \$500,000,000 on the market capitalization date;

"52-109 transition 2 issuer" means an issuer that satisfies the following conditions:

- (a) it is not a venture issuer; and
- (b) its listed equity securities have an aggregate market value of \$75,000,000 or more but less than \$250,000,000 on the market capitalization date;

"52-109 transition 3 issuer" means an issuer that satisfies the following conditions:

- (a) it is not a venture issuer; and
- (b) its listed equity securities have an aggregate market value of less than \$75,000,000 calculated on the market capitalization date;

"52-109 transition issuer" means a 52-109 transition 1 issuer, 52-109 transition 2 issuer or 52-109 transition 3 issuer;

"AIF" has the meaning ascribed to it in NI 51-102;¹

"annual certificate" means the certificate required to be filed pursuant to Part 3;

"annual filings" means the issuer's AIF, if any, internal control report, if any, and annual financial statements and annual MD&A filed under securities legislation for a financial year, including for greater certainty all documents and information that are incorporated by reference in any AIF;

"annual financial statements" means the annual financial statements required to be filed under NI 51-102;

¹ "AIF" is defined in NI 51-102 as a completed Form 51-102F2 *Annual Information Form* or, in the case of an SEC issuer, a completed Form 51-102F2 or an annual report or transition report under the 1934 Act on Form 10-K, Form 10-KSB or Form 20F.

"**audit committee**" has the meaning ascribed to it in Multilateral Instrument 52-110 *Audit Committees*;²

"**CICA Standard**" means the standard, established by the Auditing and Assurance Standards Board of The Canadian Institute of Chartered Accountants, for an audit of internal control over financial reporting performed in conjunction with an audit of financial statements, as amended from time to time;

"**disclosure controls and procedures**" means controls and other procedures of an issuer that are designed to provide reasonable assurance that information required to be disclosed by the issuer in its annual filings, interim filings or other reports filed or submitted by it under securities legislation is recorded, processed, summarized and reported within the time periods specified in the securities legislation and include controls and procedures designed to ensure that information required to be disclosed by an issuer in its annual filings, interim filings or other reports filed or submitted under securities legislation is accumulated and communicated to the issuer's management, including its chief executive officers and chief financial officers (or persons who perform similar functions to a chief executive officer or a chief financial officer), as appropriate to allow timely decisions regarding required disclosure;

"**interim certificate**" means the certificate required to be filed pursuant to Part 4;

"**interim filings**" means the issuer's interim financial statements and interim MD&A filed under securities legislation for an interim period;

"**interim financial statements**" means the interim financial statements required to be filed under NI 51-102;

"**interim period**" has the meaning ascribed to it in NI 51-102;³

"**internal control over financial reporting**" means a process designed by, or under the supervision of, the issuer's chief executive officer and chief financial officer, or persons performing similar functions, and effected by the issuer's board of directors, management and other personnel, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with the issuer's GAAP and includes those policies and procedures that:

² "Audit committee" is defined in Multilateral Instrument 52-110 *Audit Committees* as a committee (or equivalent body) established by and among the board of directors of an issuer for the purpose of overseeing the accounting and financial reporting processes of the issuer and audits of the financial statements of the issuer, and, if no such committee exists, the entire board of directors of the issuer.

³ "Interim period" is defined in NI 51-102 as

- (a) in the case of a year other than a transition year, a period commencing on the first day of the financial year and ending nine, six or three months before the end of the financial year; or
- (b) in the case of a transition year, a period commencing on the first day of the transition year and ending
 - (i) three, six, nine or 12 months, if applicable, after the end of the old financial year; or
 - (ii) 12, nine, six or three months, if applicable, before the end of the transition year.

(a) pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of the issuer,

(b) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with the issuer's GAAP, and that receipts and expenditures of the issuer are being made only in accordance with authorizations of management and directors of the issuer, and

(c) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the issuer's assets that could have a material effect on the annual financial statements or interim financial statements;

"**internal control report**" has the meaning ascribed to it in MI 52-111;⁴

"**investment fund**" has the meaning ascribed to it in NI 51-102;⁵

"**issuer's GAAP**" has the meaning ascribed to it in NI 52-107;⁶

"**listed equity securities**" means equity securities listed or quoted on an exchange or marketplace;

"**market capitalization date**" means:

(a) June 30, 2005;

(b) in the case of an issuer that becomes a reporting issuer after June 30, 2005, the date on which the issuer becomes a reporting issuer; or

(c) in the case of a reporting issuer that ceases to be a venture issuer after June 30, 2005, the date on which the reporting issuer ceased to be a venture issuer;

"**marketplace**" has the meaning ascribed to it in National Instrument 21-101 *Marketplace Operation*;⁷

⁴ "**Internal control report**" is defined in MI 52-111 as a report of management that describes management's assessment of the effectiveness of the issuer's internal control over financial reporting.

⁵ "**Investment fund**" is defined in NI 51-102 as a mutual fund or non-redeemable investment fund.

⁶ "**Issuer's GAAP**" is defined in NI 52-107 as the accounting principles used to prepare an issuer's financial statements, as permitted by NI 52-107.

⁷ "**Marketplace**" is defined in National Instrument 21-101 *Marketplace Operation* as

(a) an exchange,

(b) a quotation or trade reporting system,

(c) a person or company not included in paragraph (a) or (b) that

(i) constitutes, maintains or provides a market or facility for bringing together buyers and sellers of securities,

(ii) brings together the orders for securities of multiple buyers and sellers, and

(iii) uses established, non-discretionary methods under which the orders interact with each other, and the buyers and sellers entering the orders agree to the terms of the trade, or

"**material weakness**" has the meaning ascribed to it in the CICA Standard;⁸

"**MD&A**" has the meaning ascribed to it in NI 51-102;

"**MI 52-111**" means Multilateral Instrument 52-111 *Reporting on Internal Control over Financial Reporting*;

"**NI 51-102**" means National Instrument 51-102 *Continuous Disclosure Obligations*;

"**NI 52-107**" means National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency*;

"**Sarbanes-Oxley Act**" means the Sarbanes-Oxley Act of 2002, Pub.L. 107-204, 116 Stat. 745 (2002), as amended from time to time;

"**significant deficiency**" has the meaning ascribed to it in the CICA Standard;⁹

"**subsidiary**" has the meaning ascribed to it in the Handbook;

"**U.S. GAAP**" has the meaning ascribed to it in NI 52-107;¹⁰

"**U.S. marketplace**" has the meaning ascribed to it in NI 51-102; and¹¹

"**venture issuer**" means an issuer that, as at the applicable time, did not have any of its securities listed or quoted on any of the Toronto Stock Exchange, a U.S. marketplace, or a marketplace outside of Canada or the United States of America; where the "applicable time" in respect of:

(d) a dealer that executes a trade of an exchange-traded security outside of a marketplace, but does not include an inter-dealer bond broker.

⁸ The definition in the proposed CICA Standard is:

"**Material weakness**" means a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the annual or interim financial statements will not be prevented or detected."

⁹ The definition in the proposed CICA Standard is:

"**Significant deficiency**" means a control deficiency, or combination of control deficiencies, that adversely affects an issuer's ability to initiate, authorize, record, process or report external financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the entity's annual or interim financial statements that is more than inconsequential will not be prevented or detected."

¹⁰ "**U.S. GAAP**" is defined in NI 52-107 as generally accepted accounting principles in the United States of America that the SEC has identified as having substantially authoritative support, as supplemented by Regulation S-X and Regulation S-B under the 1934 Act.

¹¹ "**U.S. marketplace**" is defined in NI 51-102 as an exchange registered as a 'national securities exchange' under section 6 of the 1934 Act, or the Nasdaq Stock Market.

(a) the Instrument other than paragraph (c) of the definition of market capitalization date in section 1.1, is the end of the applicable financial year; and

(b) paragraph (c) of the definition of market capitalization date in section 1.1, is the date on which securities of an issuer are listed or quoted on any of the Toronto Stock Exchange, a U.S. marketplace, or a marketplace outside of Canada or the United States of America.

