CANADIAN SECURITIES ADMINISTRATORS
NOTICE AND REQUEST FOR COMMENT 44-401, 51-401

CONCEPT PROPOSAL FOR AN INTEGRATED DISCLOSURE SYSTEM

The Canadian Securities Administrators (the "CSA") are publishing for comment a concept proposal (the "Concept Proposal") for an integrated disclosure system (the "IDS") that accompanies this Notice and Request for Comment (the "Notice").

The proposed IDS would provide reporting issuers with an alternative offering system permitting faster and more flexible access to public markets. It would, however, also require participating reporting issuers to provide investors with more comprehensive and more timely continuous disclosure. The CSA are also considering extending some of these continuous disclosure enhancements and marketing restrictions to issuers that do not participate in the IDS.

This Notice provides background information on the proposed IDS. The Appendix to this Notice provides a summary of key differences between the proposed IDS and the current regulatory system. An overview of the proposed IDS is contained in the Executive Summary of the Concept Proposal.

The CSA invite comment on all aspects of the Concept Proposal. This Notice includes specific questions and discussion relating to elements of the IDS on which the CSA believe that public input would be particularly helpful. This Notice also includes specific questions regarding the possible extension of certain IDS continuous disclosure enhancements and marketing restrictions to all issuers and offerings.

I. Background

Development of the IDS

The CSA developed the proposed IDS to refocus securities regulation to reflect the evolution of the Canadian capital markets. With the vast majority of trading activity occurring in secondary rather than the primary markets, the traditional focus on primary market prospectus disclosure should be de-emphasized and increased focus should be placed on an issuer's continuous disclosure.

The proposed IDS is intended to provide investors in both the primary and secondary markets with timely prospectus-quality issuer disclosure by integrating the information required to be provided by issuers to investors in these markets using a common, upgraded disclosure base. An issuer's IDS disclosure base would provide comprehensive and timely information relating to the issuer and its business. Accordingly, participating issuers would be able to respond quickly to opportunities in the capital markets by using an abbreviated securities offering document that incorporates by reference the issuer's IDS disclosure base and undergoes streamlined regulatory screening.

The CSA have already taken important steps in this direction with the adoption of the short form prospectus and shelf distributions systems. The CSA believe that the proposed IDS would further enhance the efficiency and effectiveness of securities regulation in Canada by upgrading the quality and timeliness of corporate information available to investors while providing IDS issuers simpler and faster regulatory clearance for public offerings.

Significant Reforms under the IDS

The proposed IDS would change securities regulation in the following areas:

- the content, timing and standard of continuous disclosure reporting;
- the content and delivery of prospectuses;
- the form, content and timing of permissible marketing communications; and
- a shift of the regulatory review focus from prospectuses to continuous disclosure.

The CSA are considering extending to all issuers many of the continuous disclosure enhancements and marketing restrictions outlined in the proposed IDS. The CSA believe that the broad application of these elements of the IDS would further promote investor protection and the efficiency of capital markets.

II. Implementation of the IDS

To implement the proposed IDS, the CSA intend to develop a national instrument that would take into consideration the comments received on the Concept Proposal. The CSA expect that all aspects of the IDS could be implemented in most jurisdictions without, statutory amendment, by rule, regulation or policy. Consistent with past practice, the national instrument would be published for comment before it is finalized.

The CSA propose to implement the IDS on a pilot basis for a period of at least two years following adoption of a national instrument. This pilot introduction is intended to provide the CSA and market participants with an opportunity to evaluate the IDS and to identify any required modifications. During the pilot period, qualifying issuers would be able to participate in the IDS and offer securities under IDS procedures, under existing offering procedures such as the short form prospectus and shelf distribution systems, or under existing prospectus exemptions for which they are eligible.

The CSA will consider eliminating the short form prospectus and shelf distribution systems for IDS-eligible issuers if the pilot introduction demonstrates the IDS to be a successful substitute for these regimes. The CSA also anticipate that the implementation of the IDS will result in reduced reliance by issuers on prospectus exemptions, and the associated complexities of the resale restrictions under the closed system, given the streamlined offering procedures available under the proposed IDS.

III. Request for Comments

The Concept Proposal is being published for comment to obtain public input at an early stage in the development of the proposed IDS. The CSA encourage interested parties to comment on any aspect of the Concept Proposal.

During the development of the Concept Proposal, certain elements of the proposed IDS generated considerable discussion among the CSA. The CSA believe that seeking direct input on these specific areas will assist the CSA's further examination of these issues. The CSA invite responses to the specific questions identified below.

