



Canadian Securities
Administrators

Autorités canadiennes
en valeurs mobilières

NOTICE AND REQUEST FOR COMMENT

**PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 41-101 *GENERAL PROSPECTUS REQUIREMENTS* AND
COMPANION POLICY 41-101CP *TO NATIONAL INSTRUMENT 41-101 GENERAL
PROSPECTUS REQUIREMENTS***

AND

**PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 44-101 *SHORT FORM PROSPECTUS DISTRIBUTIONS*
AND COMPANION POLICY 44-101CP *TO NATIONAL INSTRUMENT 44-101 SHORT
FORM PROSPECTUS DISTRIBUTIONS***

AND

**PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 44-102 *SHELF DISTRIBUTIONS* AND
COMPANION POLICY 44-102CP *TO NATIONAL INSTRUMENT 44-102
SHELF DISTRIBUTIONS***

AND

**PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 81-101 *MUTUAL FUND PROSPECTUS DISCLOSURE***

AND

PROPOSED CONSEQUENTIAL AMENDMENTS

July 15, 2011

Introduction

We, the Canadian Securities Administrators (CSA), are publishing for a 90-day comment period proposed amendments to:

- National Instrument 41-101 *General Prospectus Requirements* (**NI 41-101**);
- Companion Policy 41-101CP *Companion Policy to National Instrument 41-101 General Prospectus Requirements* (**41-101CP**);

- National Instrument 44-101 *Short Form Prospectus Distributions* (**NI 44-101**);
- Companion Policy 44-101CP to *National Instrument 44-101 Short Form Prospectus Distributions* (**44-101CP**);
- National Instrument 44-102 *Shelf Distributions* (**NI 44-102**);
- Companion Policy 44-102CP to *National Instrument 44-102 Shelf Distributions* (**44-102CP**); and
- National Instrument 81-101 *Mutual Fund Prospectus Disclosure* (**NI 81-101**).

We are also publishing proposed consequential amendments to:

- National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards* (**NI 52-107**);
- Companion Policy 52-107CP to *National Instrument 52-107 Acceptable Accounting Principles and Auditing Standards* (**52-107 CP**);
- National Instrument 51-102 *Continuous Disclosure Obligations* (**NI 51-102**); and
- National Instrument 13-101 *System for Electronic Document and Analysis Retrieval* (**NI 13-101**).

The references above to a national instrument include its form(s).

The proposed amendments to NI 41-101, 41-101CP, NI 44-101, 44-101CP, NI 44-102, 44-102CP and NI 81-101 are collectively referred to in this notice as the “**Proposed Amendments**”.

Proposed Text

The text of the Proposed Amendments is published with this Notice.

We invite comment on the Proposed Amendments.

Background

NI 41-101 provides a comprehensive set of prospectus requirements for issuers. NI 44-101 sets out requirements for an issuer intending to file a prospectus in the form of a short form prospectus. NI 44-102 sets out requirements for a distribution under a short form prospectus using shelf procedures. NI 81-101 sets out requirements for an issuer that is a mutual fund to file a simplified prospectus, annual information form and fund facts document. NI 41-101, NI 44-101, NI 44-102 and NI 81-101 are collectively referred to in this notice as the “**Prospectus Rules**”.

Purpose of the Proposed Amendments

The primary purpose of the Proposed Amendments is to amend the Prospectus Rules and their related companion policies to address user experience and the CSA's experience with the Prospectus Rules since the implementation of the general prospectus rule, NI 41-101, on March 17, 2008. As part of a post-adoption process following implementation of NI 41-101, the CSA has tracked issues that have arisen in connection with NI 41-101 and other Prospectus Rules and has developed amendments to address those issues where warranted.

The Proposed Amendments to the Prospectus Rules are intended to:

- clarify certain provisions of the Prospectus Rules;
- address significant identified gaps in the Prospectus Rules;
- modify certain requirements in the Prospectus Rules to enhance their effectiveness;
- remove or streamline certain requirements in the Prospectus Rules that are burdensome for issuers and of limited utility for investors or securityholders; and
- codify prospectus relief that has been granted in the past.

Summary of Key Proposed Amendments

This section describes the key Proposed Amendments. It is not a complete list of all the Proposed Amendments.

Certain key Proposed Amendments apply to all issuers other than investment funds. These are described below in Part I under sections (a) through (k). Other key Proposed Amendments apply specifically to investment funds. These are described below in Part II under sections (l) through (s).

Part I - Key Proposed Amendments Generally Applicable to Issuers

(a) No Minimum Offering Amount

In the course of conducting prospectus reviews, the CSA identified concerns with certain best effort offerings that were not subject to a minimum offering amount by issuers that:

- faced significant short-term non-discretionary expenditures or significant short-term capital or contractual commitments, and
- did not appear to have other readily accessible resources to satisfy those expenditures or commitments.

While an issuer may not propose to provide a minimum offering amount, the CSA has determined that additional disclosure is warranted in such cases. The CSA therefore proposes enhanced requirements in connection with the issuer's use of proceeds, as set out in proposed new subsections 6.3(3) and (4) of Form 41-101F1 *Information Required in a Prospectus* (**Form 41-101F1**) and equivalent new subsections 4.2(3) and (4) of Form 44-101F1 *Short Form Prospectus* (**Form 44-101F1**). However, regulators may still expect an issuer to provide a

minimum offering amount in certain circumstances depending on the severity of the issuer's financial situation, results of the regulator's review and the application of receipt refusal provisions under securities law. This is clarified in a Proposed Amendment to section 2.2.1 of 41-101CP.

(b) Personal Information Form Reforms

In order to help regulators determine the suitability of directors and executive officers of an issuer filing a prospectus, the CSA introduced a detailed personal information form (**PIF**) for directors and executive officers in 2008. Since that time, we have identified a number of issues with the PIF filing requirement. For instance, under the current rules, an issuer is not required to submit a new PIF for an individual even if a number of years has passed since the filing of the previous PIF, nor is an issuer required to confirm that the previously filed PIF is still correct. Additionally, the rules do not permit us to accept the PIF that a different issuer may have filed for the same individual.

The CSA therefore proposes the following changes to the PIF:

1. We propose to define a "personal information form" in NI 41-101 to formally include a TSX or TSX Venture Exchange PIF, provided that an NI 41-101 certificate and consent is appended to it and the information contained in the PIF continues to be correct at the time that the NI 41-101 certificate and consent is executed.
2. We propose to require that an issuer file a PIF with the regulator for an individual (i.e. director, executive officer, etc. as prescribed under subparagraph 9.1(b)(ii) of NI 41-101) at the time of each prospectus filing.
3. We propose to exempt the issuer from the requirement described in paragraph 2 above if, at the time of the prospectus filing:
 - (a) an issuer filed a PIF of that individual with the regulator within the past 3 years;
 - (b) the responses of that individual to certain key questions in his or her PIF (questions 4(b) and (c) and questions 6 through 9 of the current PIF and questions 6 through 10 of the proposed amended PIF) have not changed; and
 - (c) a certificate is filed by the issuer identifying the previous PIF filing (by either appending the previously filed PIF to the certificate or providing certain information) and giving the confirmation in paragraph (b) above.
4. We propose to make minor amendments to the PIF to remove certain personal questions that are of limited utility and to align with the TSX and TSX Venture Exchange PIFs.

(c) Contractual Rights of Rescission

The CSA has identified an investor protection concern that arises where the distribution of a convertible, exchangeable or exercisable security is qualified under a prospectus and the subsequent conversion, exchange or exercise is made on a prospectus-exempt basis within a short period of time following the purchase of the original security under the prospectus. Under provincial securities legislation in effect in most provinces, the purchaser does not have a right of rescission in respect of the underlying security.

For this reason, we propose to modify the guidance in section 2.9 of 41-101CP to clarify that in certain circumstances, the issuer should provide the purchaser with a contractual right of rescission in respect of the issuance of the underlying security where the conversion, exchange or exercise of the security could occur within a short period of time (generally within 180 days) of the purchase of the security under the prospectus.

(d) Interaction of Items 32 and 35 in Form 41-101F1: Significant Acquisitions that Are Also Acquisitions of a Primary Business or Predecessor Entity

A proposed or completed significant acquisition by an issuer filing a prospectus in the form of Form 41-101F1 may also constitute an acquisition of a primary business for the issuer or a predecessor entity of the issuer. For example, this is generally the case where the significance of the acquisition to the issuer exceeds 100%. In these circumstances, the issuer must include financial statements pursuant to Item 32 of Form 41-101F1 (by operation of section 32.1 of Form 41-101F1), rather than Item 35 of Form 41-101F1.

However, the interaction of Items 32 and 35 of Form 41-101F1 – both of which could apply to a significant acquisition by an issuer have been confusing to some users, particularly in the case of reporting issuers.

We have therefore clarified in both Items 32 and 35 of Form 41-101F1 that a non-reporting issuer or a shell reporting issuer that has carried out a significant acquisition that constitutes the acquisition of a primary business or predecessor entity of the issuer is required to disclose the financial statements under Item 32 and not under Item 35. The imposition of this clarifying provision regarding subsequent prospectus filings by shell reporting issuers does not represent a substantive new requirement because these issuers would generally have already had to report the significant acquisition in a previously filed information circular containing Item 32 prospectus-level disclosure for the significant acquisition.

The Proposed Amendments also clarify the circumstances when an issuer must provide pro forma financial statements if it has made an acquisition that constitutes the acquisition of a primary business or predecessor entity of the issuer.

Pursuant to new proposed section 32.7 of Form 41-101F1, we will only require the pro forma financial statement disclosure to reflect the effect of a proposed or completed acquisition of a primary business or predecessor entity by an issuer if such pro forma statements are necessary for full, true and plain disclosure of all material facts relating to the securities being distributed.

(e) Exemption from Incorporation by Reference of Reports/Opinions Produced in Information Circular

The CSA proposes to codify relief we have granted to issuers allowing them to exclude from their prospectuses reports or opinions of experts that are incorporated by reference into the prospectus indirectly through the incorporation by reference of a special meeting information circular. These circulars generally relate to a restructuring transaction or other special business of the issuer where the issuer or its board of directors engaged an expert to provide advice that is specific to the business transacted at the special meeting.

For example, a board may retain a firm to provide a fairness opinion to assist the board in determining whether to recommend that a proposed transaction be approved by the issuer's shareholders. Similarly, an issuer may include a tax opinion that is specific to the proposed transaction. Given the limited purpose and nature of the expert's engagement, the CSA has determined that in some cases it is not necessary to incorporate by reference those types of reports or opinions that are specific in nature and scope. This proposed exemption is set out in proposed new subsection 11.1(3) of Form 44-101F1.

(f) Prior Sales and Trading Price and Volume Disclosure

The CSA proposes to modify the prospectus disclosure relating to prior sales information and trading price and volume information contained in Item 13 of Form 41-101F1 and Item 7A of Form 44-101F1 as follows:

- clarify that if an issuer is distributing a series of debt under the prospectus, it must provide prior sales and trading price and volume disclosure in respect of that series of debt; and
- streamline the prior sales and trading price and volume disclosure so that it only applies to the class or series of securities that is being distributed under the prospectus, as that information is the most relevant to the investor purchasing that security.

(g) Non-Issuer's Submission to the Jurisdiction and Appointment of Agent for Service

We propose to amend the requirement to file a non-issuer's submission to the jurisdiction and appointment of an agent for service contained in subparagraph 9.2(a)(vii) of NI 41-101, Appendix C of NI 41-101 and subparagraph 4.2(a)(vi) of NI 44-101. Under the current requirement in subparagraph 9.2(a)(vii) of NI 41-101, a person or company residing outside Canada that is required to sign or provide a certificate must submit to our jurisdiction and appoint an agent in Canada.

We propose to expand the existing requirement to all foreign directors of the issuer, as all directors are liable in our statutory liability regime for misrepresentations contained in the

prospectus. The proposed amendments will be made to subparagraph 9.2(a)(vii) of NI 41-101 and subparagraph 4.2(a)(vi) of NI 44-101.

We also propose amendments to clarify the related disclosure on enforceability of judgments against foreign persons and companies in sections 1.12 of Form 41-101F1 and 1.11 of Form 44-101F1 accordingly.

Potential further extension of filing requirement to foreign experts

CSA staff are also considering, as part of the Proposed Amendments, to further extend the requirement to file a non-issuer's submission to the jurisdiction and appointment of an agent for service form to all foreign experts (such as, for example, "qualified persons" or auditors) who have consented to the disclosure in a prospectus of information from a report, opinion or statement made by them. These persons are liable under our statutory liability regime for misrepresentations in the prospectus that are derived from report, opinion or statement.

In order to effect this potential amendment subparagraph 9.2(a)(vii) of NI 41-101 would be amended to include "each person required to file a consent under section 10.1" and section 1.12 of Form 41-101F1 would be amended to encompass "a person who is required to file a consent under section 10.1 of the Instrument". Corresponding changes would also be made to NI 44-101 and Form 44-101F1.

We are interested in your comments on this potential change. Please refer to the "Comments" section of this Notice for our specific questions on the potential extension of the non-issuer's submission to the jurisdiction and appointment of an agent for service form filing requirement to all foreign experts. Upon consideration of public comments, CSA staff may determine to implement this change as part of the Proposed Amendments.

(h) Successor Issuer

Based on our prospectus reviews, we have reconsidered the successor issuer criteria for purposes of short-form eligibility. In the Proposed Amendments we have modified the successor issuer definition to address areas where further clarification was required, including:

- in circumstances where the successor issuer acquired a business from a predecessor that represented less than all of the predecessor's business, we have clarified that substantially all of the business must have been divested by the predecessor to the successor in order for the issuer to be considered a successor issuer. This amendment is intended to ensure that an issuer will only be considered a successor issuer (and thereby become short-form eligible despite its fairly recent status as a reporting issuer) if the historical financial statements of its predecessor are a relevant, accurate proxy for the successor issuer's financial statements; and

- we have clarified that a successor issuer can include a reverse takeover (RTO) acquiree, i.e. an issuer can be a successor to itself.

We have also expanded the application of section 2.7 of NI 44-101 to permit a capital pool company listed on the TSX Venture Exchange to be considered short-form eligible under this provision if it is a successor issuer and has filed a filing statement in connection with an RTO or a qualifying transaction.

(i) Primary Business Oil & Gas Exemption to Provide Operating Statements

We propose to extend the exemption available to oil and gas issuers carrying out acquisitions that would be considered acquisitions of a primary business or predecessor entity to rely on operating statements (in lieu of financial statements) when providing financial statement disclosure about the acquisition. This proposed exemption is found in new proposed section 32.9 of Form 41-101F1.

Also, based on prior requests for relief which we have granted, we have developed a provision to exempt an oil and gas issuer from having to provide an audited operating statement the third year back if a recent independent reserves evaluation (in the forms of Form 51-101F1 *Statement of Reserves Data and Other Oil and Gas Information*, Form 51-101F2 *Report on Reserves Data by Independent Qualified Reserves Evaluator or Auditor* and Form 51-101F3 *Report of Management and Directors on Oil and Gas Disclosure*) has been prepared (and included in the prospectus) with an effective date within 6 months of the preliminary prospectus receipt date.

(j) Notice of Intention Exemption

Presently an issuer that is new to the short form prospectus regime must file a notice declaring its intention to be qualified to file a short form prospectus at least 10 business days prior to the filing of the preliminary short form prospectus. We propose to exempt a successor issuer from having to wait the 10 business day period to file its preliminary prospectus if its predecessor issuer previously filed the notice of intention. The successor issuer would still need to file the notice of intention either prior to or concurrently with the filing of the preliminary prospectus. We also propose a similar exemption for a credit support issuer which relies upon the continuous disclosure record of its credit supporter.

(k) Time to File Final Prospectus

Presently, pursuant to subsection 2.3(1) of NI 41-101, an issuer must file its final prospectus no later than 90 days after the date of the receipt of its preliminary prospectus. We propose to clarify that if an issuer files an amendment to a preliminary prospectus, the 90-day time period will recommence from the date of the receipt of the amendment to the preliminary prospectus. However, irrespective of the filing of one or more amendments to the preliminary prospectus, an issuer shall not be permitted to file the

final prospectus more than 180 days after the date of the receipt for the preliminary prospectus.

Part II - Key Proposed Amendments Applicable to Investment Funds

(l) Non-Canadian Investment Funds

We propose to extend the existing disclosure requirement for foreign investment fund managers to foreign investment funds and any other non-Canadian entity required to provide a certificate under Part 5 of NI 41-101 or other securities legislation.

(m) Leverage Disclosure for Investment Funds

We propose to enhance the disclosure requirements relating to the use of leverage as an investment strategy in the prospectus summary and body of a prospectus in the form of Form 41-101F2 *Information Required in an Investment Fund Prospectus (Form 41-101F2)*. The enhanced disclosure requirements are intended to provide investors with a better understanding of how the investment fund intends to utilize leverage and the nature of the leverage that may be used by the investment fund.