Application

1.2 This Instrument applies to all reporting issuers other than investment funds.

Calculation of the aggregate market value of an issuer's listed equity securities

1.3 For the purposes of this Instrument, the aggregate market value of the listed equity securities of an issuer is the aggregate of the market value of each class of its listed equity securities outstanding on the market capitalization date, calculated by multiplying

1. the total number of listed equity securities of the class outstanding on the market capitalization date, by

2 the weighted average of the market price for the listed equity securities of the class outstanding on the exchange or marketplace on which that class of listed equity securities is principally traded for each of the 20 trading days immediately following the market capitalization date.

PART 2 – DISCLOSURE CONTROLS AND PROCEDURES AND INTERNAL CONTROL OVER FINANCIAL REPORTING

Disclosure controls and procedures and internal control over financial reporting

2.1 Every issuer must have disclosure controls and procedures and internal control over financial reporting.

PART 3 - CERTIFICATION OF ANNUAL FILINGS

Annual certificates

3.1 Every issuer must file a separate annual certificate, in the required form, in respect of and personally signed by each person who, at the time of filing the annual certificate:

1. is a chief executive officer;

2. is a chief financial officer; and

3. in the case of an issuer that does not have a chief executive officer or chief financial officer, performs similar functions to a chief executive officer or a chief financial officer, as the case may be.

Required form of annual certificates – issuers other than venture issuers and 52-109 transition issuers

3.2 The required form of annual certificates for issuers other than venture issuers and 52-109 transition issuers is Form 52-109F1.

Required form of annual certificates – 52-109 transition 1 issuers

3.3(1) The required form of annual certificates for 52-109 transition 1 issuers for financial years ending on or before June 29, 2007 is Form 52-109FVT1.

3.3(2) Despite subsection (1), a 52-109 transition 1 issuer may file annual certificates in Form 52-109F1 for financial years ending on or before June 29, 2007 provided that the issuer has complied with the requirements of MI 52-111.

3.3(3) The required form of annual certificates for 52-109 transition 1 issuers for financial years ending on or after June 30, 2007 is Form 52-109F1.

Required form of annual certificates – 52-109 transition 2 issuers

3.4(1) The required form of annual certificates for 52-109 transition 2 issuers for financial years ending on or before June 29, 2008 is Form 52-109FVT1.

3.4(2) Despite subsection (1), a 52-109 transition 2 issuer may file annual certificates in Form 52-109F1 for financial years ending on or before June 29, 2008 provided that the issuer has complied with the requirements of MI 52-111.

3.4(3) The required form of annual certificates for 52-109 transition 2 issuers for financial years ending on or after June 30, 2008 is Form 52-109F1.

Required form of annual certificates – 52-109 transition 3 issuers

3.5(1) The required form of annual certificates for 52-109 transition 3 issuers for financial years ending on or before June 29, 2009 is Form 52-109FVT1.

3.5(2) Despite subsection (1), a 52-109 transition 3 issuer may file annual certificates in Form 52-109F1 for financial years ending on or before June 29, 2009 provided that the issuer has complied with the requirements of MI 52-111.

3.5(3) The required form of annual certificates for 52-109 transition 3 issuers for financial years ending on or after June 30, 2009 is Form 52-109F1.

Required form of annual certificates – venture issuers

3.6 The required form of annual certificates for venture issuers is Form 52-109FVT1.

Transition period for annual certificates

3.7 Despite sections 3.2, 3.3, 3.4, 3.5 and 3.6, an issuer may file annual certificates in Form 52-109FM1 for financial years ending on or before June 29, 2006.

Deadline for filing annual certificates

3.8 The annual certificates must be filed by the issuer separately but concurrently with the latest of the following:

1. if it is required to file an AIF under NI 51-102, the filing of its AIF; and
2. the filing of its annual financial statements and annual MD&A.

PART 4 - CERTIFICATION OF INTERIM FILINGS

Interim certificates

4.1 Every issuer must file for each interim period a separate interim certificate, in the required form, in respect of and personally signed by each person who, at the time of the filing of the interim certificate:

1. is a chief executive officer;
2. is a chief financial officer; and
3. in the case of an issuer that does not have a chief executive officer or chief financial officer, performs similar functions to a chief executive officer or a chief financial officer, as the case may be.

Required form of interim certificates

4.2(1) The required form of interim certificates is Form 52-109F2.

4.2(2) Despite subsection (1), an issuer may file interim certificates in Form 52-109FM2 in respect of a permitted modified interim period.

4.2(3) Despite subsections (1) and (2), an issuer may file interim certificates in Form 52-109FT2 in respect of a permitted bare interim period.

4.2(4) For the purpose of subsection (2), a permitted modified interim period is an interim period that occurs before the end of the first financial year for which an issuer is required to file an annual certificate in Form 52-109F1 or Form 52-109FVT1.

4.2(5) For the purpose of subsection (3), a permitted bare interim period is an interim period that occurs before the end of the first financial year for which an issuer is permitted to file an annual certificate in Form 52-109FM1.

Deadline for filing interim certificates

4.3 The interim certificates must be filed by the issuer separately but concurrently with the filing of its interim filings.

PART 5 – REFILED ANNUAL CERTIFICATES AND INTERIM CERTIFICATES

Refiled annual financial statements, annual MD&A and AIFs

5.1(1) If an issuer refiles its annual financial statements, annual MD&A or AIF for a financial year, it must refile its annual certificates for that financial year in Form 52-109F1R.

5.1(2) The refiled annual certificates must be filed by the issuer separately but concurrently with the filing of its refiled annual financial statements, annual MD&A or AIF, as the case may be.

Voluntarily filed AIFs

5.2(1) If a venture issuer voluntarily files an AIF for a financial year after the issuer has filed its annual financial statements, annual MD&A and annual certificates for that financial year, it must refile its annual certificates in Form 52-109F1R - AIF.

5.2(2) The refiled annual certificates must be filed by the issuer separately but concurrently with the filing of its AIF.

Refiled interim financial statements and interim MD&A

5.3(1) If an issuer refiles its interim financial statements or interim MD&A for an interim period, it must refile its interim certificates for that interim period in Form 52-109F2R.

5.3(2) The refiled interim certificates must be filed by the issuer separately but concurrently with the filing of its refiled interim financial statements or interim MD&A, as the case may be.

PART 6 – LANGUAGE OF ANNUAL CERTIFICATES AND INTERIM CERTIFICATES

French or English

6.1(1) An issuer must file annual certificates and interim certificates required to be filed under this Instrument in French or in English.

6.1(2) In Québec, an issuer must comply with linguistic obligations and rights prescribed by Québec law.

PART 7 – EXEMPTIONS

Exemption for issuers that comply with U.S. Laws

7.1(1) Subject to subsection (4), an issuer is exempt from Part 3 with respect to a financial year if:

(a) the issuer is in compliance with U.S. federal securities laws implementing the annual report certification requirements in section 302(a) of the Sarbanes-Oxley Act; and

(b) the issuer's signed certificates relating to its annual report for the financial year are filed as soon as reasonably practicable after they are filed with the SEC.

7.1(2) Subject to subsection (5), an issuer is exempt from Part 4 with respect to an interim period if:

(a) the issuer is in compliance with U.S. federal securities laws implementing the quarterly report certification requirements in section 302(a) of the Sarbanes-Oxley Act; and

(b) the issuer's signed certificates relating to its quarterly report for the quarter are filed as soon as reasonably practicable after they are filed with the SEC.

7.1(3) Subject to subsection (5), an issuer is exempt from Part 4 with respect to an interim period if:

(a) the issuer furnishes to the SEC a current report on Form 6-K containing the issuer's quarterly financial statements and MD&A;

(b) the Form 6-K is accompanied by signed certificates that are filed with the SEC in the same form required by U.S. federal securities laws implementing the quarterly report certification requirements in section 302(a) of the Sarbanes-Oxley Act; and

(c) the signed certificates relating to the quarterly report furnished under cover of the Form 6-K are filed as soon as reasonably practicable after they are filed with the SEC.

7.1(4) Despite subsection (1), Part 3 applies to an issuer with respect to a financial year if the issuer files annual financial statements prepared in accordance with Canadian GAAP, unless the issuer files those statements with the SEC in compliance with U.S. federal securities laws implementing the annual report certification requirements in section 302(a) of the Sarbanes-Oxley Act.