A. IDS Eligibility

The CSA believe that the proposed IDS should be broadly available to issuers who are able to provide the high quality continuous disclosure base that would form the foundation of the IDS. The IDS eligibility requirements are outlined and discussed in Part III.B of the Concept Proposal.

IDS eligibility would require that an issuer be a reporting issuer in all jurisdictions in Canada. The CSA are aware that this requirement could be burdensome to issuers and are seeking public comment to assess its impact on IDS participation. The CSA are also seeking comment on whether a "seasoning" requirement or a quantitative (size) requirement should be imposed as conditions of IDS eligibility.

1. Reporting Issuer in all Jurisdictions

The proposed IDS would require that an issuer be a reporting issuer or equivalent in all thirteen Canadian jurisdictions. Given that not all CSA jurisdictions apply the concept of reporting issuer status, the Concept Proposal would extend the term to include issuers that file continuous disclosure that is substantially equivalent to that which is required in jurisdictions that apply the concept.

The CSA believe that conditioning IDS eligibility on reporting issuer status in all jurisdictions would promote more uniform rules for distributions in Canada and would be consistent with the market reality that information, investor interest and market activity cannot be contained within geographic boundaries. In this regard, much of the complexity associated with the resale of privately placed securities would be minimized if the issuer is required to be a reporting issuer in all jurisdictions. All-jurisdiction reporting issuer status is consistent with ensuring that secondary market investors across Canada have access to relevant information upon which to base their investment decisions. Furthermore, with the advent of the System for Electronic Document Analysis and Retrieval ("SEDAR"), the CSA do not anticipate that requiring IDS issuers to make timely filings in all CSA jurisdictions would be a significant mechanical impediment.

The CSA recognize that all-jurisdiction reporting issuer status is not essential to ensure secondary market access to timely, high-quality information about an issuer. Secondary market investors throughout Canada

would have access to such information via the SEDAR website provided that the issuer is a reporting issuer in at least one CSA jurisdiction. The CSA also recognize that requiring all-jurisdiction reporting issuer status as a condition of IDS eligibility could constitute a significant deterrent to IDS participation. In particular, the CSA considered three potentially adverse consequences of this eligibility criterion: filing fees; translation of IDS disclosure documents; and ongoing compliance with the reporting issuer requirements of the CSA jurisdictions.

(i) Filing fees

The requirement to acquire and maintain reporting issuer status in all jurisdictions may impose additional costs on IDS issuers. The CSA are currently considering the revision and rationalization of regulatory fees. The CSA believe, however, that the benefits of IDS participation may justify some incrementally higher costs.

(ii) Translation

The CSA recognize that requiring all-jurisdiction reporting issuer status as a condition of IDS eligibility may impose a translation burden on IDS issuers. The proposed IDS would not require any changes to the current requirement that a prospectus be written in the principal language or languages of the jurisdiction(s) in which it is filed. However, in order to encourage broad IDS participation, the IDS would provide certain accommodations to issuers regarding the translation of their continuous disclosure filings.

The proposed IDS adopts the approach to translation that has been applied to short form prospectuses in Québec. If an issuer files an IDS prospectus in a particular jurisdiction, that IDS prospectus, and any portion of the issuer's continuous disclosure record that is incorporated by reference in the IDS prospectus, must be filed in the language or languages in which a prospectus is required to be filed in that jurisdiction. The CSA consider this approach to be reasonable given that access to the primary market imposes an obligation on issuers to inform its target investors.

For purposes of IDS eligibility, an issuer's continuous disclosure that is not incorporated by reference in an IDS prospectus would be considered to comply with reporting issuer continuous disclosure requirements in all jurisdictions if it files its continuous disclosure in all jurisdictions in the language or languages required in the jurisdiction of the issuer's principal regulator as determined under the CSA's mutual reliance review system ("MRRS"). Accordingly, under the IDS, issuers would only be subject to additional translation requirements if they filed an IDS prospectus in a jurisdiction that required a prospectus to be filed in a language other than that required by the issuer's principal regulator. Moreover, the translation obligation would only apply to that IDS prospectus and continuous disclosure incorporated by reference.

The CSA recognize that the translation requirement adopted under the IDS represents somewhat of a departure from the IDS' emphasis on the accessibility of continuous disclosure. In principle, to maintain reporting issuer status, the IDS might imply that all of an issuer's IDS disclosure base should be filed in the

principal language of the jurisdiction, irrespective of whether it is incorporated by reference in a prospectus filed in that jurisdiction. In this regard, the CSA considered requiring issuers to translate all continuous disclosure in the jurisdictions in which they have either filed a prospectus (IDS or otherwise) or have a substantial investor base.