We propose to modify the prospectus disclosure in paragraph 3.3(1)(e) of Form 41-101F2 and paragraph 6.1(1)(b) of Form 41-101F2 as follows:

- for leverage created through borrowing or the issuance of preferred securities, the investment fund must disclose the maximum amount of leverage it may use as a ratio of its maximum total assets divided by its net asset value; and
- if leverage is created through the use of specified derivatives or similar instruments, the investment fund must disclose the maximum amount of leverage the investment fund may use as a multiple of net assets and explain how the investment fund uses the term “leverage” and the significance of the maximum and minimum amounts of leverage to the investment fund.

An instruction in Form 41-101F2 states that for the purposes of the above disclosure requirements, the term “specified derivative” has the same meaning as in National Instrument 81-102 *Mutual Funds*.

(n) Investment Fund Trading Expense Ratio Disclosure

In addition to the current requirement to disclose an investment fund’s annual returns and management expense ratio for the past five years in subsection 3.6(4) of Form 41-101F2 and Item 11 of Form 41-101F2, we propose a requirement that the investment fund’s trading expense ratio for the past five years be disclosed. An investment fund’s trading expense ratio represents the total trading commissions and costs of the investment fund as a percentage of its net assets. This disclosure requirement will better enable investors to determine the full costs of owning an investment fund or compare the historical costs of different investment funds.

(o) Organization and Management Details of the Investment Fund

We propose to amend the current disclosure required by Item 19 of Form 41-101F2 relating to the organizational and management details of an investment fund to require the disclosure of the following additional information:

- an expanded requirement to disclose current or past bankruptcies of and cease trade orders against any issuer, as opposed to the current disclosure requirement that only applies to investment fund issuers, where the directors or executive officers of the investment fund or its investment fund manager were directors of or held specified executive positions with the issuer,
- enhanced disclosure of ownership interests in the investment fund and its investment fund manager for directors and executive officers of the investment fund and investment fund manager and members of the investment fund's independent review committee; and
- a new disclosure requirement relating to principal distributors of investment funds and a requirement that principal distributors of investment funds sign a prospectus certificate in the same form as the investment fund.

(p) Principal Securityholders

We propose to amend the disclosure of principal securityholders of the investment fund as required by subsection 28.1(1) of Form 41-101F2, to limit disclosure to circumstances where this information is known or ought to be known by the investment fund or its investment fund manager. This amendment will predominantly affect exchange traded funds in continuous distribution (**ETFs**), who may not be able to readily determine their beneficial owners. Disclosure of this information has less utility for ETFs because it would only reflect ownership at a moment in time and beneficial securityholders of ETFs may change very quickly. The amendment is also consistent with exemptive relief from certain takeover bid requirements that many ETFs have received.

(q) Mutual Fund Personal Information Form Reforms

We have drafted reforms to the PIF delivery requirements in NI 81-101 that correspond with the proposed NI 41-101 reforms relating to the PIF. These amendments are intended to address the issues described above and conform the PIF delivery requirements for conventional mutual funds with those for other issuers.

(r) Documents Incorporated by Reference in a Mutual Fund Prospectus

We propose to amend section 3.1 of NI 81-101 to require the incorporation by reference, where a mutual fund has not yet filed interim or annual financial statements, of the audited balance sheet filed with the mutual fund's simplified prospectus. We also

propose to require the incorporation by reference of a mutual fund's interim financial statements and interim management report of fund performance (**MRFP**), where the mutual fund has not yet filed its annual comparative financial statements and annual MRFP.

(s) Principal Distributor Certificate for Mutual Funds

We propose to amend the principal distributor certificate required by Form 81-101F2 *Contents of Annual Information Form* to require a principal distributor of a mutual fund to provide the same certificate as the mutual fund and the manager of the mutual fund.

Consequential Amendments

(a) Consequential Amendments to NI 52-107

We propose amendments to NI 52-107 to ensure that the operating statements which a prospectus filer is permitted to provide under new proposed section 32.9 of Form 41-101F1 (described under section (i) in Part I of the **Summary of Key Proposed Amendments** above) can benefit from the financial reporting framework available in NI 52-107 for oil and gas operating statements.

We also propose to repeal the financial reporting framework for carve-out financial statements presently found in subsection 3.11(6) of NI 52-107. As corroborated by external feedback, we do not feel it is necessary for the CSA to prescribe a separate financial reporting framework for carve-out financial statements. It is our view that auditors will generally be able to confirm that the carve-out financial statements have been prepared in accordance with International Financial Reporting Standards, and that instances in which this is not the case will be relatively rare.

(b) Consequential Amendments to NI 51-102

Presently an issuer is permitted to utilize operating statements, in lieu of financial statements, if it complies with the requirements of section 8.10 of NI 51-102. One requirement is that the acquisition must be an asset acquisition. We propose to expand this provision's application to a share acquisition in certain restricted circumstances. Specifically, the vendor must have transferred the applicable oil and gas assets to a corporation that will be considered the transferor of the transaction and was created for the sole purpose of facilitating the acquisition, and this transferor had no assets or operations other than those attributable to the transferred oil and gas assets. A parallel proposed amendment is provided in section 32.9 of Form 41-101F1 for an acquisition that constitutes the acquisition of a primary business of the issuer.

(c) Consequential Amendments to NI 13-101

We propose amendments to NI 13-101 to update the terminology used for various types of prospectus forms referenced in Appendix A of NI 13-101. Certain of these references are out-of-date.

Anticipated Costs and Benefits

We are proposing the Proposed Amendments to the Prospectus Rules because of issues identified in prospectus reviews, applications for exemptive relief from prospectus requirements and recurring inquiries from prospectus filers or CSA staff concerning certain prospectus requirements.

The Proposed Amendments are designed to enhance the effectiveness of the prospectus disclosure standards, clarify the requirements, address significant identified gaps, and modify or streamline requirements where warranted. The CSA anticipates that these modifications will ease the process and burden of prospectus disclosure for issuers while at the same time delivering effective, relevant and meaningful disclosure to investors.

Alternatives Considered

We considered maintaining the status quo. However, as discussed above, many of the Proposed Amendments are intended to clarify the Prospectus Rules or to modify or streamline Prospectus Rule requirements where warranted.

Therefore, to provide the appropriate degree of certainty, clarity and consistency among affected issuers, we considered it preferable to amend, replace and add provisions to the Prospectus Rules and associated guidance.

Unpublished Materials

In developing the Proposed Amendments to the Prospectus Rules, we have not relied on any significant unpublished study, report, or other written materials.

Local Notices

Certain jurisdictions will publish other information required by local securities legislation with this notice.

Comments

We request your comments on the Proposed Amendments to the Prospectus Rules. In addition to any general comments you have, we also invite comments on the following specific topic:

Questions relating to Non-Issuer's Submission to the Jurisdiction and Appointment of Agent for Service

As described in paragraph (g) of the "Summary of Key Proposed Amendments" section of this Notice, we are considering further extending the requirement to file a non-issuer's submission to the jurisdiction and appointment of an agent for service form to all foreign

experts who have consented to the disclosure in a prospectus of information from a report, opinion or statement made by them.

We are interested in your general comments on this potential change. In particular, we welcome your comments on the following questions:

- (a) Do you believe that it is appropriate to extend the requirement to file a non-issuer's submission to the jurisdiction and appointment of an agent for service form to foreign experts who have consented to the disclosure in a prospectus of information from a report, opinion or statement made by them given that these persons are liable under our statutory liability regime for misrepresentations in the prospectus that are derived from that report, opinion or statement? Why or why not?
- (b) If foreign experts are required to file a non-issuers' submission to the jurisdiction and appointment of an agent for service form, do you anticipate that this obligation will impose any significant practical or financial burden on these experts or issuers? If so, please explain why. Would your response change if the form requirement for foreign experts only concerned either submission to the jurisdiction or an appointment of an agent for service?

Please provide your comments in writing by **October 14, 2011**. Regardless of whether you are sending your comments by email, you should also send or attach your submissions in an electronic file in Microsoft Word, Windows format.

Address your submissions to the following Canadian securities regulatory authorities:

British Columbia Securities Commission
Alberta Securities Commission
Saskatchewan Financial Services Commission
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Superintendent of Securities, Prince Edward Island
Nova Scotia Securities Commission
New Brunswick Securities Commission
Securities Commission of Newfoundland and Labrador
Superintendent of Securities, Yukon Territory
Superintendent of Securities, Northwest Territories
Superintendent of Securities, Nunavut

Deliver your comments **only** to the address that follows. Your comments will be distributed to the other participating CSA member jurisdictions.

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Please note that comments received will be made publicly available and posted at www.albertasecurities.com and the websites of certain other securities regulatory authorities. We cannot keep submissions confidential because securities legislation in certain provinces requires that a summary of the written comments received during the comment period be published.

Questions

A. Questions relating to Investment Funds

Certain Proposed Amendments apply only to investment funds. These amendments are found in Form 41-101F2 *Information Required in an Investment Fund Prospectus* and NI 81-101 including Form 81-101F2 *Contents of Annual Information Form*. Also, the key Proposed Amendments applicable to investment funds are described above under Part II of the **Summary of Key Proposed Amendments**. If your questions relate to these Proposed Amendments, please refer your questions to any of:

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B. All Other Questions relating to the Proposed Amendments

Certain Proposed Amendments apply to issuers other than investment funds. These amendments are found in NI 41-101 including Form 41-101F1 *Information Required in a Prospectus*, NI 44-101 including Form 44-101F1 *Short Form Prospectus*, NI 44-102 and the Consequential Amendments to NI 52-107, NI 51-102 and NI 13-101. Also, the key Proposed Amendments applicable to such issuers are described above under Part I of the **Summary of Key Proposed Amendments**. If your questions relate to these Proposed Amendments, please refer your questions to any of:

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**Amendments to
National Instrument 41-101 *General Prospectus Requirements***

1. ***National Instrument 41-101 General Prospectus Requirements is amended by this Instrument.***
2. ***Section 1.1 is amended by***
 - (a) ***in the definition of “executive officer”,***
 - (i) ***adding “or an investment fund manager,” after “means, for an issuer”,***
 - (ii) ***inserting “(a.1) a chief executive officer or chief financial officer” after “(a) a chair, vice-chair or president,” and***
 - (iii) ***in paragraph (c), adding “or investment fund manager” after “issuer”.***
 - (b) ***after the definition of “over-allotment option”, adding the following definition:***

““personal information form” means in respect of an individual,

 - (a) a completed Schedule 1 of Appendix A, or
 - (b) A TSX/TSXV personal information form submitted by an individual to the Toronto Stock Exchange or to the TSX Venture Exchange to which is attached a completed certificate and consent in the form set out in Schedule 1 – Part B of Appendix A, if the personal information in the form continues to be correct at the time that the certificate and consent is executed by the individual;”, ***and***
 - (c) ***after the definition of “transition year”, adding the following definition:***

““TSX/TSXV personal information form” means a completed personal information form of an individual in compliance with the requirements of Form 4 for the Toronto Stock Exchange or Form 2A for the TSX Venture Exchange, as applicable, each as amended from time to time;”.
3. ***Subsection 2.3(1) is amended by***
 - (a) ***replacing “a final prospectus” with “an amendment to a preliminary prospectus”, and***
 - (b) ***deleting “that relates to the final prospectus”.***
4. ***Section 2.3 is amended by adding the following subsections after subsection 2.3(1):***

“(1.1) An issuer must not file a final prospectus more than 90 days after the date of the receipt for the preliminary prospectus or an amendment to the preliminary prospectus which relate to the final prospectus.

(1.2) If an issuer files an amendment pursuant to subsection (1), the total period of time permitted to file the final prospectus under subsection (1.1) must not exceed 180 days from the date of the receipt of the preliminary prospectus.”.

5. Part 5 is amended by adding the following section after section 5.10:

“Certificate of principal distributor

5.10.1(1) If the issuer is an investment fund that has a principal distributor, a prospectus must contain a certificate, in the applicable issuer certificate form, signed by the principal distributor.

(2) If the principal distributor is a company, the certificate must be signed by any officer or director of the principal distributor duly authorized to sign.”

6. Section 9.1 is amended by renumbering it as subsection 9.1(1).

7. Subparagraph 9.1(1)(b)(ii) is amended by

(a) replacing “Appendix A” with “personal information form”, and

(b) replacing “for;” with “for”.

8. Clause 9.1(1)(b)(ii)(D) is amended by replacing “for whom the issuer has not previously filed or delivered,” with “; and”.

9. Clause 9.1(1)(b)(ii)(E) is deleted.

10. Clause 9.1(1)(b)(ii)(F) is deleted.

11. Clause 9.1(1)(b)(ii)(G) is deleted.

12. Section 9.1 is amended by adding the following subsection after subsection (1):

“(2) Despite subparagraph 9.1(1)(b)(ii), an issuer is not required to file a personal information form for an individual if all of the following are satisfied:

(a) a personal information form of the individual has been executed by the individual within three years preceding the date of the filing of the preliminary or pro forma long form prospectus;

- (b) the personal information form was delivered to the regulator or, in Québec, the securities regulatory authority
 - (i) by an issuer on behalf of the individual on or after [insert effective date of amendments]; or
 - (ii) by the issuer on behalf of the individual after March 16, 2008 but before [insert effective date of amendments] in the form set out in Appendix A to NI 41-101 in effect during this period;
- (c) the information concerning the individual contained in the responses to
 - (i) questions 6 through 10 of the personal information form referenced in subparagraph (b)(i) remains correct as at the date of the certificate referred to in paragraph (d); or
 - (ii) questions 4(B) or (C) and questions 6 through 9 of the personal information form referenced in subparagraph (b)(ii) remains correct as at the date of the certificate referred to in paragraph (d);
- (d) the issuer delivers to the regulator or, in Québec, the securities regulatory authority, concurrently with the filing of the preliminary or pro forma long form prospectus, a certificate of the issuer in the form set out in Schedule 4 of Appendix A stating that the individual has provided the issuer with confirmation in respect of the requirement contained in paragraph (c);
- (e) the certificate referenced in paragraph (d) is dated no earlier than 30 days before the filing of the preliminary or pro forma long form prospectus.”.

13. Subparagraph 9.2(a)(vii) is amended by

- (a) **deleting “and” in clause (A),**
- (b) **adding the following clause after clause (A)**
“(A.1) each director of the issuer, and”, **and**
- (c) **replacing “each person or company required to sign a certificate under Part 5” in clause (B) with “any other person or company that provides or signs a certificate under Part 5”.**

14. Subparagraph 9.2(a)(xii) is amended by

- (a) **after “Undertaking to File”, replacing “Documents and Material Contracts” with “Agreements, Contracts and Material Contracts”,**

- (b) **replacing** “a document referred to in subparagraph (ii), (iii) or (iv)” **with** “an agreement, contract or declaration of trust under subparagraph (ii) or (iv) or a material contract under subparagraph (iii)”;
- (c) **deleting** “or become effective” **wherever it appears**,
- (d) **replacing** “to file the document” **with** “to file the agreement, contract, declaration of trust or material contract”, **and**
- (e) **replacing** “within seven days after the completion of the distribution; and” **with** “no later than seven days after execution of the agreement, contract, declaration of trust or material contract;”.

15. Paragraph 9.2(a) is amended by adding the following subparagraph after subparagraph 9.2(a)(xii):

“(xii.1) **Undertaking to File Unexecuted Documents** – if a document referred to in subparagraph (ii) will not be executed in order to become effective and has not become effective before the filing of the final long form prospectus, but will become effective on or before the completion of the distribution, the issuer must file with the securities regulatory authority, no later than the time of filing of the final long form prospectus, an undertaking of the issuer to the securities regulatory authority to file the document promptly and in any event no later than seven days after the document becomes effective; and”

16. Subsection 10.1(1) is amended by

- (a) **replacing** “An issuer” **with** “Subject to subsection (1.1), an issuer”.
- (b) **adding a period at the end of paragraph (c), and**
- (c) **deleting the following:**

“if that person or company is named in a prospectus or an amendment to a prospectus, directly or, if applicable, in a document incorporated by reference,

- (d) as having prepared or certified any part of the prospectus or the amendment,
- (e) as having opined on financial statements from which selected information included in the prospectus has been derived and which audit opinion is referred to in the prospectus directly or in a document incorporated by reference, or
- (f) as having prepared or certified a report, valuation, statement or opinion referred to in the prospectus or the amendment, directly or in a document incorporated by reference.”

17. Section 10.1 is amended by adding the following subsection after subsection (1):

“(1.1) Subsection (1) only applies if the person or company is named in a prospectus or an amendment to a prospectus, directly or, if applicable, in a document incorporated by reference,

- (a) as having prepared or certified any part of the prospectus or the amendment,
- (b) as having opined on financial statements from which selected information included in the prospectus has been derived and which audit opinion is referred to in the prospectus directly or in a document incorporated by reference, or
- (c) as having prepared or certified a report, valuation, statement or opinion referred to in the prospectus or the amendment, directly or in a document incorporated by reference.”.

18. Section 11.2 is amended by replacing “No” with “Except as required under section 11.3, no”.

19. Paragraph 11.2(b) is amended by adding “on an as-if converted basis” after “offering”.

20. Section 13.3 is amended by

- (a) **in paragraph (d), adding “fundamental” before “investment objective(s)”, and**
- (b) **adding the following paragraph after paragraph (h):**

“(i) whether the security is or will be a qualified investment for a registered retirement savings plan, registered retirement income fund, registered education savings plan or tax free savings account or qualifies or will qualify the holder for special tax treatment.”.