7.1(5) Despite subsections (2) and (3), Part 4 applies to an issuer with respect to an interim period if the issuer files or furnishes, whether on a voluntary basis or otherwise, interim financial statements prepared in accordance with Canadian GAAP, unless the issuer files or furnishes those statements with the SEC in compliance with U.S. federal securities laws implementing the quarterly report certification requirements in section 302(a) of the Sarbanes-Oxley Act.

Exemption for foreign issuers

7.2 An issuer is exempt from the requirements in this Instrument if it qualifies for the relief contemplated by, and is in compliance with the requirements and conditions set out in, sections 5.4 and 5.5 of National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers*.

Exemption for certain exchangeable security issuers

7.3 An issuer is exempt from the requirements in this Instrument if it qualifies for the relief contemplated by, and is in compliance with the requirements and conditions set out in, section 13.3 of NI 51-102.

Exemption for certain credit support issuers

7.4 An issuer is exempt from the requirements in this Instrument if it qualifies for the relief contemplated by, and is in compliance with the requirements and conditions set out in, section 13.4 of NI 51-102.

General exemption

7.5(1) The regulator or securities regulatory authority may grant an exemption from this Instrument, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.

7.5(2) Despite subsection (1), in Ontario only the regulator may grant such an exemption.

PART 8 - EFFECTIVE DATE, TRANSITION AND CITATION

Repeal of former instrument

8.1 Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* that came into force on March 30, 2004 is repealed.

Effective date

8.2 This Instrument comes into force on [●].¹²

Citation

8.3 This rule may be cited or referred to as either MSC Rule 2005-* or Multilateral Instrument 52-109.

¹² This Instrument is intended to come into force on the same date as MI 52-111.

Form 52-109F1

**Certification of annual filings for issuers required
to comply with Multilateral Instrument 52-111**

I, *<identify (i) the certifying officer, (ii) his or her position at the issuer, (iii) the name of the issuer and (iv) if the certifying officer's title is not "chief executive officer" or "chief financial officer" of the issuer, whether the certifying officer is providing the certificate in the capacity of a chief executive officer or a chief financial officer>*, certify that:

1. I have reviewed the annual filings (as this term is defined in Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*) of *<identify issuer>* (the issuer) for the financial year ended *<state the relevant date>*;
2. Based on my knowledge, the annual filings do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make a statement not misleading in light of the circumstances under which it was made, with respect to the period covered by the annual filings;
3. Based on my knowledge, the annual financial statements together with the other financial information included in the annual filings fairly present in all material respects the financial condition, results of operations and cash flows of the issuer, as of the date and for the periods presented in the annual filings;
4. The issuer's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures and internal control over financial reporting for the issuer, and we have:
 - (a) designed such disclosure controls and procedures, or caused them to be designed under our supervision, to provide reasonable assurance that material information relating to the issuer, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which the annual filings are being prepared;
 - (b) designed such internal control over financial reporting, or caused it to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with the issuer's GAAP;
 - (c) evaluated the effectiveness of the issuer's disclosure controls and procedures as of the end of the period covered by the annual filings and have caused the issuer to disclose in the annual MD&A our conclusions about the effectiveness of the disclosure controls and procedures as of the end of the period covered by the annual filings based on such evaluation; and
 - (d) caused the issuer to disclose in the annual MD&A any change in the issuer's internal control over financial reporting that occurred during the period beginning on *<insert the date immediately following the end of the most recent interim period>* and ended *<insert*

financial year end> that has materially affected, or is reasonably likely to materially affect, the issuer's internal control over financial reporting; and

5. The issuer's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the issuer's auditors and the audit committee (or persons performing the equivalent functions):

(a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the issuer's ability to record, process, summarize and report financial information; and

(b) any fraud, whether or not material, that involves management or other employees who have a significant role in the issuer's internal control over financial reporting.

Date: <*insert date of filing*>

[Signature]

[Title]

<if the certifying officer's title is not "chief executive officer" or "chief financial officer", indicate whether the certifying officer is providing the certificate in the capacity of a chief executive officer or a chief financial officer>

Form 52-109FVT1

**Certification of annual filings for issuers not required
to comply with Multilateral Instrument 52-111**

I, *<identify (i) the certifying officer, (ii) his or her position at the issuer, (iii) the name of the issuer and (iv) if the certifying officer's title is not "chief executive officer" or "chief financial officer" of the issuer, whether the certifying officer is providing the certificate in the capacity of a chief executive officer or a chief financial officer>*, certify that:

1. I have reviewed the annual filings (as this term is defined in Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*) of *<identify the issuer>* (the issuer) for the financial year ended *<state the relevant date>*;
2. Based on my knowledge, the annual filings do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make a statement not misleading in light of the circumstances under which it was made, with respect to the period covered by the annual filings;
3. Based on my knowledge, the annual financial statements together with the other financial information included in the annual filings fairly present in all material respects the financial condition, results of operations and cash flows of the issuer, as of the date and for the periods presented in the annual filings;
4. The issuer's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures and internal control over financial reporting for the issuer, and we have:
 - (a) designed such disclosure controls and procedures, or caused them to be designed under our supervision, to provide reasonable assurance that material information relating to the issuer, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which the annual filings are being prepared;
 - (b) designed such internal control over financial reporting, or caused it to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with the issuer's GAAP;
 - (c) evaluated the effectiveness of the issuer's disclosure controls and procedures as of the end of the period covered by the annual filings and have caused the issuer to disclose in the annual MD&A our conclusions about the effectiveness of the disclosure controls and procedures as of the end of the period covered by the annual filings based on such evaluation; and
 - (d) caused the issuer to disclose in the annual MD&A any change in the issuer's internal control over financial reporting that occurred during the period beginning on *<insert the date immediately following the end of the most recent interim period>* and ended *<insert*

financial year end> that has materially affected, or is reasonably likely to materially affect, the issuer's internal control over financial reporting; and

5. The issuer is not required to comply with the requirements of Multilateral Instrument 52-111 *Reporting on Internal Control over Financial Reporting* for the financial year ended <*state the relevant date*>.

Date: <*insert date of filing*>

[Signature]

[Title]

<*if the certifying officer's title is not "chief executive officer" or "chief financial officer", indicate whether the certifying officer is providing the certificate in the capacity of a chief executive officer or a chief financial officer*>

Form 52-109FM1

Modified certification of annual filings during transition period

I, *<identify (i) the certifying officer, (ii) his or her position at the issuer, (iii) the name of the issuer and (iv) if the certifying officer's title is not "chief executive officer" or "chief financial officer" of the issuer, whether the certifying officer is providing the certificate in the capacity of a chief executive officer or a chief financial officer>*, certify that:

1. I have reviewed the annual filings (as this term is defined in Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*) of *<identify the issuer>* (the issuer) for the financial year ended *<state the relevant date>*;
2. Based on my knowledge, the annual filings do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make a statement not misleading in light of the circumstances under which it was made, with respect to the period covered by the annual filings;
3. Based on my knowledge, the annual financial statements together with the other financial information included in the annual filings fairly present in all material respects the financial condition, results of operations and cash flows of the issuer, as of the date and for the periods presented in the annual filings; and
4. The issuer's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures for the issuer, and we have:
 - (a) designed such disclosure controls and procedures, or caused them to be designed under our supervision, to provide reasonable assurance that material information relating to the issuer, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which the annual filings are being prepared; and
 - (b) evaluated the effectiveness of the issuer's disclosure controls and procedures as of the end of the period covered by the annual filings and have caused the issuer to disclose in the annual MD&A our conclusions about the effectiveness of the disclosure controls and procedures as of the end of the period covered by the annual filings based on such evaluation.