The CSA are concerned that the imposition of such a requirement may be unduly onerous and represent a disincentive to IDS participation. In addition, the CSA note that investor interest and market demands would encourage issuers to accommodate the language needs of investors voluntarily, particularly in jurisdictions where they have a significant investor base.

(iii) Compliance with the Reporting Issuer Requirements of the CSA Jurisdictions

If all-jurisdiction reporting issuer status is implemented as a condition of IDS eligibility, IDS issuers would be subject to all of the reporting issuer requirements in each jurisdiction of Canada. The CSA recognize that requiring IDS issuers to obtain reporting issuer status and comply with the varying reporting issuer requirements across Canada on an ongoing basis may be burdensome, particularly for smaller issuers that do not have sufficient resources to retain professional advisors. Although the IDS itself would provide issuers with a uniform regime governing continuous disclosure across Canada, and steps have been taken to harmonize other reporting issuer requirements, some differences would continue to exist among jurisdictions.

Questions

1. Should reporting issuer (or equivalent) status in all CSA jurisdictions be a condition of IDS eligibility? What are the advantages and disadvantages of this approach? Would requiring all-jurisdiction reporting issuer status be a deterrent to IDS participation? If so, why?
2. Do you agree with the CSA's approach to language requirements under the IDS? If not, why not? Should IDS issuers be obligated to translate all continuous disclosure filings in jurisdictions in which they have previously filed a prospectus (IDS or otherwise) or in which they have a substantial investor base? If so, how would you suggest the CSA define "substantial investor base" for this purpose? Would the imposition of such a requirement be a significant disincentive to IDS participation? Do issuers normally provide investors on a voluntary basis with translated continuous disclosure documents to accommodate their language preferences?
3. Although the proposed IDS would harmonize the continuous disclosure requirements for participating issuers across Canada, differences in other reporting issuer requirements would continue to exist. Would this pose a significant burden on issuers? If so, why?

2. "Seasoning" Requirement

In developing the proposed IDS, the CSA considered whether a "seasoning" requirement (i.e. a minimum period of time as a reporting issuer) should be included as a condition of IDS eligibility. The CSA believe that IDS eligibility requirements are sufficiently high that a prior seasoning requirement is not essential.

In other regulatory contexts, seasoning is sometimes required to allow information about an issuer to reach market participants and to be absorbed by the market. This premise, however, may be outdated given recent advances in technology such as SEDAR which facilitate instant, widespread and economical dissemination of information. The CSA also note that the quality of an issuer's disclosure does not necessarily improve with time. In this regard, an issuer's disclosure base may be as current and complete at the time of its initial public offering, as at any subsequent point in time, particularly with the assistance and involvement of its professional advisers. Similarly, there is no evidence to suggest that newly-public issuers are less able or likely to implement sound disclosure practices as compared with their more "seasoned" counterparts. The CSA also recognize that the existing framework of securities regulation in Canada does not always require seasoning as a means of protecting secondary market investors. Under the current regime, unrestricted secondary market trading may commence immediately after an issuer's initial public offering ("IPO") prospectus is receipted.

The CSA considered arguments in favour of imposing a seasoning period on issuers. A seasoning requirement would provide issuers and their advisers with the experience of complying with its continuous disclosure obligations, and the opportunity to refine its disclosure practices and policies, before gaining access to the IDS. In addition, it would enable both regulators and the market to assess the issuer's ability to comply with its disclosure requirements. Proponents of a seasoning requirement often point out that it allows analysts and investors to become acquainted with the issuer. In addition, a seasoning period permits a comparison of the issuer's performance with the promises it made when it became a reporting issuer, for example, in the issuer's IPO prospectus.

The CSA recognize that a 12-month seasoning requirement is required under the short form prospectus and shelf distribution systems. However, the CSA believe that the IDS should be more widely available than these alternative offering procedures because the IDS requires issuers to provide an enhanced standard of disclosure to secondary market investors without compromising the disclosure available to investors in the primary market.

Questions

4. Should "seasoning" be included as a condition of IDS eligibility? If so, what would be an appropriate seasoning period? Should the imposition of a seasoning requirement be dependent upon an issuer's revenues, assets or market capitalization?
5. Are there any advantages or disadvantages of a seasoning requirement not discussed above?