21. Section 14.5 is amended by

- (a) **in subsection 14.5(1), replacing “agreements between the investment fund and the custodian or the custodian and the sub-custodian” with “custodian agreements and sub-custodian agreements”,**
- (b) **in subparagraph 14.5(1)(g), striking out “,” after “sub-custodian”, and**
- (c) **in subsection 14.5(3), replacing “An agreement between an investment fund and a custodian or a custodian and a sub-custodian respecting the portfolio assets” with “A custodian agreement or sub-custodian agreement concerning the portfolio assets of an investment fund”.**

22. *Paragraph 19.3(2)(a) is amended by adding “pro forma or” after “the filing of the” wherever it occurs.*
23. *Appendix A is amended by repealing the following:*

**“PERSONAL INFORMATION FORM AND AUTHORIZATION OF
INDIRECT COLLECTION, USE AND DISCLOSURE OF
PERSONAL INFORMATION**

In connection with an issuer’s (the “Issuer”) filing of a prospectus, the attached Schedule 1 contains information (the “Information”) concerning every individual for whom the Issuer is required to provide the Information under Part 9 of this Instrument or Part 4 of NI 44-101. The Issuer is required by provincial and territorial securities legislation to deliver the Information to the regulators listed in Schedule 3.

The Issuer confirms that each individual who has completed a Schedule 1:

- (a) has been notified by the Issuer
- (i) of the Issuer’s delivery to the regulator of the Information in Schedule 1 pertaining to that individual,
 - (ii) that the Information is being collected indirectly by the regulator under the authority granted to it by provincial and territorial securities legislation or provincial legislation relating to documents held by public bodies and the protection of personal information,
 - (iii) that the Information collected from each director and executive officer of the investment fund manager may be used in connection with the prospectus filing of the Issuer and the prospectus filing of any other issuer managed by the investment fund manager,
 - (iv) that the Information is being collected and used for the purpose of enabling the regulator to administer and enforce provincial and territorial securities legislation, including those obligations that require or permit the regulator to refuse to issue a receipt for a prospectus if it appears to the regulator that the past conduct of management, an investment fund manager or promoter of the Issuer affords reasonable grounds for belief that the business of the Issuer will not be conducted with integrity and in the best interests of its securityholders, and
 - (v) of the contact, business address and business telephone number of the regulator in the local jurisdiction as set out in the attached Schedule 3, who can answer questions about the regulator’s indirect collection of the Information;

- (b) has read and understands the Personal Information Collection Policy attached hereto as Schedule 2; and
- (c) has, by signing the certificate and consent in Schedule 1, authorized the indirect collection, use and disclosure of the Information by the regulator as described in Schedule 2.

Date: _____

Name of Issuer

Per: _____

Name

Official Capacity

(Please print the name of the person signing on behalf of the issuer)”.

- 24. *Schedule 1 of Appendix A is amended by renumbering it as Schedule 1, Part A.*
- 25. *Part A of Schedule 1 of Appendix A is amended by*
 - (a) *deleting the following from the end of Part A:*

“CERTIFICATE AND CONSENT

I, _____ hereby certify that:

(Please Print – Name of Individual)

- (a) I have read and understood the questions, cautions, acknowledgement and consent in this Form, and the answers I have given to the questions in this Form and in any attachments to it are true and correct, except where stated to be to the best of my knowledge, in which case I believe the answers to be true;
- (b) I have read and understand the Personal Information Collection Policy attached hereto as Schedule 2 (the “Personal Information Collection Policy”);
- (c) I consent to the collection, use and disclosure of the information in this Form and to the collection, use and disclosure of further personal information in accordance with the

Personal Information Collection Policy; and

- (d) I understand that I am providing this Form to a regulator listed in Schedule 3 attached hereto and I am under the jurisdiction of the regulator to which I submit this Form, and it is a breach of securities legislation to provide false or misleading information to the regulator.

Date [within 30 days of the date of the preliminary prospectus]

Signature of Person Completing this Form”, and

- (b) by replacing in the paragraph preceding the General Instructions of Part A of Schedule 1 of Appendix A*

“. Where an individual has submitted a personal information form (an “Exchange Form”) to the Toronto Stock Exchange or the TSX Venture Exchange and the information has not changed, the Exchange Form may be delivered in lieu of this Form; provided that the certificate and consent of this Form is completed and attached to the Exchange Form.”

with “or Part 2 of National Instrument 81-101 Mutual Fund Prospectus Disclosure.”.

26. Part A of Schedule 1 of Appendix A, General Instructions, is amended by

- (a) in “All Questions”*

(i) adding “will not be accepted” after ““Not Applicable””, and

(ii) replacing “2B(iii) and 5 will not be accepted” with the following:

“2(iii) and (v) and 5.

For the purposes of answering the questions in this Form, the term “**issuer**” includes an **investment fund manager**.”,

- (b) in the title Questions 6 to 9, replacing “9” with “10 “, and*

- (c) in Questions 6 to 10,*

(i) replacing “check” with “place a checkmark”, and

(ii) replacing “questions 6 to 9” with “questions 6 to 10”.

27. *Part A of Schedule 1 of Appendix A, Definitions, is amended by*

- (a) *in paragraph (b) of the definition of “Offence”, adding “Canadian or foreign” before “jurisdiction”,*
- (b) *in paragraph (d) of the definition of “Offence”, adding “other” before “foreign”,*
- (c) *in the NOTE to the definition of “Offence”,*
 - (i) *replacing “and it has not been revoked” with “for an Offence that relates to fraud (including any type of fraudulent activity), misappropriation of money or other property, theft, forgery, falsification of books or documents or similar Offences,”, and*
 - (ii) *replacing “offence” with “Offence”,*
- (d) *in paragraph (a) of the definition of “Proceedings”, adding “which is currently” after “inquiry”,*
- (e) *in paragraph (d) of the definition of “Proceedings”*
 - (i) *replacing “self-regulatory organization” wherever it occurs with “self-regulatory entity”,*
 - (ii) *replacing “and their representatives” with “(including where applicable, issuers listed on a stock exchange) and individuals associated with those members and issuers”,*
 - (iii) *replacing “by-laws or rules” with “by-laws, rules or policies”, and*
 - (iv) *replacing “for a hearing” with “to be heard”,*
- (f) *in the definition of “securities regulatory authority or (SRA)”*
 - (i) *deleting the brackets surrounding “(SRA)”,*
 - (ii) *replacing “in any jurisdiction or in any foreign jurisdiction” with “in any Canadian or foreign jurisdiction”, and*
 - (iii) *replacing “or professional organization” with “entity”,*
- (g) *in the definition of “securities regulatory or professional organization”, replacing “or professional organization” with “entity” or “SRE”,*

- (h) *in paragraph (a) of the definition of “securities regulatory entity or “SRE””, adding “derivatives,” after “stock,”,*
 - (i) *in paragraph (e) of the definition of “securities regulatory entity or “SRE””,*
 - (i) *replacing “self-regulatory entity” with “self-regulatory organization”,*
 - (ii) *adding “policies,” after “rules,” and*
 - (iii) *replacing “a self-regulatory or professional organization” with “an SRE”.*
- 28. *Section 1.A. of Part A of Schedule 1 of Appendix A is amended by replacing “MIDDLE NAME(S) (If none, please state)” with “FULL MIDDLE NAME(S) (No initials. If none, please state)”.*
- 29. *Section 1.E. of Part A of Schedule 1 of Appendix A is amended by*
 - (a) *adding an asterisk immediately after “E-MAIL”, and*
 - (b) *adding “*Please provide an email address that the regulator may use to contact you regarding this PIF. This email address may be used to exchange personal information relating to you.” below the last information field.*
- 30. *Section 1.F. of Part A of Schedule 1 of Appendix A is amended by replacing “correctly identify” with “recall”.*
- 31. *Section 2.A. of Part A of Schedule 1 of Appendix A is amended by*
 - (a) *deleting the title “A. CANADIAN CITIZENSHIP”,*
 - (b) *in subparagraph(i), replacing “Citizen” with “citizen”, and*
 - (c) *after subparagraph (iii), adding the following:*
 - “(iv) Do you hold citizenship in any country other than Canada?
 - (v) If “Yes” to Question 2(iv), the name of the country(ies):”.
- 32. *Section 2.B . of Part A of Schedule 1 of Appendix A is repealed.*
- 33. *The introduction of section 3 of Part A of Schedule 1 of Appendix A is amended by*
 - (a) *adding “complete” before “employment history”,*
 - (b) *replacing “10” with “5”, and*

(c) *after the last sentence, adding* “If you were unemployed during this period of time, please state this and identify the period of unemployment.”.

34. Section 4 of Part A of Schedule 1 of Appendix A is amended by replacing

“4. POSITIONS WITH OTHER ISSUERS

	YES	NO
A. While you were a director, officer or insider of an issuer, did any exchange or self-regulatory organization ever refuse approval for listing or quotation of that issuer (including a listing resulting from a qualifying transaction, reverse takeover, backdoor listing or change of business)? If yes, attach full particulars.		
B. Has your employment in a sales, investment or advisory capacity with any firm or company engaged in the sale of real estate, insurance or mutual funds ever been terminated for cause?		
C. Has a firm or company registered under the securities laws of any jurisdiction or of any foreign jurisdiction as a securities dealer, broker, investment advisor or underwriter, suspended or terminated your employment for cause?		
D. Are you or have you during the last 10 years ever been a director, officer, promoter, insider or control person for any reporting issuer?		

E. If “YES” to 4D above, provide the names of each reporting issuer. State the position(s) held and the period(s) during which you held the position(s). Use an attachment if

NAME OF REPORTING ISSUER	POSITION(S) HELD	MARKET TRADED ON	FROM		TO	
			MM	YY	MM	YY”

with the following:

“4. INVOLVEMENT WITH ISSUERS

	YES	NO
A. Are you or have you during the last 10 years ever been a director, officer, promoter, insider or control person for any reporting issuer?		

B. If “YES” to 4A above, provide the names of each reporting issuer. State the position(s) held and the period(s) during which you held the position(s). Use an attachment if necessary.

NAME OF REPORTING	POSITION(S)	MARKET TRADED ON	FROM		TO	
			MM	YY	MM	YY

C. While you were a director, officer or insider of an issuer, did any exchange or other self-regulatory entity ever refuse approval for listing or quotation of the issuer, including (i) a listing resulting from a business combination, reverse take-over or similar transaction involving the issuer that is regulated by an SRE or SRA, (ii) a backdoor listing or qualifying acquisition involving the issuer (as those terms are defined in the TSX Company Manual as amended) or (iii) a Qualifying Transaction, Reverse Take Over or Change of Business involving the issuer (as those terms are defined in the TSX Venture Corporate Finance Manual as amended)? If yes, attach full particulars.”

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35. Section 5.A. of Part A of Schedule 1 of Appendix A is amended by replacing

“A . PROFESSIONAL DESIGNATION(S) – Provide any professional designation held and professional associations to which you belong. For example, Barrister & Solicitor, C.A., C.M.A., C.G.A., P.Eng., P.Geol., and CFA, etc. and indicate which organization and the date the designations were granted.

PROFESSIONAL DESIGNATION And MEMBERSHIP NUMBER	GRANTOR OF DESIGNATION And JURISDICTION OR FOREIGN JURISDICTION	DATE GRANTED			ACTIVE?	
		M	DD	YY	YES	NO

with the following:

“A .

PROFESSIONAL DESIGNATION(S) – Identify any professional designation held and professional associations to which you belong, for example, Barrister & Solicitor, C.A., C.M.A., C.G.A., P.Eng., P.Geol., CFA, etc. and indicate which organization and the date the designations were granted.			
PROFESSIONAL DESIGNATION And MEMBERSHIP NUMBER	GRANTOR OF DESIGNATION And CANADIAN OR FOREIGN JURISDICTION	DATE GRANTED	
		MM	YY

Describe the current status of any designation and/or association (e.g. active, retired, non-practicing, suspended)”.

36. *Section 6 of Part A of Schedule 1 of Appendix A is amended by replacing*

“6. **OFFENCES** – If you answer “YES” to any item in Question 6, you must provide complete details in an attachment.

		YES	NO
A.	Have you ever pleaded guilty to or been found guilty of an offence?		
B.	Are you the subject of any current charge, indictment or proceeding for an offence?		
C.	To the best of your knowledge, are you or have you ever been a director, officer, promoter, insider, or control person of an issuer, in any jurisdiction or in any foreign jurisdiction, at the time of events, where the issuer:		

(i) has ever pleaded guilty to or been found guilty of an offence?		
(ii) is the subject of any current charge, indictment or proceeding for an offence?"		

with the following:

“6. OFFENCES – If you answer “YES” to any item in Question 6, you must provide complete details in an attachment. **If you have received a pardon under the Criminal Records Act (Canada) for an Offence that relates to fraud (including any type of fraudulent activity), misappropriation of money or other property, theft, forgery, falsification of books or documents or similar Offences, you must disclose the pardoned Offence in this Form.**

		YES	NO
A.	Have you ever, in any Canadian or foreign jurisdiction, pled guilty to or been found guilty of an Offence?		
B.	Are you the subject of any current charge, indictment or proceeding for an Offence, in any Canadian or foreign jurisdiction?		
C.	To the best of your knowledge, are you currently or have you ever been a director, officer, promoter, insider or control person of an issuer, in any Canadian or foreign jurisdiction, at the time of events, where the issuer:		
	(i) pled guilty to or was found guilty of an Offence?		
	(ii) is now the subject of any charge, indictment or proceeding for an Offence?"		

37. *The introduction of section 7 of Part A of Schedule 1 of Appendix A is amended by adding “You must answer “YES” or “NO” for EACH of (A), (B) and (C) below.” after the last sentence.*

38. *Section 7.A. of Part A of Schedule 1 of Appendix A is amended by replacing “jurisdiction or in any foreign jurisdiction” with “Canadian or foreign jurisdiction”.*

39. *Section 7.C. of Part A of Schedule 1 of Appendix A is amended by*

(a) *adding “currently” after “are you”, and*

(b) *replacing “jurisdiction or in any foreign jurisdiction” with “Canadian or foreign jurisdiction”.*

40. Section 8.A. of Part A of Schedule 1 of Appendix A is amended by replacing

		YES	NO
"A.	CURRENT PROCEEDINGS BY SECURITIES REGULATORY AUTHORITY OR SELF REGULATORY OR PROFESSIONAL ORGANIZATION. Are you now, in any jurisdiction or in any foreign jurisdiction, the subject of:		
	(i) a notice of hearing or similar notice issued by a SRA?		
	(ii) a proceeding or to your knowledge, under investigation, by an exchange or other self regulatory or professional organization?		
	(iii) settlement discussions or negotiations for settlement of any nature or kind whatsoever with a SRA or any self regulatory or professional organization?"		

with the following:

		YES	NO
"A.	CURRENT PROCEEDINGS BY SECURITIES REGULATORY AUTHORITY OR SELF REGULATORY ENTITY. Are you now, in any Canadian or foreign jurisdiction, the subject of:		
	(i) a notice of hearing or similar notice issued by an SRA or SRE?		
	(ii) a proceeding or to your knowledge, under investigation, by an SRA or SRE?		
	(iii) settlement discussions or negotiations for settlement of any nature or kind whatsoever with an SRA or SRE?"		

41. Section 8.B. of Part A of Schedule 1 of Appendix A is amended by replacing

		YES	NO
"B.	PRIOR PROCEEDINGS BY SECURITIES REGULATORY AUTHORITY OR SELF REGULATORY OR PROFESSIONAL		
	(i) been reprimanded, suspended, fined, been the subject of an administrative penalty, or otherwise been the subject of any disciplinary proceedings of any kind whatsoever, in any jurisdiction or in any foreign jurisdiction, by a SRA or self regulatory or professional organization?		
	(ii) had a registration or licence for the trading of securities, exchange or commodity futures contracts, real estate, insurance or mutual fund products cancelled, refused, restricted or suspended?		
	(iii) been prohibited or disqualified under securities, corporate or any other legislation from acting as a director or officer of a reporting issuer?		

(iv)	had a cease trading or similar order issued against you or an order issued against you that denied you the right to use any statutory prospectus or registration exemption?		
(v)	had any other proceeding of any nature or kind taken against you?"		

with the following:

		YES	NO
"B	PRIOR PROCEEDINGS BY SECURITIES REGULATORY AUTHORITY OR SELF REGULATORY ENTITY. Have you <u>ever</u>:		
	(i) been reprimanded, suspended, fined, been the subject of an administrative penalty, or been the subject of any proceedings of any kind whatsoever, in any Canadian or foreign jurisdiction, by an SRA or SRE?		
	(ii) had a registration or licence for the trading of securities, exchange or commodity futures contracts, real estate, insurance or mutual fund products cancelled, refused, restricted or suspended, by an SRA or SRE?		
	(iii) been prohibited or disqualified by an SRA or SRE under securities, corporate or any other legislation from acting as a director or officer of a reporting issuer or been prohibited or restricted by an SRA or SRE from acting as a director, officer or employee of, or an agent or consultant to, a reporting issuer?		
	(iv) had a cease trading or similar order issued against you or an order issued against you by an SRA or SRE that denied you the right to use any statutory prospectus or registration exemption?		
	(v) had any other proceeding of any nature or kind taken against you by an SRA or SRE?"		