Date: *<insert date of filing>*

[Signature]

[Title]

<if the certifying officer's title is not "chief executive officer" or "chief financial officer", indicate whether the certifying officer is providing the certificate in the capacity of a chief executive officer or a chief financial officer>

Form 52-109F1R

Refiled certification of annual filings

I, *<identify (i) the certifying officer, (ii) his or her position at the issuer, (iii) the name of the issuer and (iv) if the certifying officer's title is not "chief executive officer" or "chief financial officer" of the issuer, whether the certifying officer is providing the certificate in the capacity of a chief executive officer or a chief financial officer>*, certify that:

1. This refiled certificate is being filed separately but concurrently with the filing of *<identify the filing(s) that have been refiled>* by *<identify the issuer>* (the issuer);
2. I have reviewed the refiled annual filings (as this term is defined in Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*) of the issuer for the financial year ended *<state the relevant date>*;

<If the issuer is required or permitted to file its annual certificates in Form 52-109F1, then insert paragraphs 2 to and including 5 of Form 52-109F1.

If the issuer is required or permitted to file its annual certificates in Form 52-109FVT1, then insert paragraphs 2 to and including 5 of Form 52-109FVT1.

If the issuer is permitted to file its annual certificates in Form 52-109FM1, then insert paragraphs 2 to and including 4 of Form 52-109FM1.>

Date: *<insert date of filing>*

[Signature]

[Title]

<if the certifying officer's title is not "chief executive officer" or "chief financial officer", indicate whether the certifying officer is providing the certificate in the capacity of a chief executive officer or a chief financial officer>

Form 52-109F1R

AIF – Refiled certification of annual filings

I, *<identify (i) the certifying officer, (ii) his or her position at the issuer, (iii) the name of the issuer and (iv) if the certifying officer's title is not "chief executive officer" or "chief financial officer" of the issuer, whether the certifying officer is providing the certificate in the capacity of a chief executive officer or a chief financial officer>*, certify that:

1. This refiled certificate is being filed separately but concurrently with the filing of an AIF that has been voluntarily filed by *<identify the issuer>* (the issuer);
2. I have reviewed the annual filings (as this term is defined in Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*) of the issuer for the financial year ended *<state the relevant date>*;

< If the issuer is required to file its annual certificates in Form 52-109FVE1, then insert paragraphs 2 to and including 5 of Form 52-109FVT1.

If the issuer is permitted to file its annual certificates in Form 52-109FTT1, then insert paragraphs 2 to and including 4 of Form 52-109FM1.>

Date: *<insert date of filing>*

[Signature]

[Title]

<if the certifying officer's title is not "chief executive officer" or "chief financial officer", indicate whether the certifying officer is providing the certificate in the capacity of a chief executive officer or a chief financial officer>

Form 52-109F2

Certification of interim filings

I, *<identify (i) the certifying officer, (ii) his or her position at the issuer, (iii) the name of the issuer and (iv) if the certifying officer's title is not "chief executive officer" or "chief financial officer" of the issuer, whether the certifying officer is providing the certificate in the capacity of a chief executive officer or a chief financial officer>*, certify that:

1. I have reviewed the interim filings (as this term is defined in Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*) of *<identify the issuer>*, (the issuer) for the interim period ended *<state the relevant date>*;
2. Based on my knowledge, the interim filings do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make a statement not misleading in light of the circumstances under which it was made, with respect to the period covered by the interim filings;
3. Based on my knowledge, the interim financial statements together with the other financial information included in the interim filings fairly present in all material respects the financial condition, results of operations and cash flows of the issuer, as of the date and for the periods presented in the interim filings; and
4. The issuer's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures and internal control over financial reporting for the issuer, and we have:
 - (a) designed such disclosure controls and procedures, or caused them to be designed under our supervision, to provide reasonable assurance that material information relating to the issuer, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which the interim filings are being prepared;
 - (b) designed such internal control over financial reporting, or caused it to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with the issuer's GAAP; and
 - (c) caused the issuer to disclose in the interim MD&A any change in the issuer's internal control over financial reporting that occurred during the three months ended *<insert end of interim period>* that has materially affected, or is reasonably likely to materially affect, the issuer's internal control over financial reporting.

Date: *<insert date of filing>*

[Signature]

[Title]

<if the certifying officer's title is not "chief executive officer" or "chief financial officer", indicate whether the certifying officer is providing the certificate in the capacity of a chief executive officer or a chief financial officer>

Form 52-109FT2

Bare certification of interim filings during transition period

I, *<identify (i) the certifying officer, (ii) his or her position at the issuer, (iii) the name of the issuer and (iv) if the certifying officer's title is not "chief executive officer" or "chief financial officer" of the issuer, whether the certifying officer is providing the certificate in the capacity of a chief executive officer or a chief financial officer>*, certify that:

1. I have reviewed the interim filings (as this term is defined in Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*) of *<identify the issuer>*, (the issuer) for the interim period ended *<state the relevant date>*;
2. Based on my knowledge, the interim filings do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make a statement not misleading in light of the circumstances under which it was made, with respect to the period covered by the interim filings; and
3. Based on my knowledge, the interim financial statements together with the other financial information included in the interim filings fairly present in all material respects the financial condition, results of operations and cash flows of the issuer, as of the date and for the periods presented in the interim filings.

Date: *<insert date of filing>*

[Signature]

[Title]

<if the certifying officer's title is not "chief executive officer" or "chief financial officer", indicate whether the certifying officer is providing the certificate in the capacity of a chief executive officer or a chief financial officer>

Form 52-109FM2

Modified certification of interim filings during transition period

I, *<identify (i) the certifying officer, (ii) his or her position at the issuer, (iii) the name of the issuer and (iv) if the certifying officer's title is not "chief executive officer" or "chief financial officer" of the issuer, whether the certifying officer is providing the certificate in the capacity of a chief executive officer or a chief financial officer>*, certify that:

1. I have reviewed the interim filings (as this term is defined in Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*) of *<identify the issuer>* (the issuer) for the interim period ended *<state the relevant date>*;
2. Based on my knowledge, the interim filings do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make a statement not misleading in light of the circumstances under which it was made, with respect to the period covered by the interim filings;
3. Based on my knowledge, the interim financial statements together with the other financial information included in the interim filings fairly present in all material respects the financial condition, results of operations and cash flows of the issuer, as of the date and for the periods presented in the interim filings; and
4. The issuer's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures for the issuer, and we have designed such disclosure controls and procedures, or caused them to be designed under our supervision, to provide reasonable assurance that material information relating to the issuer, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which the interim filings are being prepared.

Date: *<insert date of filing>*

[Signature]

[Title]

<if the certifying officer's title is not "chief executive officer" or "chief financial officer", indicate whether the certifying officer is providing the certificate in the capacity of a chief executive officer or a chief financial officer>

Form 52-109F2R

Refiled certification of interim filings

I, *<identify (i) the certifying officer, (ii) his or her position at the issuer, (iii) the name of the issuer and (iv) if the certifying officer's title is not "chief executive officer" or "chief financial officer" of the issuer, whether the certifying officer is providing the certificate in the capacity of a chief executive officer or a chief financial officer>*, certify that:

1. This refiled certificate is being filed separately but concurrently with the filing of *<identify the filing(s) that have been refiled>* by *<identify the issuer>* (the issuer);
2. I have reviewed the refiled interim filings (as this term is defined in Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*) of the issuer for the interim period ended *<state the relevant date>*;

<If the issuer is required to file its interim certificates in Form 52-109F2, then insert paragraphs 2 to and including 4 of Form 52-109F2.

If the issuer is permitted to file its interim certificates in Form 52-109FM2, then insert paragraphs 2 to and including 4 of Form 52-109FM2.>

Date: *<insert date of filing>*

[Signature]

[Title]

<if the certifying officer's title is not "chief executive officer" or "chief financial officer", indicate whether the certifying officer is providing the certificate in the capacity of a chief executive officer or a chief financial officer>

**COMPANION POLICY 52-109CP
TO MULTILATERAL INSTRUMENT 52-109 CERTIFICATION OF DISCLOSURE IN
ISSUERS' ANNUAL AND INTERIM FILINGS**

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PART 6 – EXEMPTIONS

- 6.1 Issuers that comply with U.S. laws

PART 7 – LIABILITY FOR CERTIFICATES CONTAINING MISREPRESENTATIONS

- 7.1 Liability for certificates containing misrepresentations

**APPENDIX A – ANNUAL CERTIFICATE AND INTERIM CERTIFICATE FILING
REQUIREMENTS**

PART 1 – GENERAL

1.1 Introduction and purpose -

- (1) Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (the Instrument) sets out additional disclosure requirements for all reporting issuers, other than investment funds.
- (2) The purpose of this Companion Policy (the Policy) is to help you understand how the provincial and territorial securities regulatory authorities interpret or apply certain provisions of the Instrument.