3. Quantitative (Size) Requirement

In developing IDS eligibility criteria, the CSA rejected quantitative measures, such as an issuer's revenues, assets or market capitalization, as a condition of IDS eligibility. As discussed in Part III.B.5 of the Concept Proposal, the CSA considered a number of factors in reaching this conclusion.
The CSA are not aware of any empirical results demonstrating a correlation between an issuer's size and the quality of information it provides to investors. Moreover, any concerns regarding the quality of smaller issuers' disclosure may be addressed through the development of continuous disclosure review systems that provide more frequent reviews of these issuers. The CSA also note that a financial criterion may produce complexity and unpredictability for issuers because there may be a tendency for an issuer to arbitrarily gain and lose eligibility repeatedly as its income or market capitalization fluctuates.

The CSA recognize that quantitative (size) tests are currently employed as a basis for qualification to use certain distribution procedures, including the short form and shelf distribution procedures. Proponents of a size criterion, such as a public float test, often assert that a larger issuer would likely command greater investment analyst coverage, thereby promoting the market's absorption of corporate information and the quality of issuer disclosure. While the CSA do not necessarily question this assumption, the CSA do question whether the presence or absence of "analyst following" should form the basis of policy development in this area in view of recent developments in information technology, including SEDAR, that facilitate widespread and timely dissemination of information to investors, irrespective of an issuer's size.

More fundamentally, the CSA believe that excluding issuers on the grounds of size alone is inconsistent with its objective of broad IDS participation. Given the enhanced disclosure standards under the IDS, the CSA believe that investors will benefit though the inclusion of issuers of all sizes.

Questions

6. Should the IDS impose quantitative IDS eligibility criteria? If so, what should these criteria be, and why?
7. Do larger issuers provide a higher quality of disclosure than smaller ones? Please explain.
8. Do you believe that the "analyst following" argument is relevant in today's markets? Please explain.

B. IDS Continuous Disclosure

Fundamental to the IDS is the establishment by participating issuers of a comprehensive publicly-available disclosure base. The IDS proposes to enhance the quality and timeliness of information by upgrading an issuer's continuous disclosure base to the prospectus standard of certified "full, true and plain" disclosure and, in some cases, accelerating existing due dates for filing. As described in Part III.C.1 of the Concept Proposal, the cornerstone of an issuer's IDS disclosure base is the IDS annual information form (the "IDS AIF"), which would provide an annual consolidation of information about the issuer's business and affairs. The IDS AIF would be supplemented by a quarterly information form (a "QIF") filed for each of the

issuer's first, second and third financial quarters, as well as a supplementary information form (an "SIF") that would provide timely prospectus-level disclosure of significant events affecting the issuer.

In conjunction with the new, upgraded IDS continuous disclosure documents, the CSA are proposing a number of IDS continuous disclosure enhancements that are intended to modify existing requirements so that they meet, or exceed, prospectus disclosure standards. As discussed in Part III.C.2 of the Concept Proposal, the proposed changes would significantly impact the current requirements governing financial statements, the scope of annual and quarterly reporting, and the certification of continuous disclosure documents.

Some of these continuous disclosure enhancements are consistent with existing requirements of certain CSA members. Certain other CSA members have undertaken separate policy initiatives which will propose the adoption of most of these continuous disclosure enhancements for all issuers regardless of whether an IDS is implemented. These proposals are expected to be published for comment shortly.

Questions

9. Are there any disclosure items that should, or should not be, included in the proposed IDS AIF or QIF?
10. Are there any other continuous disclosure enhancements that should be included as part of the IDS? If so, should these enhancements be extended to all issuers?
11. Are there any specified events that should, or should not, trigger the filing of an SIF?
12. As an alternative to requiring the filing of an SIF for changes in an IDS issuer's name and auditor as outlined in Part III.C.1(a)(iii) of the Concept Proposal, should an IDS issuer's SEDAR profile (which could include such information) be included in its IDS disclosure base? Given that an issuer's SEDAR profile is a changing document, an IDS issuer would disclose these changes by filing an amended copy of its SEDAR profile under cover of an SIF.
13. The CSA propose to require IDS issuers to file SIFs containing prospectus-level disclosure about all completed business combinations within 75 days. Is the 75 day deadline appropriate? Are there business combinations for which the 75 day deadline or the prospectus-level disclosure requirement cannot be met?
14. The CSA believe that IDS AIFs and QIFs should be delivered to investors in compliance with existing statutory requirements. As discussed in Part III.E of the Concept Proposal, the CSA would permit the delivery of all IDS disclosure documents by electronic means in accordance with the principles set out in National Policy 11-201 *Delivery of Documents by Electronic Means*. Should alternative methods of delivery of IDS AIFs and QIFs be permitted under the IDS? If so, which methods would you suggest?
15. The CSA propose to require that interim financial statements filed as part of an issuer's continuous disclosure record have been reviewed by the issuer's audit committee and approved by the issuer's board of directors or equivalent. The CSA are also considering requiring that interim financial

statements have been reviewed by an auditor, as required in the United States. Would such a requirement be appropriate? If not, why not?