42. Section 8.C. of Part A of Schedule 1 of Appendix A is amended by

- (a) *replacing "a" with "an" before "SRA",*
- (b) *replacing "self regulatory or professional organization" with "SRE" wherever it appears,*
- (c) *replacing "any jurisdiction or in any foreign jurisdiction" with "any Canadian or foreign jurisdiction",*
- (d) *replacing "a jurisdiction or in a foreign jurisdiction" with "a Canadian or foreign jurisdiction", and*
- (e) *adding ", by-laws or policies" after "rules".*

43. Section 8.D. of Part A of Schedule 1 of Appendix A is amended by

- (a) **replacing** “any jurisdiction or in any foreign jurisdiction” **with** “any Canadian or foreign jurisdiction”, **and**
- (b) **replacing** “self regulatory or professional organization” **with** “self regulatory entity”.

44. Subparagraph 8.D.(v) of Part A of Schedule 1 of Appendix A is amended by replacing

- “(v) taken any other proceeding of any nature or kind against the issuer, including a trading halt, suspension or delisting of the issuer (other than in the normal course for proper dissemination of information, pursuant to a reverse takeover, backdoor listing or similar transaction)?”

with the following:

- “(v) commenced any other proceeding of any nature or kind against the issuer, including a trading halt, suspension or delisting of the issuer, in connection with an alleged or actual contravention of an SRA’s or SRE’s rules, regulations, policies or other requirements, but excluding halts imposed (i) in the normal course for proper dissemination of information, or (ii) pursuant to a business combination, reverse take-over or similar transaction involving the issuer that is regulated by an SRE or SRA, including a Qualifying Transaction, Reverse Takeover or Change of Business involving the issuer (as those terms are defined in the TSX Venture Corporate Finance Manual as amended)?”.

45. Subparagraph 8.D.(vi) of Part A of Schedule 1 of Appendix A is amended by

- (a) **deleting** “involved in”, **and**
- (b) **replacing** “in a jurisdiction or in a foreign jurisdiction or a self regulatory or professional organization’s rules” **with** “or the rules, by-laws or policies of an SRE”.

46. Section 9.A. of Part A of Schedule 1 of Appendix A is amended by replacing “any jurisdiction or in any foreign jurisdiction” **with** “any Canadian or foreign jurisdiction”.

47. Subparagraph 9.A.(i) of Part A of Schedule 1 of Appendix A is amended by adding a comma after “changes”.

48. Subparagraph 9.A.(ii) of Part A of Schedule 1 of Appendix A is amended by

- (a) **replacing** “for” **with** “of” **after** “an issuer”,

- (b) *deleting the comma after “control person”, and*
- (c) *adding a comma after “changes”.*

49. Subparagraph 9.B.(i) of Part A of Schedule 1 of Appendix A is amended by

- (a) *replacing “any jurisdiction or in any foreign jurisdiction” with “any Canadian or foreign jurisdiction”,*
- (b) *replacing “of” with “to” after “jurisdiction,”, and*
- (c) *adding a comma after “changes”.*

50. Subparagraph 9.B.(ii) of Part A of Schedule 1 of Appendix A is amended by

- (a) *adding “that is” after “an issuer”,*
- (b) *replacing “any jurisdiction or in any foreign jurisdiction” with “any Canadian or foreign jurisdiction”,*
- (c) *replacing “of” with “to” after “jurisdiction,”, and*
- (d) *adding a comma after “changes”.*

51. Subparagraph 9.C.(i) of Part A of Schedule 1 of Appendix A is amended by

- (a) *replacing “any jurisdiction or in any foreign jurisdiction” with “any Canadian or foreign jurisdiction”, and*
- (b) *adding a comma after “changes”.*

52. Subparagraph 9.C.(ii) of Part A of Schedule 1 of Appendix A is amended by

- (a) *replacing “any jurisdiction or in any foreign jurisdiction” with “any Canadian or foreign jurisdiction”, and*
- (b) *adding a comma after “changes”.*

53. Part A of Schedule 1 of Appendix A is amended by adding the following after section 9:

“10. INVOLVEMENT WITH OTHER ENTITIES

		YES	NO
A.	Has your employment in a sales, investment or advisory capacity with any employer engaged in the sale of real estate, insurance or mutual funds ever been suspended or terminated for cause? If yes, attach full particulars.		

B.	Has your employment with a firm or company registered under the securities laws of any Canadian or foreign jurisdiction as a securities dealer, broker, investment advisor or underwriter, ever been suspended or terminated for cause? If yes, attach full particulars.		
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C.	Has your employment as an officer of an issuer ever been suspended or terminated for cause? If yes, attach full particulars.”.		
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54. *Schedule 1 of Appendix A is amended by adding the following part after Part A of Schedule 1 of Appendix A:*

“Schedule 1
Part B

CERTIFICATE AND CONSENT

I, _____ hereby certify that:
(Please Print – Name of Individual)

- (a) I have read and understood the questions, cautions, acknowledgement and consent in the personal information form to which this certificate and consent is attached or of which this certificate and consent forms part (the “**Form**”), and the answers I have given to the questions in the Form and in any attachments to it are correct, except where stated to be to the best of my knowledge, in which case I believe the answers to be correct;
- (b) I have been provided with and have read and understand the Personal Information Collection Policy (the “**Personal Information Collection Policy**”) in Schedule 2 of Appendix A to National Instrument 41-101 *General Prospectus Requirements* (“**NI 41-101**”);
- (c) I consent to the collection, use and disclosure by a regulator or a securities regulatory authority listed in Schedule 3 of Appendix A to NI 41-101 (collectively the “**regulators**”) of the information in the Form and to the collection, use and disclosure by the regulators of further personal information in accordance with the Personal Information Collection Policy including the collection, use and disclosure by the regulators of the information in the Form in respect of the prospectus filings of the Issuer and the prospectus filings of any other issuer in a situation where I am or will be:

- (i) a director, executive officer or promoter of such issuer,
 - (ii) a director or executive officer of a promoter of such issuer, if the promoter is not an individual, or
 - (iii) where the issuer is an investment fund, a director or executive officer of the investment fund manager; and
- (d) I understand that I am providing the Form to the regulators and I am under the jurisdiction of the regulators to which I submit the Form, and it is a breach of securities legislation to provide false or misleading information to the regulators, whenever the Form is provided in respect of the prospectus filings of the Issuer or the prospectus filings of any other issuer of which I am or will be a director, executive officer or promoter.

Date [within 30 days of the date of the preliminary prospectus]

Signature of Person Completing this Form”.

55. *The first paragraph of Schedule 2 of Appendix A is amended by*
- (a) *adding* “and securities regulatory authorities (the “**regulators**”)” *after* “The regulators”,
 - (b) *replacing* “Regulators” *with* “of Appendix A to National Instrument 41-101 *General Prospectus Requirements* (“**NI 41-101**)”,
 - (c) *replacing* “personal information in Schedule 1 **Personal Information Form**” *with* “personal information in the personal information form as this term is defined in NI 41-101 (the “**Personal Information Form**)”,” *and*
 - (d) *replacing* “information provided in Schedule 1” *with* “information provided in the Personal Information Form”.
56. *The second paragraph of Schedule 2 of Appendix A is amended by replacing* “Schedule 1” *with* “the Personal Information Form”.
57. *The third paragraph of Schedule 2 of Appendix A is amended by*
- (a) *replacing* “Schedule 1” *with* “the Personal Information Form” *wherever it occurs, and*
 - (b) *at the end of the paragraph, adding the following:*

“Your consent would also extend to the collection, use and disclosure of the Information as described above in respect of other prospectus filings of the Issuer and the prospectus filings of any other issuer in a situation where you are or will be:

- (a) a director, executive officer or promoter of such issuer,
- (b) a director or executive officer of a promoter of such issuer, if the promoter is not an individual, or
- (c) where the issuer is an investment fund, a director or executive officer of the investment fund manager.”.

58. *The title of Schedule 3 of Appendix A is amended by adding “and Securities Regulatory Authorities” after “Regulators”.*

59. *Schedule 3 of Appendix A is amended to replace the contact information of the Alberta Securities Commission with the following:*

“Securities Review Officer
Alberta Securities Commission
Suite 600
250 – 5th Street S.W.
Calgary, Alberta T2P 0R4
Telephone: (403) 297-6454
E-mail: inquiries@seccom.ab.ca
www.albertasecurities.com”.

60. *Appendix A is amended by adding the following schedule after Schedule 3:*

“Schedule 4

PREVIOUSLY FILED PERSONAL INFORMATION FORMS

CERTIFICATE

In connection with the issuer’s (the “**Issuer**”) filing of a prospectus, the personal information forms of the individuals named in the table below (the “**Individuals**”) were previously delivered to one or more regulators or securities regulatory authority listed in Schedule 3 (the “**Regulators**”) of Appendix “A” to NI 41-101 (the “**Personal Information Forms**”). The Personal Information Forms contain information concerning the Individuals for whom an issuer was previously required to provide the information under Part 9 of NI 41-101, Part 4 of NI 44-101 or Part 2 of NI 81-101.

The Issuer confirms that

- (a) a true copy of the Personal Information Form of each of the Individuals
 - (i) is attached to this certificate, as noted in the table below, or
 - (ii) was filed under the issuer name and associated SEDAR project number referenced in the table below*;

Name of Individual	Issuer Name and Associated SEDAR project number (if known)	Personal Information Form (check the box if attached)

- (b) each of the Individuals has advised the Issuer that the individual's responses to the following questions in his/her Personal Information Form remain correct as at the date noted below:
 - (i) questions 4(B) and (C) and questions 6 through 9 if the Personal Information Form was delivered to the Regulator before [insert effective date of amendments]; and
 - (ii) all of questions 6 through 10 if the Personal Information Form was delivered to the Regulator after [insert effective date of amendments]; and
- (c) each Individual has advised the Issuer of the Individual's understanding that his or her statement as to the correctness of the above-noted responses in the Individual's Personal Information Form under paragraph (b) is provided to a Regulator listed in Schedule 3 of Appendix "A" to NI 41-101 and that it is a breach of securities legislation to provide false or misleading information to such Regulator.

Date: _____ [within 30 days of the date of the preliminary prospectus]

Name of Issuer

Per: _____

Name

Official Capacity

(Please print the name of the person signing on behalf of the issuer)

* If the Personal Information Form for an Individual was not previously filed with the principal regulator of the Issuer (as the term “principal regulator” is defined in National Instrument 11-102 *Passport System*), the Issuer must attach a true copy of the Personal Information Form to this Certificate in accordance with subparagraph (a)(i) above, and may not rely on the option available under subparagraph (a)(ii) above. If such form was not previously filed with a non-principal regulator and the Issuer wishes to file its prospectus with the non-principal regulator, the non-principal regulator may request a copy of the Personal Information Form as contemplated in subparagraph (a)(i) above.”

61. Appendix C is amended by replacing “The undersigned accepts the appointment as agent for service of process of [insert name of Issuer]” **with** “The undersigned accepts the appointment as agent for service of process of [insert name of Filing Person]”.

62. Subsection 1.4(2) of Form 41-101F1 Information Required in a Prospectus is amended by replacing

“(a) disclose that a purchaser who acquires securities forming part of the underwriters’ over-allocation position acquires those securities under this prospectus, regardless of whether the over-allocation position is ultimately filled through the exercise of the over-allotment option or secondary market purchases, and

(b) describe the terms of any over-allotment option or an option to increase the size of the distribution before closing.”

with the following:

“(a) describe the terms of the option, and

- (b) provide the following disclosure:

“A purchaser who acquires [*insert type of securities qualified for distribution under the prospectus*] forming part of the underwriters’ over-allocation position acquires those securities under this prospectus, regardless of whether the over-allocation position is ultimately filled through the exercise of the over-allotment option or secondary market purchases.””

- 63. Subsection 1.4(3) of Form 41-101F1 is amended by replacing “, provide totals for both the minimum and maximum offering amount, if applicable.” with “and a minimum offering amount**

- (a) is required for the issuer to achieve one or more of the purposes of the offering, provide totals for both the minimum and maximum offering amount, or
- (b) is not required for the issuer to achieve any of the purposes of the offering, state the following in boldface type:

“There is no minimum amount of funds that must be raised under this offering. This means that the issuer could complete this offering after raising only a small proportion of the offering amount set out above.””.

- 64. Subsection 1.9(1) of Form 41-101F1 is amended by adding “or series” after “class”.**

- 65. Section 1.12 of Form 41-101F1 is amended by**

- (a) **replacing “International issuers” with “Enforcement of judgments against foreign persons or companies”,**
- (b) **adding “a director of the issuer,” after “If the issuer,”,**
- (c) **adding “other” before “person”,**
- (d) **by replacing “required to provide” with “that is signing or providing”, and**
- (e) **replacing “The [issuer, selling securityholder, or person or company providing a certificate” with “The [issuer, director of the issuer, selling securityholder, or any other person or company signing or providing a certificate”.**

- 66. Section 5.4 of Form 41-101F1 is amended by adding “For the purposes of this section, the alternative disclosure permitted in Instruction (ii) to section 5.4 of Form 51-102F2 does not apply.” after “Form 51-102F2.”.**

67. **Subsection 6.3(2) of Form 41-101F1 is amended by**
- (a) **replacing** “subscription” **with** “offering amount”, **and**
 - (b) **replacing** “subscriptions” **with** “offering amounts”.
68. **Section 6.3 of Form 41-101F1 is amended by adding the following subsections after subsection (2):**
- “(3) If all of the following apply, disclose how the proceeds will be used by the issuer, with reference to various potential thresholds of proceeds raised, in the event that the issuer raises less than the maximum offering amount:
- (a) the closing of the distribution is not subject to a minimum offering amount;
 - (b) the distribution of the securities is to be on a best efforts basis; and
 - (c) the issuer has significant short-term non-discretionary expenditures including those for general corporate purposes, or significant short-term capital or contractual commitments, and may not have other readily accessible resources to satisfy those expenditures or commitments.
- (4) If the issuer is required to provide disclosure under subsection (3), the issuer must discuss, in respect of each threshold, the impact (if any) of raising this amount on its liquidity, operations, capital resources and solvency.

INSTRUCTIONS

If the issuer is required to disclose the use of proceeds at various thresholds under subsections 6.3(3) and (4), include as an example a threshold that reflects the receipt of a small portion of the offering.”.

69. **Section 8.5 of Form 41-101F1 is amended by replacing “32.6(1)” with “32.6(2)”.**
70. **Section 10.5 of Form 41-101F1 is amended by**
- (a) **replacing** “disclose” **with** “provide the following disclosure in the prospectus to indicate”, **and**
 - (b) **deleting** “and provide the following disclosure in the prospectus, with the bracketed information completed”.
71. **Section 13.1 of Form 41-101F1 is amended by**
- (a) **adding** “or series” **after** “each class”,

(b) *adding* “or exchangeable” *after* “convertible”, *and*

(c) *adding* “or series” *after* “those classes”.

72. *Subsection 13.2(1) of Form 41-101F1 is amended by*

(a) *replacing* “each class of” *with* “the following”,

(b) *replacing* “is traded” *with* “are traded”,

(c) *adding* “for the securities” *after* “quotation”, *and*

(d) *replacing* “occurs.” *with the following:*

“occurs;

(a) each class or series of securities of the issuer distributed under the prospectus;

(b) securities of the issuer into which those classes or series of securities are convertible or exchangeable.”.

73. *Subsection 13.2(2) of Form 41-101F1 is amended by*

(a) *replacing* “If a class of” *with* “For the following”,

(b) *replacing* “issuer is” *with* “issuer that are”,

(c) *replacing* “is traded” *with* “are traded”,

(d) *adding* “for the securities” *after* “quotation”, *and*

(e) *replacing* “occurs.” *with the following:*

“occurs;

(a) each class or series of securities of the issuer distributed under the prospectus;

(b) securities of the issuer into which those classes or series of securities are convertible or exchangeable.”.

74. *Item 30 is amended by adding the following section after section 30.2:*

“Convertible, exchangeable or exercisable securities

- 30.3** In the case of an offering of convertible, exchangeable or exercisable securities, provide a statement in the following form:

“In an offering of [state name of convertible, exchangeable or exercisable securities], investors are cautioned that the statutory right of action for damages for a misrepresentation contained in the prospectus is limited, in certain provincial [or territorial] securities legislation, to the price at which the [state name of convertible, exchangeable or exercisable securities] is offered to the public under the prospectus offering. This means that, under the securities legislation of certain provinces [or territories], if the purchaser pays additional amounts upon [conversion, exchange or exercise] of the security, those amounts may not be recoverable under the statutory right of action for damages that applies in such provinces [or territories]. The purchaser should refer to the applicable provisions of the purchaser’s province [or territory] for the particulars of this right of action for damages or consult with a legal adviser.””