- 1.2 Application to non-corporate entities -** The Instrument applies to both corporate and non-corporate entities. Where the Instrument or the Policy refers to a particular corporate characteristic, such as an audit committee of the board of directors, the reference should be read to also include any equivalent characteristic of a non-corporate entity.

PART 2 – FORM OF CERTIFICATES

- 2.1 Prescribed language -** The annual certificates and interim certificates must be filed in the exact language prescribed in the required form (including the form number and form title), without any amendment. Failure to do so will be a breach of the Instrument.
- 2.2 Filing requirements -** For illustration purposes only, the table in Appendix A sets out the filing requirements for annual certificates and interim certificates of issuers with financial years beginning on the first day of a month.

PART 3 - FILING OF CERTIFICATES

- 3.1 Paper copies of the signed certificates -** An issuer that has filed annual certificates and interim certificates through the System for Electronic Document Analysis and Retrieval (SEDAR) need not file the paper copies of the signed certificates.
- 3.2 Certificates filed with the SEC -** To avail itself of the exemptions under section 7.1 of the Instrument, an issuer must file the certificates of the chief executive officer and chief financial officer (or persons performing similar functions to a chief executive officer or chief financial officer) that the issuer filed with SEC as exhibits to the annual or quarterly reports with respect to the relevant reporting period. These certificates should be filed separately but concurrently with the annual or quarterly report, as the case may be.

PART 4 – CERTIFYING OFFICERS

- 4.1 Persons performing similar functions to a chief executive officer or chief financial officer -**

- (1) Where an issuer does not have a chief executive officer or chief financial officer, each person who performs similar functions to a chief executive officer or chief financial officer must certify the annual filings and interim filings. It is left to the discretion of the issuer, acting reasonably, to determine who those persons are.
- (2) In the case of an income trust reporting issuer (as described in proposed National Policy 41-201 *Income Trusts and Other Indirect Offerings*) where executive management resides at the underlying business entity level or in an external management company, we would generally consider the chief executive officer and chief financial officer of the underlying business entity or the external management company to be persons performing functions in respect of the income trust similar to a chief executive officer and chief financial officer.
- (3) In the case of a limited partnership reporting issuer with no chief executive officer and chief financial officer, we would generally consider the chief executive officer and chief financial officer of its general partner to be persons performing functions in respect of the limited partnership reporting issuer similar to a chief executive officer and chief financial officer.

4.2 “New” certifying officers -

- (1) Chief executive officers and chief financial officers (or persons performing similar functions to a chief executive officer or chief financial officer) holding such offices at the time that annual certificates and interim certificates are filed are the persons who must sign those certificates.
- (2) The certifying officers must each certify that they have designed (or caused to be designed under their supervision) disclosure controls and procedures and internal control over financial reporting. There may be situations where an issuer’s disclosure controls and procedures and internal control over financial reporting have been designed and implemented prior to the certifying officers assuming their respective offices. We recognize that in these situations the certifying officers may have difficulty in representing that they have designed or caused to be designed these controls and procedures. In our view, where:
 - (a) disclosure controls and procedures and internal control over financial reporting have been designed and implemented prior to the certifying officers assuming their respective offices;
 - (b) the certifying officers have reviewed the existing disclosure controls and procedures and internal control over financial reporting on assuming their respective offices; and
 - (c) the certifying officers have designed (or caused to be designed under their supervision) any modifications or enhancements to the existing disclosure

controls and procedures and internal control over financial reporting determined to be necessary following their review,

the certifying officers will have designed (or caused to be designed under their supervision) these controls and procedures for the purposes of the annual certificates and interim certificates.

- 4.3 **One person acting as chief executive officer and chief financial officer** - If only one individual is, or is performing similar functions to, the chief executive officer and the chief financial officer of an issuer, that individual may either:
- (a) provide two certificates (one in the capacity of the chief executive officer and the other in the capacity of the chief financial officer); or
 - (b) provide one certificate in the capacity of both the chief executive officer and chief financial officer and file this certificate twice, once in the filing category for certificates of chief executive officers and once in the filing category for certificates of chief financial officers.

PART 5 – REQUIRED CERTIFICATIONS

5.1 Fair presentation of financial condition, results of operations and cash flows -

- (1) The certifying officers must each certify that their issuer’s financial statements (including prior period comparative financial information) and other financial information included in the annual filings and interim filings “*fairly present*” the issuer’s financial condition, results of operations and cash flows.
- (2) This representation is not qualified by the phrase “in accordance with generally accepted accounting principles” which Canadian auditors typically include in their financial statement audit reports. This qualification has been specifically excluded from the Instrument to prevent management from relying entirely on compliance with the issuer’s GAAP in this representation, particularly where the issuer’s GAAP financial statements may not reflect the financial condition of an issuer (since the issuer’s GAAP do not always define all of the components of an overall fair presentation). We believe that this is appropriate as the certification is intended to provide assurances that the financial information disclosed in the annual filings and interim filings, viewed in their entirety, meets a standard of overall material accuracy and completeness that is broader than financial reporting requirements under the issuer’s GAAP. As a result, issuers are not entitled to limit the representation to Canadian GAAP, US GAAP or any other source of generally accepted accounting principles.
- (3) The concept of fair presentation as used in the annual certificates and interim certificates is not limited to compliance with the issuer’s GAAP; however, it is not intended to permit an issuer to depart from the issuer’s GAAP in the preparation of its financial

statements. In the event that an issuer is of the view that there are limitations to the issuer's GAAP based financial statements as an indicator of the issuer's financial condition, the issuer should provide any necessary additional disclosure in its MD&A.

- (4) We do not believe that a formal definition of fair presentation is appropriate as it encompasses a number of qualitative and quantitative factors that may not be applicable to all issuers. In our view, fair presentation includes:
- (a) selection of appropriate accounting policies;
 - (b) proper application of appropriate accounting policies;
 - (c) disclosure of financial information that is informative and reasonably reflects the underlying transactions; and
 - (d) inclusion of additional disclosure necessary to provide investors with a materially accurate and complete picture of financial condition, results of operations and cash flows.
- (5) For additional commentary on what constitutes fair presentation we refer you to case law in this area. The leading U.S. case in this area is *U.S. v. Simon* (425 F.2d 796). The leading Canadian case in this area is the B.C. Court of Appeal decision in *Kripps v. Touche Ross and Co.* [1997] B.C.J. No. 968; Leave to appeal refused [1997] S.C.C.A. No. 380. See subsections 5.6(3) and (5) of the Policy for further guidance.

5.2 **Financial condition** - The Instrument does not formally define financial condition. The term "financial condition" in the annual certificates and interim certificates is intended to be used in the same manner as the term "financial condition" is used in The Canadian Institute of Chartered Accountants' MD&A Guidelines and NI 51-102. In our view, financial condition encompasses a number of qualitative and quantitative factors which would be difficult to enumerate in a comprehensive list applicable to all issuers. Financial condition of an issuer includes considerations such as:

- (a) liquidity;
- (b) solvency;
- (c) capital resources;
- (d) overall financial health of the issuer's business; and
- (e) current and future considerations, events, risks or uncertainties that might impact the financial health of the issuer's business.