1. Certification

In order to promote the integrity of an IDS issuer's continuous disclosure, the proposed IDS would require senior officers and directors of an IDS issuer to certify IDS AIFs, QIFs and SIFs. The CSA are considering the reasonableness of applying a common disclosure standard for all IDS continuous disclosure filings.

The CSA believe that the prospectus standard of "full, true and plain disclosure of all material facts" would be appropriate for an IDS AIF given that it is to be an annual consolidation of information about an issuer's business and affairs. The CSA are seeking comment on whether this disclosure standard should also be applied to QIFs and SIFs given the nature of these continuous disclosure filings, and the timing constraints under which these documents must be filed.

Questions

16. Would the proposed certification requirements materially affect the extent to which signatories participate in the preparation of IDS continuous disclosure documents? Are there practical impediments to the certification of such documents?
17. Is the "full, true and plain disclosure of all material facts" standard of disclosure attainable on a timely basis in connection with IDS continuous disclosure filings? If not, why not? What alternative disclosure standard would be appropriate given the objectives of the integrated disclosure system? Would an alternative misrepresentation standard be more appropriate for some continuous disclosure documents (i.e. "The foregoing does not make a statement that, in a material respect and in the light of the circumstances is misleading or untrue and does not omit a fact that is required to be stated or that is necessary to make the foregoing not misleading")?

2. Involvement of Advisors in Continuous Disclosure

Part III.D.5 of the Concept Proposal suggests that underwriters, auditors, lawyers and other advisors may need to increase their involvement in an issuer's continuous disclosure in order to satisfy themselves as to the quality of the disclosure which may, on short notice, be incorporated by reference into an IDS prospectus. A similarly increased role for advisors was encouraged in connection with the implementation of the prompt offering qualification system. The CSA recognize that, for most issuers, participation in the prompt offering qualification system did not significantly alter the extent or timing of the involvement of their advisors in continuous disclosure.

Questions

18. Is it realistic to expect that advisors will become more involved in continuous disclosure in order to address increased time pressure at the time of an IDS prospectus? Alternatively, will the expedited offering process result in a deterioration of the due diligence conducted by advisors in respect of information incorporated by reference in a prospectus? If so, how would this affect the ability of underwriters to certify the prospectus?

C. IDS Prospectuses

Consistent with the existing statutory framework, the IDS would require both a preliminary and final form of IDS prospectus. However, under the IDS, greater emphasis would be placed on the preliminary IDS prospectus on the basis that prospective investors should have access to comprehensive information about an issuer prior to making an investment decision.

The CSA are seeking comment on the proposed preliminary IDS prospectus delivery requirement. In addition, as discussed below, the CSA invite comment on the proposed content of the preliminary and final IDS prospectus under the IDS.

1. Delivery of the Preliminary IDS Prospectus

The IDS is intended to refocus the prospectus delivery requirements to ensure that investors receive, or have access to, relevant disclosure about an issuer prior to making an investment decision. Under the IDS, the CSA are proposing that an agreement to purchase a security in an IDS offering would not be enforceable against the purchaser unless the purchaser had first received a copy of the preliminary IDS prospectus and any amendment. A prominent statement to this effect would be required to be included in both the preliminary and final IDS prospectuses, any subscription agreement, and any confirmation of purchase.

The IDS, with its focus on enhanced continuous disclosure, would provide prospective investors with relevant information about IDS issuers well in advance of any investment decision. It has been suggested that the preliminary IDS prospectus should not be required to be delivered to investors. Proponents of this approach argue that, given the de-emphasis of prospectus disclosure under the IDS, and their contention that investors are not currently basing their investment decisions on the preliminary prospectus, a filing requirement would be sufficient given the widespread public access to the SEDAR website. It was also argued that any written marketing communications utilized in connection with an IDS offering would be required to include a prominent statement explaining where investors can obtain or receive electronically, without charge, a copy of the preliminary IDS prospectus.

Proponents of this alternative approach argue that IDS issuers would always have the option of delivering the preliminary IDS prospectus to investors on a voluntarily basis and that it may also provide an incentive

to issuers to tailor their marketing documents to better suit the needs of investors, subject to the IDS marketing restrictions and the availability of the preliminary IDS prospectus. As is currently proposed in the Concept Proposal, the final IDS prospectus would be required to be delivered to investors no later than delivery of the confirmation of purchase to ensure that investors are provided with their statutory withdrawal rights.