75. Section 32.1 of Form 41-101F1 is amended by

- (a) renumbering it subsection 32.1(1),**
- (b) replacing “The” with “Subject to subsection (2), the”, and**
- (c) adding the following subsection after subsection (1):**

“(2) A reporting issuer is not required to include the financial statements for an acquisition to which paragraph (1)(a) or (b) applies if

- (a) the issuer was a reporting issuer in any jurisdiction of Canada
 - (i) on the date of the acquisition, in the case of a completed acquisition; or
 - (ii) immediately before the filing of the prospectus, in the case of a proposed acquisition;
- (b) the issuer’s principal asset is not cash, cash equivalents, or its exchange listing; and
- (c) the issuer provides disclosure in respect of the proposed or completed acquisition in accordance with Item 35.”.

76. Section 32.4 of Form 41-101F1 is amended by renumbering it subsection 32.4(1) and by adding the following subsection after subsection (1):

“(2) Paragraphs (1)(a), (b) and (d) do not apply to an issuer

- (a) whose principal asset is cash, cash equivalents or its exchange listing; or
- (b) in respect of financial statements of a reverse takeover acquirer for a completed or proposed transaction by the issuer that was or will be accounted for as a reverse takeover.”.

77. *Subparagraph 32.5(b)(i) of Form 41-101F1 is amended by deleting “and” after “issuer.”.*

78. *Paragraph 32.5(b) of Form 41-101F1 is amended by adding the following subparagraph after subparagraph (i):*

“(i.1) an auditor has not issued an auditor’s report on those financial statements, and”.

79. *Item 32 of Form 41-101F1 is amended by adding the following sections after subsection 32.6(2):*

“Pro forma financial statements for an acquisition

32.7(1) Include the pro forma financial statements prescribed in subsection (2) in respect of a completed or proposed acquisition for which financial statement disclosure is required under section 32.1 if

- (a) less than nine months of the acquired business operations have been reflected in the issuer’s most recent audited financial statements included in the prospectus; and
- (b) the inclusion of the pro forma financial statements is necessary for the prospectus to contain full, true and plain disclosure of all material facts relating to the securities to be distributed.

(2) For the purposes of subsection (1), include the following:

- (a) a pro forma statement of financial position of the issuer, as at the date of the issuer’s most recent statement of financial position included in the prospectus, that gives effect, as if it had taken place as at the date of the pro forma statement of financial position, to the acquisition that has been completed, or that will be completed, but is not reflected in the issuer’s most recent statement of financial position for an annual or interim period;
- (b) a pro forma income statement of the issuer that gives effect to the acquisition completed, or that will be completed, since the beginning of the issuer’s most recently completed financial year for which it has included financial statements in its prospectus, as if it had taken place at the beginning of that financial year, for each of the following periods:

- (i) the most recently completed financial year for which the issuer has included financial statements in its prospectus; and
- (ii) the interim period for which the issuer has included an interim financial report in its prospectus, that started after the after the financial year referred to in subparagraph (i) and ended
 - (A) in the case of a completed acquisition, immediately before the acquisition date or, in the issuer's discretion, after the acquisition date; and
 - (B) in the case of a proposed acquisition, immediately before the date of the filing of the prospectus, as if the acquisition had been completed before the filing of the prospectus and the acquisition date were the date of the prospectus; and
- (c) pro forma earnings per share based on the pro forma financial statements referred to in paragraph (b).
- (3)** If an issuer is required to include pro forma financial statements in its prospectus under subsections (1) and (2),
 - (a) the issuer must identify in the pro forma financial statements each acquisition, if the pro forma financial statements give effect to more than one acquisition,
 - (b) the issuer must include in the pro forma financial statements
 - (i) adjustments attributable to the acquisition for which there are firm commitments and for which the complete financial effects are objectively determinable;
 - (ii) adjustments to conform amounts for the business to the issuer's accounting policies; and
 - (iii) a description of the underlying assumptions on which the pro forma financial statements are prepared, cross-referenced to each related pro forma adjustment;
 - (c) if the financial year-end of the business differs from the issuer's year-end by more than 93 days, for the purpose of preparing the pro forma income statement of the issuer's most recently completed financial year, the issuer must construct an income statement of the business for a period of 12 consecutive months ending no more than 93 days before or after the issuer's year-end, by adding the results for a subsequent interim period to a completed financial year of the business and deducting the comparable interim results for the immediately preceding year;

- (d) if a constructed income statement is required under paragraph (c), the pro forma financial statements must disclose the period covered by the constructed income statement on the face of the pro forma financial statements and must include a note stating that the financial statements of the business used to prepare the pro forma financial statements were prepared for the purpose of the pro forma financial statements and do not conform with the financial statements for the business included elsewhere in the prospectus;
- (e) if an issuer is required to prepare a pro forma income statement for an interim period required by paragraph (2)(b), and the pro forma income statement for the most recently completed financial year includes results of the business which are also included in the pro forma income statement for the interim period, the issuer must disclose in a note to the pro forma financial statements the revenue, expenses, and profit or loss from continuing operations included in each pro forma income statement for the overlapping period; and
- (f) a constructed period referred to in paragraph (c) does not have to be audited.

Pro forma financial statements for multiple acquisitions

- 32.8** Despite subsection 32.7(1), an issuer is not required to include in its prospectus the pro forma financial statements otherwise required for each acquisition, if the issuer includes in its prospectus one set of pro forma financial statements that
- (a) reflects the results of each acquisition since the beginning of the issuer's most recently completed financial year for which financial statements of the issuer are included in the prospectus, and
 - (b) is prepared as if each acquisition had occurred at the beginning of the most recently completed financial year of the issuer for which financial statements of the issuer are included in the prospectus.

Exemption from financial statement disclosure for oil & gas acquisitions

- 32.9(1)** The issuer is exempt from sections 32.2, 32.3 and 32.7 that apply to a completed or proposed acquisition by operation of section 32.1 if
- (a) the acquisition is an acquisition of a business which is an interest in an oil and gas property;
 - (b) the acquisition is an acquisition to which section 32.1 applies;

- (c) the acquisition is not an acquisition of securities of another issuer, unless the vendor transferred the business referenced in paragraph (1)(a) to such other issuer which
 - (i) was created for the sole purpose of facilitating the acquisition; and
 - (ii) other than assets or operations relating to the transferred business, has no
 - (A) substantial assets; or
 - (B) operating history;
- (d) the issuer is unable to provide the financial statements in respect of the acquisition otherwise required under sections 32.2 and 32.3 because those financial statements do not exist or because the issuer does not have access to those financial statements;
- (e) the acquisition does not constitute a reverse takeover;
- (f) subject to subsections (2) and (3), in respect of the business for each of the financial periods for which financial statements would, but for this section, be required under sections 32.2 and 32.3, the prospectus includes
 - (i) an operating statement for the business prepared in accordance with section 3.17 of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*;
 - (ii) a pro forma operating statement of the issuer that gives effect to the acquisition completed or to be completed since the beginning of the issuer's most recently completed financial year for which financial statements are required to have been filed, as if the acquisition had taken place at the beginning of that financial year, for each of the financial periods referred to in paragraph 32.7(2)(b), unless
 - (A) more than nine months of the acquired business operations have been reflected in the issuer's most recent audited financial statements included in the prospectus; or
 - (B) the inclusion of the pro forma financial statements is not necessary for the prospectus to contain full, true and plain disclosure of all material facts relating to the securities to be distributed;
 - (iii) a description of the property or properties and the interest acquired by the issuer; and
 - (iv) disclosure of the annual oil and gas production volumes from the business;

- (g) the operating statement for the three most recently completed financial years has been audited;
- (h) the prospectus discloses
 - (i) the estimated reserves and related future net revenue attributable to the business, the material assumptions used in preparing the estimates and the identity and relationship to the issuer or to the vendor of the person who prepared the estimates; and
 - (ii) the estimated oil and gas production volumes from the business for the first year reflected in the estimated disclosure under subparagraph (i).
- (2) An issuer is exempted from subparagraphs (1)(f)(i), (ii) and (iv), if
 - (a) production, gross revenue, royalty expenses, production costs and operating income were nil, or are reasonably expected to be nil for the business for each financial period; and
 - (b) the prospectus discloses the applicable facts referred to in paragraph (a).
- (3) An issuer is exempted from paragraphs 32.9(1)(f) and (g) in respect of the third most recently completed financial year if the issuer has completed the acquisition and has included in the prospectus the following:
 - (a) information in accordance with Form 51-101F1 as of a date commencing on or after the acquisition date and within 6 months of the date of the preliminary prospectus;
 - (b) a report in the form of Form 51-101F2 on the reserves data included in the disclosure required under paragraph (a);
 - (c) a report in the form of Form 51-101F3 that refers to the information disclosed under paragraph (a).”.

80. Subsection 35.1(1) of Form 41-101F1 is amended by replacing

“35.1(1) This Item does not apply to a completed or proposed transaction by the issuer that was or will be a reverse takeover or a transaction that is a proposed reverse takeover that has progressed to a state where a reasonable person would believe that the likelihood of the reverse takeover being completed is high.”

with the following:

“35.1(1) This Item does not apply to

- (a) a completed or proposed transaction by the issuer that was or will be a reverse takeover or a transaction that is a proposed reverse takeover that has progressed to a state where a reasonable person would believe that the likelihood of the reverse takeover being completed is high; or
- (b) a completed or proposed acquisition
 - (i) by the issuer if
 - (A) the issuer’s principal asset is cash, cash equivalents or its exchange listing; or
 - (B) the issuer was not a reporting issuer in any jurisdiction
 - (I) on the acquisition date, in the case of a completed acquisition; and
 - (II) immediately before filing the prospectus, in the case of a proposed acquisition; and
 - (ii) to which Item 32 applies by operation of section 32.1.”.

81. ***Paragraph 35.1(1)(a) of Form 41-101F1 is amended by replacing “high” with “high; or”.***

82. ***Subsection 35.1(2) of Form 41-101F1 is repealed.***

83. ***Paragraph 35.3(1)(d) of Form 41-101F1 is amended by***

(a) adding “date” after “acquisition”, and

(b) deleting “completed”.

84. ***General Instruction (7) of Form 41-101F2 Information Required in an Investment Fund Prospectus is amended by replacing***

“(7) The disclosure required in this Form must be presented in the order and using the headings specified in the Form. However, scholarship plans may make modifications to the disclosure items in order to reflect the special nature of their investment structure and distribution mechanism.”

with the following:

“(7) The disclosure required in this Form must be presented in the order and using the headings specified in the Form. If no sub-heading for an Item is stipulated in this Form,

an investment fund may include sub-headings, under the required headings, at its option.”

85. Subsection 1.4(3) of Form 41-101F2 is amended by replacing

- “(a) disclose that a purchaser who acquires securities forming part of the underwriters' over-allocation position acquires those securities under this prospectus, regardless of whether the over-allocation position is ultimately filled through the exercise of the over-allotment option or secondary market purchases, and
- (b) describe the terms of the option.”

with the following:

- “(a) describe the terms of the option, and
- (b) provide the following disclosure:

“A purchaser who acquires [*insert type of securities qualified for distribution under the prospectus*] forming part of the underwriters' over-allocation position acquires those securities under this prospectus, regardless of whether the over-allocation position is ultimately filled through the exercise of the over-allotment option or secondary market purchases.””

86. Subsection 1.4(4) of Form 41-101F2 is amended by replacing “provide totals for both the minimum and maximum offering amount, if applicable.” with “and a minimum offering amount

- (a) is required for the issuer to achieve one or more of the purposes of the offering, provide totals for both the minimum and maximum offering amount, or
- (b) is not required for the issuer to achieve any of the purposes of the offering, state the following in boldface type:

“There is no minimum amount of funds that must be raised under this offering. This means that the issuer could complete this offering after raising only a small proportion of the offering amount set out above.””

87. Subsection 1.11(2) of Form 41-101F2 is amended by deleting “Underwriting Conflicts”.

88. Subsection 1.12(4) of Form 41-101F2 is amended by adding “of” after “execution, delivery and clearing”.

89. Section 1.14 of Form 41-101F2 is amended by replacing

“1.14 - Non-Canadian Manager

If the investment fund manager is incorporated, continued or otherwise organized under the laws of a foreign jurisdiction or resides outside of Canada, state the following with the bracketed information completed:

“The manager is incorporated, continued or otherwise governed under the laws of a foreign jurisdiction or resides outside Canada. Although the manager has appointed [name and address of agent for service] as its agent for service of process in Canada, it may not be possible for investors to realize on judgements obtained in Canada against the manager.””

with the following:

“1.14 – Non-Canadian Investment Fund

If the investment fund, investment fund manager or any other person or company required to provide a certificate under Part 5 of the Instrument or other securities legislation, is incorporated, continued or otherwise organized under the laws of a foreign jurisdiction or resides outside of Canada, state the following on the cover page or under a separate heading elsewhere in the prospectus, with the bracketed information completed:

“The [investment fund, investment fund manager or any other person or company required to provide a certificate under Part 5 of the Instrument or other securities legislation] is incorporated, continued or otherwise governed under the laws of a foreign jurisdiction or resides outside Canada. Although the [person or company described above] has appointed [name(s) and address(es) of agent(s) for service] as its agent for service of process in [list jurisdictions], it may not be possible for investors to realize on judgments obtained in Canada against the [person or company described above].””.

90. Section 3.3 is amended by:

(a) in paragraph 3.3(1)(e), replacing

“(e) the use of leverage, including any restrictions and the maximum amount of leverage the fund could use expressed as a ratio as follows: (total long positions including leveraged positions plus total short positions) divided by the net assets of the investment fund,”

with the following:

“(e) the use of leverage, including the following:

- (i) if leverage is created through borrowing or the issuance of preferred securities, disclose any restrictions on the leverage used or to be used and whether the investment fund will borrow a minimum amount. Disclose the maximum amount of leverage the investment fund may use as a ratio calculated by dividing the maximum total assets of the investment fund by the net asset value of the investment fund, and
- (ii) if leverage is created through the use of specified derivatives or by other means not disclosed in subparagraph (i), disclose any restrictions on the leverage used or to be used by the investment fund and whether the investment fund will use a minimum amount of leverage. Disclose the maximum amount of leverage the fund may use as a multiple of net assets. Provide a brief explanation of how the investment fund uses the term “leverage” and the significance of the maximum and minimum amounts of leverage to the investment fund,” **and**

(b) inserting the following after subsection (2):

“INSTRUCTIONS

(1) For the purposes of Item 3.3(1)(e)(i), a fund must calculate its maximum total assets by aggregating the maximum value of its long positions, short positions and the maximum amount that may be borrowed.

(2) For the purposes of the disclosure required by Item 3.3(1)(e)(ii), the term “specified derivative” has the same meaning as in NI 81-102. The description of an investment fund’s use of leverage under Item 3.3(1)(e)(ii) must provide investors with sufficient information to understand the magnitude of the market exposure of the investment fund as compared to the amount of money raised by the investment fund from investors.”

91. Subsection 3.4(1) of Form 41-101F2 is amended by replacing “registrar and transfer agent and auditor” with “registrar and transfer agent, auditor and principal distributor”.

92. Subsection 3.6(4) of Form 41-101F2 is amended by replacing

“(4) Under the sub-heading “Annual Returns and Management Expense Ratio”, provide, in the following table, returns for each of the past five years and the management expense ratio for each of the past five years as disclosed in the most recently filed annual management report of fund performance of the investment fund:

	[specify year]	[specify year]	[specify year]	[specify year]	[specify year]
Annual Returns					
MER					

“MER” means management expense ratio.”

with the following:

- “(4) Under the sub-heading “Annual Returns, Management Expense Ratio and Trading Expense Ratio”, provide, in the following table, returns for each of the past five years, the management expense ratio for each of the past five years and the trading expense ratio for each of the past five years as disclosed in the most recently filed annual management report of fund performance of the investment fund:

	[specify year]	[specify year]	[specify year]	[specify year]	[specify year]
Annual Returns	.....	.....	.....	.....	.....
MER	.....	.....	.....	.....	.....
TER	.....	.....	.....	.....	.....

“MER” means management expense ratio and is based on total expenses (excluding commissions and other portfolio transaction costs) and is expressed as an annualized percentage of daily average net asset value.

“TER” means trading expense ratio and represents total commissions and portfolio transaction costs expressed as an annualized percentage of daily average net asset value.”

93. Section 6.1 of Form 41-101F2 is amended by:

(a) in paragraph 6.1(1)(b), replacing

“(b) the use of leverage, including any restrictions and the maximum amount of leverage the fund can use, expressed as a ratio as follows: (total long positions including leveraged positions plus total short positions) divided by the net assets of the investment fund, and”

with the following:

“(b) the use of leverage, including the following:

- (i) if leverage is created through borrowing or the issuance of preferred securities, disclose any restrictions on the leverage used or to be used and whether the investment fund will borrow a minimum amount. Disclose the maximum amount of leverage the investment fund may use as a ratio calculated by dividing the maximum total assets of the investment fund by the net asset value of the investment fund, and
- (ii) if leverage is created through the use of specified derivatives or by other means not disclosed in subparagraph (i), disclose any restrictions on the leverage used or to be used by the investment fund and whether the investment fund will use a minimum amount of leverage. Disclose the maximum amount of leverage the fund may use as a multiple of net assets. Provide a brief explanation of how the investment fund uses the term “leverage” and the significance of the maximum and minimum amounts of leverage to the investment fund, and”, **and**

(b) inserting the following after subsection (5):

“INSTRUCTIONS:

(1) For the purposes of Item 6.1(1)(b)(i), a fund must calculate its maximum total assets by aggregating the maximum value of its long positions, short positions and the maximum amount that may be borrowed.