5.3 Design of disclosure controls and procedures and internal control over financial reporting -

- (1) The certifying officers must each certify that they are responsible for establishing and maintaining disclosure controls and procedures and internal control over financial reporting and that they have designed (or caused to be designed under their supervision) adequate internal control over financial reporting and disclosure controls and procedures.
- (2) The Instrument defines “disclosure controls and procedures” and “internal control over financial reporting”. The Instrument does not, however, prescribe the degree of complexity or any specific policies or procedures that must make up those controls and procedures. In our view, these considerations are best left to the judgement of the certifying officers, acting reasonably, based on various factors that may be particular to an issuer, including its size, the nature of its business and the complexity of its operations.
- (3) While there is a substantial overlap between the definition of disclosure controls and procedures and internal control over financial reporting, there are both some elements of disclosure controls and procedures that are not subsumed within the definition of internal control over financial reporting and some elements of internal control over financial reporting that are not subsumed within the definition of disclosure controls and procedures. For example, disclosure controls and procedures may include those components of internal control over financial reporting that provide reasonable assurances that transactions are recorded as necessary to permit the preparation of financial statements in accordance with the issuer’s GAAP; however, some issuers may design their disclosure controls and procedures so that certain components of internal control over financial reporting pertaining to the accurate recording of transactions and disposition of assets or to the safeguarding of assets are not included.

5.4 Evaluation of effectiveness of disclosure controls and procedures -

- (1) The certifying officers must each certify that they have evaluated the effectiveness of the issuer’s disclosure controls and procedures as at the end of the financial year and have caused the issuer to disclose in the annual MD&A their conclusions about the effectiveness of the disclosure controls and procedures based on such evaluation.
- (2) The Instrument does not specify the contents of the certifying officers’ report on its evaluation of disclosure controls and procedures; however, given that disclosure controls and procedures should be designed to provide, at a minimum, reasonable assurance of achieving their objectives, the report should set forth, at a minimum, the conclusions of the certifying officers as to whether the controls and procedures are, in fact, effective at the “reasonable assurance” level.

5.5 Representations regarding disclosure controls and procedures and internal control over financial reporting following the transition periods -

- (1) If an issuer files an annual certificate in Form 52-109FM1 that includes representations regarding disclosure controls and procedures, we do not expect these representations to extend to the prior period comparative information included in the annual filings if:
 - (a) the prior period comparative information was previously the subject of certificates that did not include these representations; or
 - (b) no certificate was required in respect of the prior period.
- (2) If an issuer files an annual certificate in Form 52-109F1 that includes representations regarding internal control over financial reporting, we do not expect these representations to extend to the prior period comparative information included in the annual filings if the prior period comparative information was previously the subject of certificates that did not include these representations.
- (3) If an issuer files an interim certificate in Form 52-109FM2 that includes representations regarding disclosure controls and procedures, we do not expect these representations to extend to the prior period comparative information included in the interim filings if:
 - (a) the prior period comparative information was previously the subject of certificates that did not include these representations; or
 - (b) no certificate was required in respect of the prior period.
- (4) If an issuer files an interim certificate in Form 52-109F2 that includes representations regarding internal control over financial reporting, we do not expect these representations to extend to the prior period comparative information included in the interim filings if the prior period comparative information was previously the subject of certificates that did not include these representations.

5.6 **Subsidiaries, variable interest entities, joint ventures, equity and portfolio investments -**

- (1) ***Underlying entities*** - An issuer may have a variety of long term investments. In particular, an issuer may have any of the following interests (referred to in this section as underlying entities):
 - (a) an interest in an entity which is consolidated because the issuer controls that entity (a subsidiary);
 - (b) an interest in an entity which is consolidated because it is a variable interest entity (a VIE);
 - (c) an interest in an entity which is proportionately consolidated because the issuer jointly controls that entity (a joint venture);

- (d) an interest in an entity which is accounted for using the equity method because the issuer has significant influence over that entity (an equity investment); or
- (e) an interest in an entity which is carried at cost because the issuer has neither control nor significant influence over that entity (a portfolio investment).

In this section, the term entity is meant to capture a broad range of structures, including, but not limited to, corporations.

- (2) ***Certification extending into underlying entities*** - If an issuer has an interest in an underlying entity, the nature of that underlying entity will impact the procedures required to be undertaken by the certifying officers as part of the certification process.
- (3) ***Certification of fair presentation*** - As discussed in section 5.1, the concept of fair presentation is not limited to compliance with the issuer's GAAP. If the certifying officers believe that an issuer's GAAP based financial statements do not fully present its financial condition insofar as it relates to an underlying entity, the certifying officers should cause the issuer to provide additional disclosure in its MD&A.
- (4) ***Certification of design of disclosure controls and procedures*** -
 - (a) The certifying officers should design (or cause to be designed under their supervision) disclosure controls and procedures for the issuer *extending into an underlying entity* to the extent necessary to provide reasonable assurance that information material to the issuer regarding an underlying entity is disclosed to management of the issuer on a timely basis.
 - (b) In the case of an issuer with an interest in a subsidiary, we expect the certifying officers to have access to the underlying entity to design the disclosure controls and procedures discussed in paragraph (a).

In the case of an issuer with an interest in a joint venture, we expect the issuer to negotiate for sufficient access to the joint venture to permit the certifying officers to design the disclosure controls and procedures discussed in paragraph (a).

In the case of an issuer with an equity investment, a portfolio investment or an interest in a VIE where the certifying officers do not have access to the underlying entity to design the disclosure controls and procedures discussed in paragraph (a), we expect the certifying officers to take all *reasonable* steps to ensure that the issuer obtains all information material to the issuer regarding the underlying entity. It is left to the discretion of the certifying officers, acting reasonably, to determine what constitutes "reasonable steps"; however, for portfolio investments, we recognize that the certifying officers may be limited in the steps that they can take and that *reasonable* steps may be similar to arrangements to obtain information about other line items on the issuer's balance sheet.

(5) ***Certification of design of internal control over financial reporting -***

- (a) The certifying officers should design (or cause to be designed under their supervision) the internal control over financial reporting for the issuer *extending into an underlying entity* to the extent necessary to provide reasonable assurance regarding the reliability of the issuer's financial reporting and preparation of the issuer's financial statements for external purposes in accordance with the issuer's GAAP.
- (b) In the case of an issuer with an interest in a subsidiary, we expect the certifying officers to have access to the subsidiary to design the internal control over financial reporting discussed in paragraph (a).

In the case of an issuer with an interest in a joint venture or VIE, we acknowledge that the certifying officers may not have the access to the underlying entity necessary to design the internal control over financial reporting discussed in paragraph (a). We expect the certifying officers to take all *reasonable* steps to design appropriate internal control over financial reporting. It is left to the discretion of the certifying officers, acting reasonably, to determine what constitutes "reasonable steps".

In the case of an issuer with an interest in an equity investment or a portfolio investment, the certifying officers will not have access to the underlying entity to design the internal control over financial reporting discussed in paragraph (a). We expect the certifying officers to take all *reasonable* steps to design appropriate internal control over financial reporting. It is left to the discretion of the certifying officers, acting reasonably, to determine what constitutes "reasonable steps".

- (c) If the certifying officers have access to the underlying entity to design the internal control over financial reporting discussed in paragraph (a) and they are not satisfied with those controls that extend into the underlying entity, they must complete remediation action prior to the financial statement period end date. Unlike the case where the certifying officers believe that an issuer's GAAP based financial statements do not fully present its financial condition, any concerns of the certifying officers regarding the design of internal control over financial reporting cannot be overcome through MD&A disclosure.
- (d) If the certifying officers do not have access to the underlying entity to design the internal control over financial reporting discussed in paragraph (a):
 - (i) in the case of an issuer with a material interest in a joint venture or VIE, we expect the certifying officers to cause the issuer to disclose this scope limitation in its annual MD&A as part of the process of ensuring fair presentation of the issuer's financial condition. This disclosure should

include the magnitude of the amounts proportionately consolidated or consolidated into the issuer's annual financial statements.