Questions

19. Do preliminary and final prospectuses assist investors in making their investment decisions and is it relied upon for this purpose today? If not, on what basis are investors in the primary market currently making their investment decisions?
20. As discussed in Part III.D.4(a) of the Concept Proposal, the CSA considered specifying the timing of delivery of the preliminary IDS prospectus to ensure that a prescribed minimum period of time would be available to an investor before an investment decision becomes binding. Would a prescribed minimum preliminary IDS prospectus delivery period (for example, a specified number of days before pricing or the signing of a subscription agreement) be suitable for all investors and all situations? If so, what would be an appropriate period of time? If not, why not?
21. Should the IDS require filing and delivery of the preliminary IDS prospectus? Should alternative methods of delivering the preliminary IDS prospectus be permitted? If so, how?

2. Content of IDS Prospectuses

With its enhanced IDS disclosure base in place, IDS eligible issuers would be able to offer securities in the primary market more quickly and with greater certainty using an abbreviated offering document. As described in Part III.D.2 of the Concept Proposal, a preliminary IDS prospectus would only be required to contain disclosure relating to the offering, the offered securities and associated risk factors, and investors' statutory rights. Most issuer disclosure in the preliminary IDS prospectus could be incorporated from its IDS disclosure base.

The CSA considered two approaches to the content of the final IDS prospectus: (i) a traditional form of final prospectus that would repeat most of the text of the preliminary IDS prospectus; or (ii) a streamlined or "checklist" form of final prospectus which would enable issuers to incorporate by reference much of the information contained in the preliminary IDS prospectus. Under the IDS, the CSA are proposing for comment the streamlined version of the final IDS prospectus but are also providing issuers with the option of delivering to investors the more traditional form of final IDS prospectus.

Under the streamlined form of final IDS prospectus, most of the text of the preliminary IDS prospectus would not be required to be repeated in a final IDS prospectus, with the exception of certain mandated disclosure such as investors' statutory rights and prospectus certificates. In this regard, the final IDS prospectus would represent somewhat of a departure from the traditional form of final prospectus. The final IDS prospectus would primarily serve to update and complete the final disclosure in the preliminary

IDS prospectus, and to form the basis of investors' statutory rights of withdrawal and rights of action for damages and recission on grounds of misrepresentation.

The streamlined form of final IDS prospectus would be beneficial because it would enable investors to quickly identify the documents incorporated by reference and would more effectively highlight important information, including any new developments and the statement of investors' statutory rights, as compared with a restated version of the preliminary IDS prospectus. Proponents of the traditional form of final prospectus have argued that a streamlined version of the final IDS prospectus could confuse investors and cause investors to dismiss its importance. Accordingly, the CSA propose to permit IDS issuers to deliver to investors the more traditional form of final IDS prospectus which repeats the text of the preliminary IDS prospectus, except as varied by intervening new or final information.

Questions

22. Are the preliminary IDS prospectus disclosure items outlined in Part III.D.2(a) of the Concept Proposal appropriate to ensure than an investor can make an informed investment decision? Please explain.
23. What are the advantages and disadvantages of a streamlined form of final IDS prospectus? Which form of final IDS prospectus would issuers and investors prefer? Should the traditional form of final IDS prospectus be mandatory? If so, why?

D. IDS Marketing Regime

The current framework of securities regulation imposes significant restrictions on marketing communications during a distribution of securities. These restrictions are premised on the principle that investors should be making informed investment decisions based on the information contained in a prospectus, and not on the basis of potentially misleading marketing or promotional efforts made by, or on behalf of, issuers.

The IDS is intended to ensure that securities markets are informed on a continuous basis through an issuer's comprehensive IDS disclosure base of timely, prospectus-level disclosure. Given that most marketing activities would occur against the backdrop of this enhanced disclosure record under the IDS, many of the concerns underlying the existing marketing restrictions would be addressed. The IDS represents a movement away from the traditional regulatory focus of restricting investors access to non-prospectus disclosure by offering IDS issuers greater flexibility in the form, content and timing of their marketing communications subject to appropriate restrictions and prohibitions against misleading or improper marketing practices.