(2) For the purposes of the disclosure required by Item 6.1(1)(b)(ii), the term “specified derivative” has the same meaning as in NI 81-102. The description of an investment fund’s use of leverage under Item 6.1(1)(b)(ii) must provide investors with sufficient information to understand the magnitude of the market exposure of the investment fund as compared to the amount of money raised by the investment fund from investors.”

94. Section 11.1 of Form 41-101F2 is replaced with the following:

“11.1 – Annual Returns, Management Expense Ratio and Trading Expense Ratio

Under the heading “Annual Returns, Management Expense Ratio and Trading Expense Ratio”, provide, in the following table, returns for each of the past five years, the management expense ratio for each of the past five years and the trading expense ratio for each of the past five years as disclosed in the most recently filed annual management report of fund performance of the investment fund:

	[specify year]	[specify year]	[specify year]	[specify year]	[specify year]
Annual Returns
MER
TER

“MER” means management expense ratio and is based on total expenses (excluding commissions and other portfolio transaction costs) and is expressed as an annualized percentage of daily average net asset value.

“TER” means trading expense ratio and represents total commissions and portfolio transaction costs expressed as an annualized percentage of daily average net asset value.”

95. Section 19.1 of Form 41-101F2 is amended by

- (a) repealing paragraph 19.1(1)(c),**
- (b) replacing “investment fund” with “issuer” after the words “officer of any other” in subsection 19.1(2),**
- (c) replacing “investment fund” with “issuer” after the words “executive officer of any” in paragraph 19.1(4)(a),**
- (d) adding the following after subsection (9):**

“(10) Under the heading “Ownership of Securities of the Investment Fund and of the Manager” disclose

- (a) the percentage of securities of each class or series of voting or equity securities beneficially owned, directly or indirectly, in aggregate, by all the directors and executive officers of the investment fund**
 - (i) in the investment fund if the aggregate level of ownership exceeds 10 percent,**
 - (ii) in the manager, or**
 - (iii) in any person or company that provides services to the investment fund or the manager; and**

- (b) the percentage of securities of each class or series of voting or equity securities beneficially owned, directly or indirectly, in aggregate, by all the directors and executive officers of the manager of the investment fund
 - (i) in the investment fund if the aggregate level of ownership exceeds 10 percent,
 - (ii) in the manager, or
 - (iii) in any person or company that provides services to the investment fund or the manager; and
- (c) the percentage of securities of each class or series of voting or equity securities beneficially owned, directly or indirectly, in aggregate, by all the independent review committee members of the investment fund
 - (i) in the investment fund if the aggregate level of ownership exceeds 10 percent,
 - (ii) in the manager, or
 - (iii) in any person or company that provides services to the investment fund or the manager.
- (11) If the management functions of the investment fund are carried out by employees of the investment fund, provide for those employees the disclosure concerning executive compensation that is required to be provided for executive officers of an issuer under securities legislation.
- (12) Describe any arrangements under which compensation was paid or payable by the investment fund during the most recently completed financial year of the investment fund, for the services of directors of the investment fund, members of an independent board of governors or advisory board of the investment fund and members of the independent review committee of the investment fund, including the amounts paid, the name of the individual and any expenses reimbursed by the investment fund to the individual
 - (a) in that capacity, including any additional amounts payable for committee participation or special assignments; and
 - (b) as consultant or expert.

- (13) For an investment fund that is a trust, describe the arrangements, including the amounts paid and expenses reimbursed, under which compensation was paid or payable by the investment fund during the most recently completed financial year of the investment fund for the services of the trustee or trustees of the investment fund.”, **and**

(e) **inserting the following after Instruction (4):**

“(5) The disclosure required under Item 19.1(10) regarding executive compensation for management functions carried out by employees of an investment fund must be made in accordance with the disclosure requirements of Form 51-102F6.”.

96. Section 19 of Form 41-101F2 is amended by adding the following after section 19.9:

“19.10 – Principal Distributor

- (1) If applicable, state the name and address of the principal distributor of the investment fund.
- (2) Describe the circumstances under which any agreement with the principal distributor of the investment fund may be terminated and include a brief description of the essential terms of this agreement.”

97. Paragraph 21.2(f) of Form 41-101F2 is amended by replacing “dividends” with “distributions”.

98. Subsection 21.6(1) of Form 41-101F2 is amended by replacing “the” with “a” after the words “proposes to distribute under”.

99. Subsection 28.1(1) of Form 41-101F2 is amended by adding “, if known or if ought to be known by the investment fund or the manager” after the words “securityholder of the investment fund”.

100. Section 33.2 of Form 41-101F2 is amended by adding the following after subsection 33.2(3):

“(4) Despite subsection (1), an auditor who is independent in accordance with the auditor’s rules of professional conduct in a jurisdiction of Canada or has performed an audit in accordance with US GAAS is not required to provide the disclosure in subsection (1) if there is disclosure that the auditor is independent in accordance with the auditor’s rules of professional conduct in a jurisdiction of Canada or that the auditor has complied with the SEC’s rules on auditor independence.”

Section 39 of Form 41-101F2 is amended by adding the following after section 39.4:

“39.4.1 – Certificate of the Principal Distributor

If there is a principal distributor of the investment fund, include a certificate in the same form as the certificate of the investment fund.”

101. This Instrument comes into force on ●, 2012.

**Amendments to
Companion Policy 41-101CP to National Instrument 41-101
General Prospectus Requirements**

1. *Companion Policy 41-101CP to National Instrument 41-101 General Prospectus Requirements is amended.*
2. *Subsection 1.2(5) is amended by replacing “Companion Policy” with “companion policy”.*
3. *The following section is added after section 2.2:*

“Minimum offering amount

- 2.2.1 If the distribution of securities is being done on a best efforts basis, an issuer will need to determine if a minimum offering is required for the issuer to achieve one or more of the stated purposes of the offering, as expressed in the “Use of Proceeds” section of the prospectus. If this is the case, the issuer will need to provide a minimum and maximum offering amount. Otherwise, the issuer is required to provide the cautionary statement prescribed in paragraph 1.4(3)(b) of Form 41-101F1.

Although an issuer may determine that a minimum offering amount is not necessary for the prospectus offering, a regulator may reasonably infer that a minimum offering amount is appropriate in certain circumstances. This could occur, for example, if we have concerns that a minimum amount of proceeds must be raised in order for the issuer to achieve its stated objectives. Also, if we have concerns about an issuer continuing as a going concern, we may take the view that the issuer cannot achieve its stated objectives unless a minimum offering amount is raised. The imposition of a minimum offering amount by a regulator derives from the general responsibility of a regulator under securities laws to refuse a receipt for a prospectus if it appears that the aggregate of the proceeds from the sale of the securities under the prospectus and other resources of the issuer are insufficient to accomplish the purposes stated in the prospectus, or if it would not be in the public interest to issue a receipt. A benefit of the imposition of a minimum offering amount is that if the issuer fails to raise the minimum amount, investors benefit from an investor protection mechanism that facilitates the return of their subscription funds to them, if previously deposited.”.

4. *Section 2.9 is replaced with the following:*

“Offerings of convertible, exchangeable or exercisable securities

- 2.9 Investor protection concerns may arise where the distribution of a convertible, exchangeable or exercisable security is qualified under a prospectus and the

subsequent conversion, exchange or exercise of this security is made on a prospectus-exempt basis. Specifically, this concern arises when the subsequent conversion, exchange or exercise occurs within a short period of time – generally 180 days or less - following the purchase of the original security.

The concerns arise because the conversion, exchange or exercise feature of the security may operate to limit or “strip away” the remedies available to an investor for a misrepresentation in a prospectus.

In particular, we are concerned about offerings of subscription receipts, or other types of securities which may be convertible, exchangeable or exercisable within a short period of time following the purchase of the original security (generally 180 days or less), where the investor, when purchasing the subscription receipt, or other similar type of security, is in effect also making an investment decision in respect of the underlying security.

Public interest concerns arise if the subsequent distribution of the underlying security is not part of the initial distribution and is not qualified by the prospectus. These concerns arise because when the security is converted, exchanged or exercised prior to the end of the statutory period for a right of action for rescission under securities legislation (which in many jurisdictions is 180 days from the date of purchase of the original security), the purchaser of a convertible, exchangeable or exercisable security does not retain the same rights to rescission because the convertible, exchangeable or exercisable security that was issued under the prospectus has been replaced by the underlying security. In these circumstances, the original purchaser should retain the benefit of any remaining statutory right of rescission that would otherwise apply in respect of the convertible, exchangeable or exercisable security. As such, the issuer should provide the original purchaser of the convertible, exchangeable or exercisable security with a contractual right of rescission in respect of the conversion, exchange or exercise transaction.

In some cases, the subsequent distribution of the underlying security may be part of the initial distribution as it is part of a series of transactions involving further purchases and sales in the course of or incidental to a distribution. If this is the case the issuer should consider whether its prospectus should qualify the distribution of both the subscription receipt, or other similar type of security, as well as the underlying security.

The guidance above would not apply to an offering of warrants where the warrants may reasonably be regarded as incidental to the offering as a whole. For example, in the case of a typical special warrant offering, the special warrant converts into i) a common share, and ii) a common share purchase warrant (or a fraction thereof). In such cases, we have generally accepted that the common share purchase warrant component merely represents a “sweetener”, and that the primary investment decision relates to the common share underlying the special warrant. This would also generally be the case with a unit offering where the unit

consists of a common share, and a common share purchase warrant. Therefore, the regulator would not generally request that the issuer provide the original purchaser with a contractual right of rescission in respect of the sweetener warrants.”

5. *The second paragraph of section 3.4 is amended by replacing “10.1(1)” with “10.1(1.1)”.*

6. *Section 4.2 is amended by adding the following subsection after subsection (2):*

“(3) If a minimum offering amount is not provided and the issuer faces significant short-term expenditures or commitments, the issuer must provide additional disclosure as required under subsections 6.3(3) and (4) of Form 41-101F1 or subsections 4.2(3) and (4) of Form 44-101F1. The issuer must provide disclosure of how it will use the proceeds at different thresholds, describing what business objectives will be accomplished at each threshold as well as the priority of how the proceeds will be used. In describing the use of proceeds under each threshold, the disclosure must also include an assessment of the impact of raising this amount on the issuer’s liquidity, operations, capital resources and solvency.

Disclosures that may be necessary to understand this impact may include the following examples:

- (a) for issuers without significant revenue and available working capital, disclose the anticipated length of time that the proceeds at each threshold will suffice to meet expected cash requirements;
- (b) for issuers that have or anticipate having within the next 12 months any cash flow or liquidity problems, disclose how the proceeds at each threshold may impact the issuer’s ability to continue in operation for the foreseeable future and realize assets and discharge liabilities in the normal course of operations;
- (c) for issuers that have significant projects that have not yet commenced operations and the projects have therefore not yet generated revenue, describe how the proceeds at each threshold may impact the anticipated timing and costs of the project and other critical milestones;
- (d) for issuers that have exploration and development expenditures or research and development expenditures required to maintain properties or agreements in good standing, describe how the proceeds at each threshold may impact these properties or agreements.

If the issuer anticipates additional funds from other sources are to be used in conjunction with the proceeds and the available working capital, the issuer will need to sufficiently describe the amounts of those funds, the source of those funds and whether those funds

are firm or contingent. If the funds are contingent, the issuer should describe the nature of the contingency.

Depending on the particular circumstances of the issuer, one or more of the above examples may require the provision of a minimum offering amount in the prospectus. Refer to section 2.2.1 of this Policy for additional guidance.”.

7. Subsection 5.3(1) is amended by

(a) in the first paragraph, adding the following after the first sentence:

“However, if the issuer is a reporting issuer whose principal assets are not cash, cash equivalents or an exchange listing, and the acquisition of the primary business represents a significant acquisition for the issuer, the reporting issuer is subject to the requirements of Item 35 in respect of the financial statement and other disclosure for the acquisition.

An acquisition does not include a reverse takeover, as defined in NI 41-101 which cross-references the meaning of acquisition as used in Part 8 of NI 51-102. Therefore a reporting issuer cannot rely on the exemption in subsection 32.1(2) if the applicable transaction is a reverse takeover.”, **and**

(b) in the third paragraph, adding “, thereby triggering the application of Item 32,” before “are when the acquisition(s) was”.

8. Subsection 5.3(2) is amended by adding the following paragraph at the end:

“The issuer must also consider the necessity of including pro forma financial statements pursuant to section 32.7 of Form 41-101F1 to illustrate the impact of the acquisition of the primary business on the issuer’s financial position and results of operations. For additional guidance, an issuer should refer to section 5.10 of this Policy.”.

9. Subsection 5.4(1) is amended by replacing “In these circumstances, the issuer should consider including pro forma financial statements in the prospectus giving effect to the recently completed or proposed acquisition of a predecessor entity.” with the following:

“However, if the issuer is a reporting issuer whose principal assets are not cash, cash equivalents or an exchange listing, and the acquisition of the predecessor entity represents a significant acquisition for the issuer, the reporting issuer is subject to the requirements of Item 35 in respect of the financial statement and other disclosure for the acquisition.

The issuer must also consider the necessity of including pro forma financial statements pursuant to section 32.7 of Form 41-101F1 to illustrate the impact of the acquisition of the predecessor entity on the issuer’s financial position and results of operations. For additional guidance, an issuer should refer to section 5.10 of this Policy.”.

10. Subsection 5.9(7) is amended by

- (a) **adding “to” before “private enterprises in certain circumstances.”, and**
- (b) **adding “and the issuer must provide financial statements for this acquisition under Item 32” after “predecessor of the issuer”.**

11. Section 5.10 is replaced with the following:

“Financial statements for acquisitions of a predecessor entity, a business or businesses acquired by reporting and non-reporting issuers

5.10(1) The financial statements for acquisitions of a predecessor entity, a business or businesses acquired by the issuer, or other entity must be included in the prospectus under Item 32 of Form 41-101F1, if the entities or businesses satisfy the conditions of paragraph 32.1(1)(a), (b), or (c) of Form 41-101F1 and

- (a) the issuer was not a reporting issuer in any jurisdiction on the acquisition date in the case of a completed acquisition or immediately prior to the prospectus filing in the case of a proposed acquisition, as set out in section 35.1 of Form 41-101F1; or
- (b) the issuer was a reporting issuer with only cash, cash equivalents or an exchange listing as its principal asset.

If the issuer was a reporting issuer prior to the filing of the prospectus, but its principal asset was not cash, cash equivalents or its exchange listing, the issuer would be eligible to disclose the above-noted acquisitions in accordance with Item 35. The disclosure requirements applicable to a reporting issuer in Item 35 are intended to reflect the requirements that would be prescribed for such acquisitions in the reporting issuer’s business acquisition report.

(2) An issuer that is subject to Item 32 must also consider the necessity of including pro forma financial statements pursuant to section 32.7 of Form 41-101F1 to illustrate the impact of the acquisition on the issuer’s financial position and results of operations. However, these pro forma financial statements are only required if their inclusion is necessary for the prospectus to contain full, true and plain disclosure of all material facts relating to the securities being distributed. Examples of when pro forma financial statements would likely be necessary are in cases where:

- (a) the issuer has acquired multiple businesses over the relevant period; or
- (b) the issuer has an active business and has acquired another business that will constitute its primary business going forward.

In certain circumstances, an issuer may need to disclose multiple acquisitions in its prospectus where the acquisitions include an acquisition of a primary business or predecessor entity to which section 32.1 of Form 41-101F1 applies and a significant acquisition to which only item 35 of Form 41-101F1 applies. In this case, the issuer may wish to present one set of pro forma financial statements reflecting the results of all of the acquisitions, as contemplated separately in each of sections 32.8 and 35.7 of Form 41-101F1. The securities regulatory authority or regulator would not generally object to providing this relief. However the issuer must request the relief when filing its preliminary prospectus.”.

- 12.** These amendments become effective on ●, 2012.

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

1. *National Instrument 44-101 Short Form Prospectus Distributions is amended by this Instrument.*

2. *Section 1.1 is amended by*

(a) *after the definition of “permitted supranational agency”, adding the following definition:*

““reverse takeover acquiree” has the same meaning as in section 1.1 of NI 51-102;”, ***and***

(b) *replacing the definition of “successor issuer” with the following:*

““successor issuer” means

(a) except for an issuer which, in the case where the restructuring transaction involved a divestiture of a portion of a reporting issuer’s business, succeeded to or otherwise acquired less than substantially all of the business divested, an issuer that meets any of the following requirements:

(i) it was a reverse takeover acquiree in a completed reverse takeover;

(ii) it exists as a result of a completed restructuring transaction;

(iii) it participated in a restructuring transaction and its existence continued following the completion of the restructuring transaction;
or

(b) an issuer that issued securities to the securityholders of a second issuer that was a reporting issuer, in a reorganization that did not alter those securityholders’ proportionate interest in the second issuer or the second issuer’s proportionate interest in its assets;”.