- (ii) in the case of an issuer with an equity investment or a portfolio investment, we expect that at a minimum the issuer's internal control over financial reporting should enable the certifying officers to certify the financial statements that include line items that relate to the equity investment or portfolio investment. Those line items may include:
 - 1. the cost of the investment;
 - 2. any dividends received by the issuer from the investment;
 - 3. any required impairment charge related to the investment; and
 - 4. the issuer's share of any income/loss from the equity investment.
- (e) In order to certify an issuer's annual filings or interim filings which include information regarding a joint venture, a VIE or an equity investment, we recognize that the certifying officers will be required to rely in most cases on the financial information reported by the underlying entity. At a minimum, we expect the certifying officers to cause the issuer to:
 - (i) ensure that it receives the underlying entity's financial information on a timely basis;
 - (ii) review the underlying entity's financial information to determine if it has been prepared in accordance with the issuer's GAAP; and
 - (iii) review the underlying entity's accounting policies and ensure that they are changed to the issuer's accounting policies.
- (f) Whether the certifying officers have the necessary access to a joint venture to design internal control over financial reporting extending into the joint venture is a question of fact. The necessary access may depend on, among other things:
 - (i) the issuer's percentage ownership of the joint venture;
 - (ii) whether the other joint venture owners are reporting issuers;
 - (iii) the operator of the joint venture;
 - (iv) the terms of the joint venture agreement; and
 - (v) the date of creation of the joint venture.

For all joint ventures created on or after **[insert date the Instrument comes into force]**, we expect an issuer to negotiate for the necessary access to design internal control over financial reporting for the issuer extending into the joint venture.

- (g) Whether the certifying officers have the necessary access to a VIE to design internal control over financial reporting extending into the VIE is a question of fact. The necessary access may depend on, among other things:
 - (i) the issuer's percentage ownership of the VIE, if any;
 - (ii) whether the other VIE owners are reporting issuers;
 - (iii) the nature of the relationship between the issuer and the VIE;
 - (iv) the terms of the VIE agreement; and
 - (v) the date of creation of the VIE.

For all VIEs created on or after **[insert date the Instrument comes into force]**, we expect an issuer to negotiate for the necessary access to design internal control over financial reporting for the issuer extending into the VIE.

- (6) ***Certification regarding evaluation of effectiveness of disclosure controls and procedures*** - We remind certifying officers that they must evaluate the effectiveness of the disclosure controls and procedures that they are required to design. The disclosure controls and procedures that are required to be designed are discussed in subsection (4).
- (7) ***Certification regarding disclosure of changes to internal control over financial reporting*** -
 - (a) We remind certifying officers that they must cause the issuer to disclose changes in the internal control over financial reporting that they are required to design. The controls that are required to be designed are discussed in subsection (5).
 - (b) If the certifying officers do not have access to an underlying entity to design internal control over financial reporting as contemplated in subparagraph (5)(d)(i), the certifying officers must cause the issuer to disclose any changes in internal control over financial reporting extending into the underlying entity that the certifying officers become aware of. This disclosure is only required where such controls are material to the issuer.

PART 6 – EXEMPTIONS

6.1 Issuers that comply with U.S. laws -

- (1) The exemptions in section 7.1 of the Instrument are based on our view that the investor confidence aims of the Instrument do not justify requiring issuers to comply with the certification requirements in the Instrument if such issuers already comply with substantially similar requirements in the U.S.
- (2) As a condition to being exempt from the annual certificate and interim certificate requirements under section 7.1 of the Instrument, issuers must file the certificates of the chief executive officer and chief financial officer (or persons performing similar functions to a chief executive officer or chief financial officer) that they filed with the SEC in compliance with its rules implementing the certification requirements prescribed in section 302(a) of the Sarbanes-Oxley Act.
- (3) Pursuant to NI 52-107, certain Canadian issuers are able to satisfy their requirements to file financial statements prepared in accordance with Canadian GAAP by filing statements prepared in accordance with US GAAP; however, it is possible that some Canadian issuers may still continue to prepare two sets of financial statements and continue to file their Canadian GAAP statements in the applicable jurisdictions. In order to ensure that the Canadian GAAP financial statements are certified (pursuant to either the Sarbanes-Oxley Act or the Instrument), those issuers will not have recourse to the exemptions in section 7.1 of the Instrument.

PART 7 – LIABILITY FOR CERTIFICATES CONTAINING MISREPRESENTATIONS

7.1 Liability for certificates containing misrepresentations -

- (1) An officer providing a certificate containing a misrepresentation potentially could be subject to quasi-criminal, administrative or civil proceedings under securities law.
- (2) Officers providing a certificate containing a misrepresentation could also potentially be subject to private actions for damages either at common law or, in Québec, under civil law, or under the *Securities Act* (Ontario) when amendments which create statutory civil liability for misrepresentations in continuous disclosure are proclaimed in force. The liability standard applicable to a document required to be filed with the Ontario Securities Commission, including an annual certificate or interim certificate, will depend on whether the document is a “core” document as defined under Part XXIII.1 of the *Securities Act* (Ontario). Annual certificates and interim certificates are currently not included in the definition of “core document” but would be caught by the definition of “document”.
- (3) In any action commenced under Part XXIII.1 of the *Securities Act* (Ontario) a court has the discretion to treat multiple misrepresentations having common subject matter or content as a single misrepresentation. This provision could permit a court in appropriate cases to treat a misrepresentation in an issuer’s financial statements and a misrepresentation made by an officer in an annual certificate or interim certificate that relates to the underlying financial statements as a single misrepresentation.

APPENDIX A – ANNUAL CERTIFICATE AND INTERIM CERTIFICATE FILING REQUIREMENTS

Financial Year	Financial Period	Required Form of Certificate for: ¹				
		Issuers other than Venture & Transition Issuers	Transition Issuers			Venture Issuers
			Category 1	Category 2	Category 3	
January 1 to December 31	Interim periods ended Mar. 31/05, Jun. 30/05, Sept. 30/05	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2
	Year ended Dec. 31/05	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1
	Interim periods ended Mar. 31/06, Jun. 30/06, Sept. 30/06	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2
	Year ended Dec. 31/06	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1			
	Interim periods ended Mar. 31/07, Jun. 30/07, Sept. 30/07	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Dec. 31/07	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim periods ended Mar. 31/08, Jun. 30/08, Sept. 30/08	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Dec. 31/08	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim periods ended Mar. 31/09, Jun. 30/09, Sept. 30/09	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Dec. 31/09	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1
	Interim periods ended Mar. 31/10, Jun. 30/10, Sept. 30/10	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Dec. 31/10	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1

¹ Where the form specified is a Form 52-109FVT1 or 52-109FM1, an issuer may voluntarily choose to file a Form 52-109F1. If the issuer chooses to do so, all subsequent interim certificates filed should be in Form 52-109F2 and all subsequent annual certificates filed should be in Form 52-109F1.

Financial Year	Financial Period	Required Form of Certificate for: ¹				
		Issuers other than Venture & Transition Issuers	Transition Issuers			Venture Issuers
			Category 1	Category 2	Category 3	
February 1 to January 31	Interim periods ended Apr.30/05, Jul. 31/05, Oct. 31/05	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2
	Year ended Jan. 31/06	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1
	Interim periods ended Apr. 30/06, Jul. 31/06, Oct. 31/06	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2
	Year ended Jan. 31/07	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1			
	Interim periods ended Apr. 30/07, Jul. 31/07, Oct. 31/07	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Jan. 31/08	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim periods ended Apr. 30/08, Jul. 31/08, Oct. 31/08	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Jan. 31/09	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim periods ended Apr. 30/09, Jul. 31/09, Oct. 31/09	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Jan. 31/10	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1

Financial Year	Financial Period	Required Form of Certificate for: ¹				
		Issuers other than Venture & Transition Issuers	Transition Issuers			Venture Issuers
			Category 1	Category 2	Category 3	
March 1 To February 28/29	Interim periods ended May 31/05, Aug. 31/05, Nov. 30/05	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2
	Year ended Feb. 28/06	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1
	Interim periods ended May 31/06, Aug. 31/06, Nov. 30/06	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2
	Year ended Feb. 28/07	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1			
	Interim periods ended May 31/07, Aug. 31/07, Nov. 30/07	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Feb. 28/08	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim periods ended May 31/08, Aug. 31/08, Nov. 30/08	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Feb. 28/09	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim periods ended May 31/09, Aug. 31/09, Nov. 30/09	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Feb. 28/10	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1