To ensure that the integrity of these marketing communications is not compromised, the IDS contains new marketing restrictions and requirements, as described in Part III.D.6 of the Concept Proposal. The IDS marketing regime is intended to require issuers to assume greater responsibility for the reliability of their marketing communications and to deter misleading and improper securities marketing practices. Consistent

with this approach, all written marketing communications that are disseminated by, or on behalf of, the issuer during a distribution of securities under the IDS would be required to be identified and incorporated by reference in the IDS prospectus that relates to such offering.

Questions

24. Is the proposed definition of "marketing communication" in the IDS appropriate? What types of communications should be excluded from the definition, and why?
25. What are your views concerning the proposed IDS marketing restrictions? Are others necessary for investor protection purposes? Would the proposed IDS marketing restrictions restrict valid corporate communications?
26. How should "distribution period" be defined for the purposes of determining which written marketing materials must be incorporated by reference in an IDS prospectus? Should it be defined as commencing a specified number of days (e.g. 15 days) before the first offer of the securities, upon the filing of the preliminary IDS prospectus or some other event? When should the distribution period be considered terminated for this purpose?

E. Proposals for Changes Outside the IDS

The CSA believe that many of the issues addressed in the development of the IDS are applicable in a broader context to all issuers and investors, and that the general application of certain elements of the IDS would further advance securities regulatory objectives.

The CSA is contemplating changes to the continuous disclosure requirements for non-IDS issuers which parallel some of the changes proposed for IDS issuers. A number of the proposed IDS continuous disclosure enhancements are consistent with existing requirements of certain CSA members. Certain CSA members will soon publish for comment separate instruments which propose to adopt many of these changes regardless of whether an IDS is implemented.

The CSA believe that these changes would significantly enhance the disclosure available to secondary market investors in non-IDS issuers. In addition, it would minimize the inconsistencies between the IDS and non-IDS disclosure requirements which might serve as a deterrent to IDS participation. In general, the disclosure enhancements under consideration for broad application to all issuers include: (i) upgraded content of annual and interim reports; (ii) accelerated filing of annual and interim reports, including financial statements; (iii) upgraded material change reporting requirements; and (iv) certification of IDS continuous disclosure documents. Part IV.A of the Concept Proposal describes these disclosure enhancements in detail.

As is discussed in Part IV.B of the Concept Proposal, the CSA are considering extending the proposed IDS marketing restrictions to apply to all non-IDS offerings. These restrictions would supplement the existing marketing restrictions under current securities legislation and would enhance the integrity of corporate disclosure. In order to enhance the ability of regulators to halt or sanction misleading communications, the CSA are also considering extending to all issuers a general prohibition concerning misrepresentations that are made in furtherance of a trade.

Questions

27. Should the IDS disclosure enhancements be broadly applied to all issuers?
28. The CSA propose to extend to non-IDS issuers the IDS certification requirements discussed in Part III.B.1 of this Notice and Part III.C.2(c) of the Concept Proposal. Does this raise concerns unique to non-IDS issuers? If so, what are they?
29. Should the IDS marketing restrictions discussed in Part IV.B be broadly applied to non-IDS offerings?
30. Are there any other elements of the IDS that should be broadly applied to all issuers?

F. Pilot Introduction of the IDS

The CSA propose to implement the IDS on a two-year minimum pilot basis. The purpose of the pilot introduction is to enable issuers, investors, regulators and other market participants to assess the merits of the IDS, and to allow the CSA to respond to system modifications as required.

During the pilot period, IDS issuers would have continued access to the existing distribution procedures, including the long form prospectus procedures, the short form and shelf distribution procedures, as well as the prospectus exemptions for which they are eligible. If the IDS proves successful during its pilot introduction, the CSA will consider eliminating the short form prospectus and shelf distribution procedures for IDS-eligible issuers in the event that experience with the IDS demonstrates that it is an adequate substitute for the short form prospectus and shelf distribution regimes. The CSA believe that the benefits of the IDS will prompt qualifying issuers to participate in the IDS.

Questions

31. Would issuers be interested in participating in the pilot introduction of the IDS? If not, why not?
32. Would issuers who are currently eligible to use the prompt offering qualification system be interested in participating in the pilot introduction of the IDS? If not, why not?
33. What do you perceive as the main benefits of the IDS, as compared with the existing distribution procedures?
34. If the IDS proves to be a successful alternative to the short form prospectus and shelf distribution systems, the CSA will consider eliminating the short form and shelf distribution procedures for IDS-eligible issuers. Is this appropriate? If not, why not?

Comments

Interested parties are invited to make written submissions with respect to the Concept Proposal and the specific questions contained in this Notice. Submissions received by June 1, 2000 will be considered.