3. *Section 2.7 is amended by*

(a) *replacing “Exemptions for New Reporting Issuers and Successor Issuers” in the title with “Exemptions for Reporting Issuers that Previously Filed a Prospectus and Successor Issuers”, and*

(b) *adding the following subsection after subsection (1):*

“(1.1) Subparagraphs 2.2(d)(ii), 2.3(1)(d)(ii) and 2.6(1)(b)(ii) do not apply to an issuer if

- (a) the issuer has filed annual financial statements as required under the applicable CD rule, and
- (b) unless the issuer is seeking qualification under section 2.6, the issuer has filed and obtained a receipt for a final prospectus that included the issuer’s or each predecessor entity’s comparative annual financial statements for its most recently completed financial year or the financial year immediately preceding its most recently completed financial year, together with the auditor’s report accompanying those financial statements and, if there has been a change of auditors since the comparative period, an auditor’s report on the financial statements for the comparative period.”

4. **Subsection 2.7(1) is amended by replacing** “Paragraph 2.2(d), paragraph 2.3(1)(d) and paragraph 2.6(1)(b)” **with** “Paragraphs 2.2(d), 2.3(1)(d) and 2.6(1)(b)”.
5. **Paragraph 2.7(1)(a) is amended by adding** “any” **after** “has not yet been required under the applicable CD rule to file”.
6. **Paragraph 2.7(2)(a) is amended by adding** “or the reorganization described in paragraph (b) of the definition of “successor issuer”,” **after** “transaction”.
7. **Paragraph 2.7(2)(b) is amended by**
 - (a) **replacing** “that” **with** “or the reorganization described in paragraph (b) of the definition of “successor issuer”, in which the successor issuer participated or which”,
 - (b) **adding** “or reorganization” **after** “an issuer that was a party to the restructuring transaction”, **and**
 - (c) **adding** “, in the case of a restructuring transaction” **after** “circular”.
8. **Section 2.7 is amended by adding the following subsection after subsection (2):**

“(3) Paragraphs 2.2(d), 2.3(1)(d) and 2.6(1)(b) do not apply to an issuer if

 - (a) the issuer is not exempt from the requirement in the applicable CD rule to file annual financial statements within a prescribed period after its financial year end, but the issuer has not yet, since the completion of a qualifying transaction or reverse takeover (as both terms are defined in the TSX Venture Exchange Corporate Finance Manual as

amended from time to time) been required under the applicable CD rule to file annual financial statements, and

- (b) a CPC filing statement (as defined in the TSX Venture Exchange Corporate Finance Manual as amended from time to time) or other filing statement of the TSX Venture Exchange was filed by the issuer, and
 - (i) in the case of a CPC filing statement, such statement
 - (A) was filed in connection with a qualifying transaction, and
 - (B) complied with the TSX Venture Exchange Corporate Finance Manual, as amended from time to time, in respect of that qualifying transaction; or
 - (ii) in the case of a TSX Venture Exchange filing statement, other than a CPC filing statement, such statement
 - (A) was filed in connection with a reverse takeover, and
 - (B) complied with TSX Venture Exchange Corporate Finance Manual, as amended from time to time, in respect of that reverse takeover.”.

9. Subsection 2.8(5) is repealed.

10. Section 2.8 is amended by adding the following subsection after subsection (5):

- “(6) For the purposes of this section, an issuer is exempted from the requirement to wait at least 10 business days between filing the notice referred to in subsection (1) and filing its first preliminary short form prospectus if
 - (a) in the case of an issuer that is relying on section 2.4 or 2.5 in order to qualify to file a short form prospectus, the following requirements are met:
 - (i) the issuer satisfies the requirements of section 2.4 or 2.5, as applicable, at the time of filing its short form prospectus;
 - (ii) the issuer files its notice of intention before or concurrently with the filing of its preliminary short form prospectus; and
 - (iii) the issuer’s credit supporter
 - (A) previously filed a notice of intention under subsection (1) which has not been withdrawn; or

- (B) is deemed to have filed a notice of intention under subsection (4); or
- (b) in the case of an issuer that is a successor issuer, the following requirements are met:
 - (i) the issuer satisfies the requirements of any of section 2.2, 2.3 or 2.6 and subsection 2.7(2);
 - (ii) the issuer files its notice of intention before or concurrently with the filing of its preliminary short form prospectus; and
 - (iii) the issuer has acquired substantially all of its business from a predecessor entity which
 - (A) previously filed a notice of intention under subsection (1) which has not been withdrawn; or
 - (B) is deemed to have filed a notice of intention under subsection (4).”.

11. Section 4.1 is amended by renumbering it as subsection 4.1(1).

12. Subparagraph 4.1(1)(b)(i) is amended by

(a) replacing “Appendix A to NI 41-101” with “personal information form”, and

(b) deleting “;” after “for”.

13. Clause 4.1(1)(b)(i)(D) is amended by

(a) replacing “executive officer of the promoter,” with “executive officer of the promoter; and”, and

(b) deleting “for whom the issuer has not previously filed or delivered,”.

14. Clause 4.1(1)(b)(i)(E) is repealed.

15. Clause 4.1(1)(b)(i)(F) is repealed.

16. Clause 4.1(1)(b)(i)(G) is repealed.

17. Section 4.1 is amended by adding the following after subsection (1):

- “(2) Despite subparagraph (1)(b)(ii), an issuer is not required to file a personal information form for an individual if all of the following are satisfied:
- (a) a personal information form of the individual has been executed by the individual within three years preceding the date of the filing of the preliminary short form prospectus;
 - (b) the personal information form was delivered to the regulator or, in Québec, the securities regulatory authority
 - (i) by an issuer on behalf of the individual on or after [insert effective date of amendments]; or
 - (ii) by the issuer on behalf of the individual after March 16, 2008 but before [insert effective date of amendments] in the form set out in Appendix A to NI 41-101 in effect during this period;
 - (c) the information concerning the individual contained in the responses to
 - (i) questions 6 through 10 of the personal information form referenced in subparagraph (b)(i) remain correct as at the date of the certificate referred to in paragraph (d); or
 - (ii) questions 4(B) and (C) and questions 6 through 9 of the personal information form referenced in subparagraph (b)(ii) remain correct as at the date of the certificate referred to in paragraph (d);
 - (d) the issuer delivers to the regulator or, in Québec, the securities regulatory authority, concurrently with the filing of the preliminary short form prospectus, a certificate of the issuer in the form set out in Schedule 4 of Appendix A to NI 41-101 stating that the individual has provided the issuer with confirmation in respect of the requirement contained in paragraph (c);
 - (e) the certificate referenced in paragraph (d) is dated no earlier than 30 days before the filing of the preliminary short form prospectus.”.

18. Subparagraph 4.2(a)(vi) is amended by

- (a) *deleting “and” in clause (A),*
- (b) *adding the following clause after clause (A):*

“(A.1) each director of the issuer, and”, *and*

- (c) *replacing* “each person or company required to provide a certificate under Part 5 of NI 41-101 or other securities legislation, other than an issuer,” *in clause (B) with* “any other person or company that provides or signs a certificate under Part 5 of NI 41-101 or other securities legislation, other than an issuer,”.

19. Subparagraph 4.2(a)(x) is amended by

- (a) *after* “Undertaking to File”, *replacing* “Documents and Material Contracts” *with* “Agreements, Contracts and Material Contracts”,
- (b) *replacing* “a document referred to in subparagraph (iii) or (iii.1)” *with* “an agreement or contract referred to in subparagraph (iii) or a material contract under subparagraph (iii.1)”,
- (c) *deleting* “or become effective” *wherever it appears*,
- (d) *adding* “final” *before* “short form prospectus”, *and*
- (e) *replacing* “file the document promptly and in any event within seven days after the completion of the distribution; and” *with* “file the agreement, contract or material contract promptly and in any event no later than seven days after the execution of the agreement, contract or material contract;”.

20. Paragraph 4.2(a) is amended by adding the following subparagraph after subparagraph (x):

“(x.1) **Undertaking to File Unexecuted Documents** – if a document referred to in subparagraph (iii) will not be executed in order to become effective and has not become effective before the filing of the final short form prospectus, but will become effective on or before the completion of the distribution, the issuer must file with the securities regulatory authority, no later than the time of filing of the final short form prospectus, an undertaking of the issuer to the securities regulatory authority to file the document promptly and in any event no later than seven days after the document becomes effective; and”.

- 21. Section 7.1 is amended by replacing** “filing of a preliminary short form prospectus” *with* “issuance of a receipt for a preliminary short form prospectus”.
- 22. Section 7.2 is amended by replacing** “filing of a preliminary short form prospectus” *with* “issuance of a receipt for a preliminary short form prospectus”.
- 23. Subsection 1.6(2) of Form 44-101F1 Information Required in a Prospectus is amended by replacing**

- “(a) disclose that a purchaser who acquires securities forming part of the underwriters’ over-allocation position acquires those securities under this short form prospectus, regardless of whether the over-allocation position is ultimately filled through the exercise of the over-allotment option or secondary market purchases, and
- (b) describe the terms of the option.”

with the following:

- “(a) describe the terms of the option, and
- (b) provide the following disclosure:

“A purchaser who acquires [*insert type of securities qualified for distribution under the prospectus*] forming part of the underwriters’ over-allocation position acquires those securities under this short form prospectus, regardless of whether the over-allocation position is ultimately filled through the exercise of the over-allotment option or secondary market purchases.””

- 24. Subsection 1.6(3) of Form 44-101F1 is amended by replacing “, provide totals for both the minimum and maximum subscriptions, if applicable.” with the following:**

“and a minimum offering amount

- (a) is required for the issuer to achieve one or more of the purposes of the offering, provide totals for both the minimum and maximum offering amount, or
- (b) is not required for the issuer to achieve any of the purposes of the offering, state the following in boldface type:

“There is no minimum amount of funds that must be raised under this offering. This means that the issuer could complete this offering after raising only a small proportion of the offering amount set out above.””

- 25. Subsection 1.9(1) of Form 44-101F1 is amended by adding “or series” after “class”.**

- 26. Section 1.11 of Form 44-101F1 is amended by**

- (a) ***replacing “International Issuers” with “Enforcement of Judgments against Foreign Persons or Companies”,***

(b) replacing

“If the issuer, a selling securityholder, or any person or company required to provide a certificate under Part 5 of NI 41-101”

with the following:

“If the issuer, a director of the issuer, a selling securityholder, or any other person or company that is signing or providing a certificate under Part 5 of NI 41-101”,

(c) replacing

“[issuer, selling securityholder, person or company signing a certificate under Part 5 of NI 41-101 or securities legislation]”

with the following:

“[issuer, director of the issuer, selling securityholder, or any other person or company signing or providing a certificate under Part 5 of NI 41-101 or other securities legislation]”, *and*

(d) replacing “addresses” with “address(es)”.**27. Subsection 4.2(2) of Form 44-101F1 is amended by****(a) replacing “subscription” with “offering amount”, and****(b) replacing “subscriptions” with “offering amounts”.****28. Section 4.2 of Form 44-101F1 is amended by adding the following subsections after subsection (2):**

“(3) If all of the following apply, disclose how the proceeds will be used by the issuer, with reference to various potential thresholds of proceeds raised, in the event that the issuer raises less than the maximum offering amount:

- (a) the closing of the distribution is not subject to a minimum offering amount;
- (b) the distribution of the securities is to be on a best efforts basis; and
- (c) the issuer has significant short-term non-discretionary expenditures including those for general corporate purposes, or significant short-term capital or contractual commitments, and may not have other readily accessible resources to satisfy those expenditures or commitments.

- (4) If the issuer is required to provide disclosure under subsection (3), the issuer must discuss, in respect of each threshold, the impact (if any) of raising this amount on its liquidity, operations, capital resources and solvency.

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If the issuer is required to disclose the use of proceeds at various thresholds under subsections 4.2(3) and (4), include as an example a threshold that reflects the receipt of a small portion of the offering.”

- 29. Subsection 4.10(1) of Form 44-101F1 is amended by**
- (a) **replacing** “acquired on a short-form prospectus-exempt basis” **with** “acquired on a prospectus-exempt basis”, **and**
 - (b) **replacing** “proceeds of the short-form prospectus-exempt financing” **with** “proceeds of the prospectus-exempt financing”.
- 30. Section 7.6 of Form 44-101F1 is amended by**
- (a) **replacing** “disclose” **with** “provide the following disclosure in the short form prospectus to indicate”, **and**
 - (b) **deleting** “and provide the following disclosure in the short form prospectus, with the bracketed information completed”.
- 31. Section 7A.1 of Form 44-101F1 is amended by**
- (a) **adding** “or series” **after** “each class”,
 - (b) **adding** “or exchangeable” **after** “convertible”, **and**
 - (c) **adding** “or series” **after** “those classes”.
- 32. Paragraph 7A.1(a) of Form 44-101F1 is amended by adding** “sold by the” **before** “selling securityholder”.
- 33. Paragraph 7A.1(b) of Form 44-101F1 is amended by adding** “or sold” **after** “issued”.
- 34. Paragraph 7A.1(c) of Form 44-101F1 is amended by adding** “or sold” **after** “issued”.
- 35. Subsection 7A.2(1) of Form 44-101F1 is amended by**
- (a) **replacing** “each class of” **with** “the following”,
 - (b) **replacing** “is” **with** “are”,

(c) **adding** “for the securities” **after** “quotation”, **and**

(d) **replacing** “generally occurs.” **with the following**:

“generally occurs:

(a) each class or series of securities of the issuer distributed under the short form prospectus;

(b) securities of the issuer into which those classes or series of securities are convertible or exchangeable.”.

36. Subsection 7A.2(2) of Form 44-101F1 is amended by

(a) **replacing** “If a class of” **with** “For the following”,

(b) **replacing** “is” **with** “that are”,

(c) **replacing** “but is traded” **with** “but are traded”,

(d) **adding** “for the securities” **after** “quotation”, **and**

(e) **replacing** “generally occurs.” **with the following**:

“generally occurs:

(a) each class or series of securities of the issuer distributed under the short form prospectus;

(b) securities of the issuer into which those classes or series of securities are convertible or exchangeable.”.

37. Subsection 11.1(2) of Form 44-101F1 is amended by adding “applicable portions of” **after** “clarify that”.

38. Section 11.1 of Form 44-101F1 is amended by adding the following subsection after subsection (2):

“(3) Despite item (7.) of subsection (1), an issuer may exclude from its short form prospectus a report, valuation, statement or opinion of a person or company contained in an information circular prepared in connection with a special meeting of securityholders of the issuer and any references therein, if:

(a) the report is not an auditor’s report in respect of financial statements of a person or company; and

- (b) the report, valuation, statement or opinion was prepared in respect of a specific transaction contemplated in the information circular, unrelated to the distribution of securities under the short form prospectus, and that transaction has been previously abandoned or completed.”.

39. Subsection 11.3(2) of Form 44-101F1 is amended by replacing “Item 14.2 or 14.5 of Form 51-102F5 in the information circular referred to in paragraph 2.7(2)(b) of the Instrument.” with the following:

- “(a) Item 14.2 or 14.5 of Form 51-102F5 in the information circular referred to in paragraph 2.7(2)(b) of the Instrument; or
- (b) the policies and requirements of the TSX Venture Exchange prescribed for disclosure of a qualifying transaction in a CPC filing statement or a reverse takeover in a filing statement referred to in paragraph 2.7(3)(b) of the Instrument.”.

40. The INSTRUCTION section of section 11.3 of Form 44-101F1 is amended by numbering the existing text as subsection (1).

41. Subsection (1) of the INSTRUCTION section of section 11.3 is amended by

- (a) adding “11.3” before “(2)”, and
- (b) adding “, CPC filing statement or other filing statement of the TSX Venture Exchange” after “information circular”.

42. The INSTRUCTION section of section 11.3 of Form 44-101F1 is amended by adding the following subsection after subsection (1):

- “(2) The disclosure referenced in instruction (1) above must be presented in a way that supplements, but does not replace, the disclosure prescribed for a transaction that also constitutes a significant acquisition for the issuer or a reverse takeover in which the issuer was involved, if applicable.”.

43. Item 11 of Form 44-101F1 is amended by adding the following after the INSTRUCTION section of section 11.4:

“11.5 Additional Disclosure for Issuers of Asset-Backed Securities

If the issuer has not filed or been required to file interim financial statements and related MD&A in respect of an interim period, if any, subsequent to the financial year in respect of which it has included annual financial statements in the short form prospectus because it is not a reporting issuer and is qualifying to file the short form prospectus under section 2.6 of the Instrument, include the interim

financial statements and related MD&A that the issuer would have been required to incorporate by reference under paragraph 3 of subsection 11.1(1) if the issuer were a reporting issuer at the relevant time.”