Financial Year	Financial Period	Required Form of Certificate for: ¹				
		Issuers other than Venture & Transition Issuers	Transition Issuers			Venture Issuers
			Category 1	Category 2	Category 3	
April 1 to March 31	Year ended Mar. 31/05	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1
	Interim Periods ended Jun. 30/05, Sept. 30/05, Dec. 31/05	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2
	Year ended Mar. 31/06	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1
	Interim Periods ended Jun. 30/06, Sept. 30/06, Dec. 31/06	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2
	Year ended Mar. 31/07	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1			
	Interim Periods ended Jun. 30/07, Sept. 30/07, Dec. 31/07	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Mar. 31/08	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim Periods ended Jun. 30/08, Sept. 30/08, Dec. 31/08	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year Ended Mar. 31/09	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim Periods ended Jun. 30/09, Sept. 30/09, Dec. 31/09	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year Ended Mar. 31/10	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1

Financial Year	Financial Period	Required Form of Certificate for: ¹				
		Issuers other than Venture & Transition Issuers	Transition Issuers			Venture Issuers
			Category 1	Category 2	Category 3	
May 1 to April 30	Year ended Apr. 30/05	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1
	Interim periods ended Jul. 31/05, Oct. 31/05, Jan. 31/06	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2
	Year ended Apr. 30/06	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1
	Interim periods ended Jul. 31/06, Oct. 31/06, Jan. 31/07	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2
	Year ended Apr. 30/07	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1			
	Interim periods ended Jul. 31/07, Oct. 31/07, Jan. 31/08	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Apr. 30/08	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim periods ended Jul. 31/08, Oct. 31/08, Jan. 31/09	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Apr. 30/09	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim periods ended Jul. 31/09, Oct. 31/09, Jan. 31/10	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
Year ended Apr. 30/10	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	

Financial Year	Financial Period	Required Form of Certificate for: ¹				
		Issuers other than Venture & Transition Issuers	Transition Issuers			Venture Issuers
			Category 1	Category 2	Category 3	
June 1 to May 31	Year ended May 31/05	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1
	Interim periods ended Aug. 31/05, Nov. 30/05, Feb. 28/06	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2
	Year ended May, 31/06	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim periods ended Aug. 31/06, Nov. 30/06, Feb. 28/07	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended May 31/07	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1			
	Interim periods ended Aug. 31/07, Nov. 30/07, Feb. 28/08	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended May 31/08	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim periods ended Aug. 31/08, Nov. 30/08, Feb. 28/09	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended May 31/09	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim periods ended Aug. 31/09, Nov. 30/09, Feb. 28/10	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended May 31/10	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1

Financial Year	Financial Period	Required Form of Certificate for: ¹				
		Issuers other than Venture & Transition Issuers	Transition Issuers			Venture Issuers
			Category 1	Category 2	Category 3	
July 1 to June 30	Interim period ended Mar. 31/05	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2
	Year ended Jun. 30/05	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1
	Interim periods ended Sept. 30/05, Dec. 31/05, Mar. 31/06	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2
	Year ended Jun. 30/06	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1			
	Interim periods ended Sept. 30/06, Dec. 31/06, Mar. 31/07	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Jun. 30/07	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim periods ended Sept. 30/07, Dec. 31/07, Mar. 31/08	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Jun. 30/08	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim periods ended Sept. 30/08, Dec. 31/08, Mar. 31/08	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Jun. 30/09	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1
	Interim periods ended Sept. 30/09, Dec. 31/09, Mar. 31/10	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Jun. 30/10	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1

Financial Year	Financial Period	Required Form of Certificate for: ¹				
		Issuers other than Venture & Transition Issuers	Transition Issuers			Venture Issuers
			Category 1	Category 2	Category 3	
August 1 to July 31	Interim period ended Apr. 30/05	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2
	Year ended Jul. 31/05	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1
	Interim period ended Oct. 31/05, Jan. 31/06, Apr. 30/06	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2
	Year ended Jul. 31/06	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1			
	Interim periods ended Oct. 31/05, Jan. 31/07, Apr. 30/07	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Jul. 31/07	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim periods ended Oct. 31/07, Jan. 31/08, Apr. 30/08	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Jul. 31/08	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim periods ended Oct. 31/08, Jan. 31/09, Apr. 30/09	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Jul. 31/09	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1
	Interim periods ended Oct. 31/09, Jan. 31/10, Jul.31/10	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Jul. 31/10	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1

Financial Year	Financial Period	Required Form of Certificate for: ¹				
		Issuers other than Venture & Transition Issuers	Transition Issuers			Venture Issuers
			Category 1	Category 2	Category 3	
September 1 to August 31	Interim Period ended May 31/05	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2
	Year ended Aug. 31/05	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1
	Interim Periods ended Nov. 30/06, Feb. 28/06, May 31/06	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2
	Year ended Aug 31/06	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1			
	Interim Periods ended Nov. 30/06, Feb. 28/07, May 31/07	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Aug 31/07	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim Periods ended Nov. 30/06, Feb. 28/07, May 31/07	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Aug 31/08	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim Periods ended Nov. 30/07, Feb. 28/08, May 31/08	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Aug 31/09	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1
	Interim Periods ended Nov. 30/08, Feb. 28/09, May 31/09	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Aug. 31/10	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1

Financial Year	Financial Period	Required Form of Certificate for: ¹				
		Issuers other than Venture & Transition Issuers	Transition Issuers			Venture Issuers
			Category 1	Category 2	Category 3	
October 1 to September 30	Interim Periods ended Mar. 31/05, Jun. 30/05	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2
	Year ended Sept. 30/05	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1
	Interim Periods ended Dec. 31/05, Mar. 31/06, Jun. 30/06	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2
	Year ended Sept. 30/06	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1			
	Interim Periods ended Dec. 31/06, Mar. 31/07, Jun. 30/07	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Sept. 30/07	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim Periods ended Dec. 31/07, Mar. 31/08, Jun. 30/08	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Sept. 30/08	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim Periods ended Dec. 31/08, Mar. 31/09, Jun. 30/09	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Sept. 30/09	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1
	Interim Periods ended Dec. 31/09, Mar. 31/10, Jun. 30/10	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Sept. 30/10	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1

Financial Year	Financial Period	Required Form of Certificate for: ¹				
		Issuers other than Venture & Transition Issuers	Transition Issuers			Venture Issuers
			Category 1	Category 2	Category 3	
November 1 to October 31	Interim Periods ended Apr 30/05, Jul. 31/05	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2
	Year ended Oct. 31/05	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1
	Interim Periods ended Jan. 31/06, Apr 30/06, Jul. 31/06	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2
	Year ended Oct. 31/06	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1			
	Interim Periods ended Jan. 31/07, Apr 30/07, Jul. 31/07	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Oct. 31/07	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim Periods ended Jan. 31/08, Apr. 30/08, Jul. 31/08	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Oct. 31/08	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim Periods ended Jan. 31/09, Apr. 30/09, Jul. 31/09	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Oct. 31/09	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1
	Interim Periods ended Jan. 31/10, Apr. 30/10, Jul. 31/10	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Oct. 31/10	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1

Financial Year	Financial Period	Required Form of Certificate for: ¹				
		Issuers other than Venture & Transition Issuers	Transition Issuers			Venture Issuers
			Category 1	Category 2	Category 3	
December 1 to November 30	Interim Periods ended Feb. 28/05, May 31/05, Aug. 31/05	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2	Bare Interim Form 52-109FT2
	Year ended Nov. 30/05	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1	Modified Annual Form 52-109FM1
	Interim Periods ended Feb. 28/06, May 31/06, Aug. 31/06	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2	Modified Interim Form 52-109FM2
	Year ended Nov. 30/06	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1			
	Interim Periods ended Feb. 28/07, May 31/07, Aug. 31/07	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Nov. 30/07	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim Periods ended Feb. 28/08, May 31/08, Aug. 31/08	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Nov. 30/08	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1	V/T Annual Form 52-109FVT1
	Interim Periods ended Feb. 28/09, May 31/09, Aug. 31/09	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Nov. 30/09	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1
	Interim Periods ended Feb. 28/10, May 31/10, Aug. 31/10	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2	Full Interim Form 52-109F2
	Year ended Nov. 30/10	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	Full Annual Form 52-109F1	V/T Annual Form 52-109FVT1