Submissions should be addressed to all of the Canadian securities regulatory authorities listed below and sent, in duplicate, in care of the Ontario Securities Commission, as indicated below:

British Columbia Securities Commission
Alberta Securities Commission
Saskatchewan Securities Commission
The Manitoba Securities Commission
Ontario Securities Commission
Office of the Administrator, New Brunswick
Registrar of Securities, Prince Edward Island
Nova Scotia Securities Commission
Securities Division, Newfoundland and Labrador
Registrar of Securities, Northwest Territories
Registrar of Securities, Yukon Territory
Registrar of Securities, Nunavut

c/o John Stevenson, Secretary
Ontario Securities Commission
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Submissions should also be addressed to the Commission des valeurs mobilières du Québec as follows:

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Commission des valeurs mobilières du Québec
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A diskette (or an e-mail attachment) containing the submissions (in DOS or Windows format, preferably WordPerfect) 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 on the public file, freedom of information legislation in certain jurisdictions may require the 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.

Questions may be referred to any of:

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APPENDIX

QUICKER AND MORE FLEXIBLE ACCESS TO PUBLIC MARKETS

Key Differences	Existing Regulatory System	Proposed IDS
Broad Access to a Streamlined Prospectus	# Eligibility to use short form prospectus limited to certain issuers	# Almost all classes of issuers listed on major exchanges may qualify # Term sheet style prospectus focuses on terms of securities and risk factors
Shift Away From Historical Emphasis on Prospectus Reviews	# Prospectus filing may be subject to in-depth review # Could be extensive review and comments on all aspects of prospectus # Timing may be unpredictable	# Reviews limited in scope: focus on IDS ineligibility and grounds for receipt refusal # Timing faster and more predictable
Elimination of Pre-Marketing Prohibition	# Preliminary prospectus must be filed and delivered to prospective purchasers before soliciting expressions of interest or as soon as practicable thereafter (except for bought deals)	# Marketing communications permitted at any time # Market interest may be assessed without triggering a prospectus filing
More Issuer Control and Responsibility Over Timing and Content of Marketing Communications	# Prior to receipt for final prospectus, issuer may undertake only limited marketing communications # Written communications largely restricted to use of the preliminary prospectus in waiting period	# Greater flexibility would be permitted in format and timing of marketing communications # Misleading marketing would be prohibited under new marketing restrictions* # Issuer would have to incorporate marketing documents by reference into prospectus # IDS issuers would be subject to a general misrepresentation prohibition*

MORE COMPREHENSIVE AND MORE TIMELY DISCLOSURE

Key Differences	Existing Regulatory System	Proposed IDS
New Continuous Disclosure Forms	# Annual information form (AIF) required for specific purposes	# All IDS issuers must file an upgraded AIF, quarterly information forms (QIF) and supplemental information forms (SIF) # AIF would consolidate annually material information relating to the issuer's business and affairs
	# Quarterly filings generally consist of interim financial statements without MD&A (except exchange issuers in B.C.)	# QIF would include quarterly MD&A* and summary of current SIF information
	# Disclosure of changes in business and affairs of an issuer required for "material changes"	# SIF would replace material change reports and would be required to be filed for certain events whether "material changes" or not*
Continuous Disclosure Enhancements	# Generally, continuous disclosure other than material change reports not certified	# AIF, QIF and SIF would require certification by senior officers and directors*
	# Reconciliation of foreign GAAP to Canadian GAAP and foreign GAAS to Canadian GAAS for financial statements generally not required in continuous disclosure filings (except in B.C.)	# Reconciliation to Canadian GAAP and GAAS would be required for all annual financial statements* # Reconciliation to Canadian GAAP would be required for all interim financial statements*
	# Interim financial statements generally include only income statement, statement of changes in financial position and minimal note disclosure	# Interim financial statements required to include a balance sheet and enhanced note disclosure*

Key Differences	Existing Regulatory System	Proposed IDS
	# Generally, neither audit committee nor board required to review or approve interim financial statements # Annual financial statements required to be filed within 140 days of year end # Interim financial statements required to be filed within 60 days of period end	# Audit committee (if issuer has one) would be required to review all financial statements* # Issuer's board of directors would be required to approve all financial statements* # Annual financial statements would be filed within 90 days of year end* # Interim financial statements would be filed within 45 days of period end*
Intensified Continuous Disclosure Reviews	# In many jurisdictions, detailed reviews of continuous disclosure typically limited to targetted review programs or investigations	# More frequent and extensive reviews of an issuer's disclosure base*

* CSA are considering extending also to issuers that do not participate in the IDS