44. *Section 15.3 of Form 44-101F1 is amended by adding “and that disclosure is correct as at the date of the prospectus” after “AIF”.*
45. *Section 20.1 of Form 44-101F1 is amended by replacing “revisions of the price of damages” with “revisions of the price or damages”.*
46. *Item 20 of Form 44-101F1 is amended by adding the following section after section 20.2:*

“20.3 Convertible, Exchangeable or Exercisable Securities - In the case of an offering of convertible, exchangeable or exercisable securities, provide a statement in the following form:

“In an offering of [state name of convertible, exchangeable or exercisable securities], investors are cautioned that the statutory right of action for damages for a misrepresentation contained in the prospectus is limited, in certain provincial [or territorial] securities legislation, to the price at which the [state name of convertible, exchangeable or exercisable securities] is offered to the public under the prospectus offering. This means that, under the securities legislation of certain provinces [or territories], if the purchaser pays additional amounts upon [conversion, exchange or exercise] of the security, those amounts may not be recoverable under the statutory right of action for damages that applies in such provinces [or territories]. The purchaser should refer to the applicable provisions of the purchaser’s province [or territory] for the particulars of this right of action for damages or consult with a legal adviser.””

47. This Instrument comes into force on ●, 2012.

**Amendments to
Companion Policy 44-101 CP to National Instrument 44-101
Short Form Prospectus Distributions**

1. ***Companion Policy 44-101 CP to National Instrument 44-101 Short Form Prospectus Distributions is amended.***

2. ***Subsection 1.7(5) is amended by***

(a) ***replacing*** “The definition of “successor issuer” requires that the issuer exist “as a result of a restructuring transaction”.” ***with the following:***

“A successor issuer is defined to include a reverse takeover acquiree in a completed reverse takeover. Alternatively, the definition of “successor issuer” requires that the issuer exist “as a result of a restructuring transaction” or that the issuer participate in the restructuring transaction and continue to exist following completion of the restructuring transaction. In both instances, prospectus level disclosure or comparable disclosure prescribed by the TSX Venture Exchange for such issuer must be provided in an information circular or similar disclosure document pursuant to subsections 2.7(2) and (3) of NI 44-101.”,

(b) ***deleting the following:***

“Also, if a corporation is incorporated for the sole purpose of facilitating a restructuring transaction, the securities regulatory authorities regard the new corporation as “existing as a result of a restructuring transaction” despite the fact that the corporation may have been incorporated before the restructuring transaction.”, ***and***

(c) ***adding the following at the end:***

“However, if the divestiture represents a divestiture of substantially all of the business of the predecessor entity to the issuer, the issuer would be considered a successor issuer. In such circumstances, the financial information concerning the predecessor entity should be representative of the financial information of the successor issuer. Therefore, if an issuer is relying on this basis for short form prospectus qualification, it must ensure that the financial statements of the predecessor entity are a relevant, accurate proxy for its financial statements as a successor issuer.

An issuer may also be considered a successor issuer to a second issuer where there has been an internal reorganization of the second issuer, provided that the conditions in paragraph (b) of the definition of “successor issuer” are met. In particular, the internal reorganization must not result in an alteration of the securityholders’ proportionate interest in the second issuer nor the second issuer’s

proportionate interest in its assets. For example, this may arise in an internal reorganization in which all of the securityholders of the second issuer exchange their securities in the second issuer for securities of the successor issuer. The second issuer would become a subsidiary of the successor issuer and its ownership in its assets would remain the same. The successor issuer definition was expanded to include this type of internal reorganization as it may not be considered a “restructuring transaction” as defined in NI 51-102 by virtue of the exclusion found at the end of the definition of “restructuring transaction”.

3. ***Subsection 2.1(1) is amended in the second paragraph by deleting “and, in Québec, disclosure of material facts likely to affect the value or the market price of the securities to be distributed”.***

4. ***Part 3 is amended by***

(a) adding the following section after section 3.4:

“3.4.1 Special meeting information circular – Subsection 11.1(3) of Form 44-101F1 sets out certain circumstances where an issuer is not required to incorporate by reference into its prospectus a report, valuation, statement or opinion of an expert that is indirectly incorporated by reference into its prospectus through the incorporation by reference of an information circular prepared for a special meeting of the issuer. A special meeting information circular often relates to a restructuring transaction of an issuer or other special business of the issuer. In these circumstances, the issuer or its board of directors may engage an expert to provide an opinion that is specific to the business that will be considered at the special meeting of securityholders. For example, the board may retain a person or company to provide a fairness opinion which would assist the board in determining whether to recommend the approval of the proposed transaction to its securityholders. Similarly, the issuer may include a tax opinion in the information circular to illustrate the tax consequences of the proposed transaction to its securityholders. Pursuant to subsection 11.1(3), we would not require the incorporation by reference of these particular opinions, provided that these opinions were prepared in respect of the specific transaction contemplated in the information circular and this transaction has been completed or abandoned prior to the filing of the prospectus.”, ***and***

(b) adding the following section after section 3.9:

“3.10 No Minimum Offering Amount – Issuers distributing securities on a best efforts basis that have not specified a minimum offering amount in their prospectus, should refer to section 2.2.1 and subsection 4.3(3) of the Companion Policy to NI 41-101 for further guidance.”

5. These amendments become effective on ●, 2012.

**Amendments to
National Instrument 44-102 Shelf Distributions**

1. ***National Instrument 44-102 Shelf Distributions is amended by this Instrument.***
2. ***Section 5.6 is amended by adding the following paragraph after paragraph 6:***

“6.1 The information required under item 7A of Form 44-101F1 concerning prior sales and trading price and volume disclosure for securities that may be distributed under the base shelf prospectus, if the specific series or class of securities that will be distributed under the base shelf prospectus is not known on the date the base shelf prospectus is filed.”.
3. ***Section 7.2 is amended by adding the following new subsections after subsection (1):***

“(1.1) - Despite subsection (1), if the expert whose consent is required is a “qualified person” as defined in NI 43-101, the issuer is not required to file the consent of the qualified person if

 - (a) the qualified person’s consent is required in connection with a technical report that was not required to be filed with the preliminary base shelf prospectus,
 - (b) the qualified person was employed by a person or company at the date of signing the technical report,
 - (c) the principal business of the person or company is providing engineering or geoscientific services, and
 - (d) the issuer files the consent of the person or company.

(1.2) A consent filed under subsection (1.1) must be signed by an individual who is an authorized signatory of the person or company and who falls within paragraphs (a), (b), (d) and (e) of the definition of “qualified person” in NI 43-101.”
4. ***Subsection 7.2(2) is amended by adding, after “subsection 1”, the words “or subsections (1.1) and (1.2)”.***
5. ***Subsection 9.1(1) is amended by***
 - (a) ***replacing “6.1” with “7.2”, and***
 - (b) ***replacing “44-101” with “41-101”.***

6. This Instrument comes into force on ●, 2012.

**Amendments to
Companion Policy 44-102 CP to National Instrument 44-102
Shelf Distributions**

- 1. *Companion Policy 44-102CP to National Instrument 44-102 Shelf Distributions is amended.***
- 2. *Section 2.6.1 is amended by adding “for which a consent was not previously filed” after “financial statements incorporated by reference”.***
- 3. This amendment becomes effective on ●, 2012.**

**Amendment to
National Instrument 81-101 Mutual Fund Prospectus Disclosure**

1. National Instrument 81-101 Mutual Fund Prospectus Disclosure is amended by this Instrument.

2. Section 1.1 is amended by

(a) repealing the definition of “Personal Information Form and Authorization”,

(b) after the definition of “Part B Section”, adding the following definition:

““personal information form” means in respect of an individual,

(a) a completed Schedule 1 of Appendix A to National Instrument 41-101 *General Prospectus Requirements*, or

(b) a TSX/TSXV personal information form submitted by an individual to the Toronto Stock Exchange or to the TSX Venture Exchange to which is attached a completed certificate and consent in the form set out in Schedule 1 – Part B of Appendix A to National Instrument 41-101 *General Prospectus Requirements*, if the personal information in the form continues to be correct at the time that the certificate and consent is executed by the individual;”

(c) in the definition of “single AIF”, deleting “and”,

(d) in the definition of “single SP”, replacing “.” with “; and” after the words “under subsection 5.1(1)”; and

(e) after the definition of “single SP”, adding the following definition;

““TSX/TSXV personal information form” means a completed personal information form of an individual in compliance with the requirements of Form 4 for the Toronto Stock Exchange or Form 2A for the TSX Venture Exchange, as applicable, each as amended from time to time.”

3. Paragraph 2.3(1)(b) is amended by replacing:

“(ii) personal information in the form of the Personal Information Form and Authorization for:

(A) each director and executive officer of the mutual fund,

(B) each director and executive officer of the manager of the mutual fund,

(C) each promoter of the mutual fund, and

(D) if the promoter is not an individual, each director and executive officer of the promoter,

unless

(E) a completed Personal Information Form and Authorization,

(F) before March 17, 2008, a completed authorization in

(I) the form set out in Appendix B of NI 44-101,

(II) the form set out in Ontario Form 41-501F2 *Authorization of Indirect Collection of Personal Information*, or

(III) the form set out in Appendix A of Québec Regulation Q-28 *Respecting General Prospectus Requirements*, or

(G) before March 17, 2008, a completed personal information form or authorization in a form substantially similar to a personal information form or authorization in clause (E) or (F), as permitted under securities legislation,

was previously delivered in connection with the simplified prospectus of another mutual fund managed by the manager of the mutual fund,”

with the following:

“(ii) a personal information form for:

(A) each director and executive officer of the mutual fund,

(B) each director and executive officer of the manager of the mutual fund,

(C) each promoter of the mutual fund, and

(D) if the promoter is not an individual, each director and executive officer of the promoter,”.

4. Section 2.3 is amended by adding the following subsection after subsection 2.3(1):

“(1.1) Despite subparagraph 2.3(1)(b)(ii), a mutual fund is not required to file a personal information form for an individual if all of the following requirements are satisfied:

- (a) a personal information form of the individual has been executed by the individual within three years preceding the date of the filing of the preliminary simplified prospectus, preliminary annual information form and preliminary fund facts document for each class or series of securities of the mutual fund;
 - (b) the personal information form was delivered to the regulator, or in Québec, the securities regulatory authority
 - (i) by an issuer on behalf of the individual on or after **[insert effective date of amendments]**; or
 - (ii) by the mutual fund on behalf of the individual after March 16, 2008 but before **[insert effective date of amendments]** in the form set out in Appendix A to National Instrument 41-101 *General Prospectus Requirements* in effect during this period;
 - (c) the information concerning the individual contained in the responses to
 - (i) questions 6 through 10 of the personal information form referenced in subparagraph (b)(i) remain correct as at the date of the certificate referenced to in paragraph (d); or
 - (ii) questions 4(B) and (C) and questions 6 through 9 of the personal information form referenced in subparagraph (b)(ii) remain correct as at the date of the certificate referenced to in paragraph (d);
 - (d) the mutual fund delivers to the regulator or, in Québec, the securities regulatory authority, concurrently with the filing of the preliminary simplified prospectus, preliminary annual information form and preliminary fund facts document for each class or series of securities of the mutual fund, a certificate of the mutual fund in the form set out in Schedule 4 of Appendix A to National Instrument 41-101 *General Prospectus Requirements* stating that the individual has provided the mutual fund with confirmation in respect of the requirement contained in paragraph (c);
 - (e) the certificate referenced in paragraph (d) is dated no earlier than 30 days before the filing of the preliminary simplified prospectus, preliminary annual information form and preliminary fund facts document for each class or series of securities of the mutual fund.”
- (a) deleting “and” after “has not already been filed,” from subparagraph 2.3(2)(a)(ii),**

(b) adding the following after subparagraph 2.3(2)(a)(ii):

“(ii.1) a copy of the following documents and a copy of any amendment to the following documents that have not previously been filed:

- (A) by-laws or other corresponding instruments currently in effect,
- (B) any securityholder or voting trust agreement that the mutual fund has access to and that can reasonably be regarded as material to an investor in securities of the mutual fund, and”.

5. Subparagraph 2.3(2)(b)(iii) is repealed.

6. Paragraph 2.3(2)(b) is amended by replacing:

“(iv) personal information in the form of the Personal Information Form and Authorization for:

- (A) each director and executive officer of the mutual fund,
- (B) each director and executive officer of the manager of the mutual fund,
- (C) each promoter of the mutual fund, and
- (D) if the promoter is not an individual, each director and executive officer of the promoter,

unless

- (E) a completed Personal Information Form and Authorization,
- (F) before March 17, 2008, a completed authorization in
 - (I) the form set out in Appendix B of NI 44-101,
 - (II) the form set out in Ontario Form 41-501F2 *Authorization of Indirect Collection of Personal Information*, or
 - (III) the form set out in Appendix A of Québec Regulation Q-28 *Respecting General Prospectus Requirements*, or
- (G) before March 17, 2008, a completed personal information form or authorization in a form substantially similar to a personal information form or authorization in clause (E) or (F), as permitted under securities legislation,

was previously delivered in connection with a simplified prospectus of the mutual fund or another mutual fund managed by the manager of the mutual fund, and”

with the following:

“(iv) a personal information form for:

- (A) each director and executive officer of the mutual fund,
- (B) each director and executive officer of the manager of the mutual fund,
- (C) each promoter of the mutual fund, and
- (D) if the promoter is not an individual, each director and executive officer of the promoter, and”.

7. Section 2.3 is amended by adding the following subsection after subsection 2.3(2):

“(2.1) Despite subparagraph 2.3(2)(b)(vi), a mutual fund is not required to file a personal information form for an individual if all of the following requirements are satisfied:

- (a) a personal information form of the individual has been executed by the individual within three years preceding the date of the filing of the *pro forma* simplified prospectus, *pro forma* annual information form and *pro forma* fund facts document for each class or series of securities of the mutual fund;
- (b) the personal information form was delivered to the regulator, or in Québec, the securities regulatory authority
 - (i) by an issuer on behalf of the individual on or after [**insert effective date of amendments**]; or
 - (ii) by the mutual fund on behalf of the individual after March 16, 2008 but before [**insert effective date of amendments**] in the form set out in Appendix A to National Instrument 41-101 *General Prospectus Requirements* in effect during this period;
- (c) the information concerning the individual contained in the responses to
 - (i) questions 6 through 10 of the personal information form referenced in subparagraph (b)(i) remain correct as at the date of the certificate referenced to in paragraph (d); or
 - (ii) questions 4(B) and (C) and questions 6 through 9 of the personal information form referenced in subparagraph (b)(ii) remain correct as at the date of the certificate referenced to in paragraph (d);

- (d) the mutual fund delivers to the regulator or, in Québec, the securities regulatory authority, concurrently with the filing of the *pro forma* simplified prospectus, *pro forma* annual information form and *pro forma* fund facts document for each class or series of securities of the mutual fund, a certificate of the mutual fund in the form set out in Schedule 4 of Appendix A to National Instrument 41-101 *General Prospectus Requirements* stating that the individual has provided the mutual fund with confirmation in respect of the requirement contained in paragraph (c);
- (e) the certificate referenced in paragraph (d) is dated no earlier than 30 days before the filing of the preliminary simplified prospectus, preliminary annual information form and preliminary fund facts document for each class or series of securities of the mutual fund.”.

8. Paragraph 2.3(3)(a) is amended by adding the following subparagraph after subparagraph 2.3(3)(a)(i):

“(i.1) a copy of the following documents and a copy of any amendment to the following documents that have not previously been filed:

- (A) by-laws or other corresponding instruments currently in effect,
- (B) any securityholder or voting trust agreement that the mutual fund has access to and that can reasonably be regarded as material to an investor in securities of the mutual fund.”.

9. Section 3.1 is amended by adding the following paragraphs after paragraph 1.1:

“1.2 If the mutual fund has not yet filed comparative annual financial statements of the mutual fund, the most recently filed interim financial statements of the mutual fund that were filed before or after the date of the simplified prospectus.

1.3 If the mutual fund has not yet filed interim financial statements or comparative annual financial statements of the mutual fund, the audited balance sheet that was filed with the simplified prospectus.

1.4 If the mutual fund has not yet filed an annual management report of fund performance of the mutual fund, the most recently filed interim management report of fund performance of the mutual fund that was filed before or after the date of the simplified prospectus.”.

10. Subsection 1.1(3) of Form 81-101F2 Contents of Annual Information Form is amended by replacing “distributed” with “sold”.

11. Subsection 1.2(3) of Form 81-101F2 is amended by replacing “distributed” with “sold”.

12. Section 10.2 of Form 81-101F2 is amended by

(a) adding “executive” before “officers” in subsection 10.2(2), and

(b) adding “executive” before “officer” in

(i) subsection 10.2(3)

(ii) subsection 10.2(4).

13. Section 10.6 of Form 81-101F2 is amended by

(a) adding “Executive” before “Officers” in the title,

(b) adding “executive” before “officers” in subsection 10.6(1); and

(c) adding “executive” before “officer” in

(i) subsection 10.6(4)

(ii) subsection 10.6(5).

14. Subsection 16(1) of Form 81-101F2 is amended by replacing:

“(f) any other contract or agreement that can reasonably be regarded as material to an investor in the securities of the mutual fund.”

with the following:

“(f) any other contract or agreement that is material to the mutual fund.”

15. Section 22 of Form 81-101F2 is amended by replacing:

“(1) Include a certificate of the principal distributor of the mutual fund that states:

“To the best of our knowledge, information and belief, this annual information form, the financial statements of the fund [specify] for the financial period ended [specify] and the auditors' report on those financial statements, together with the simplified prospectus and the fund facts document dated [specify], constitute full, true and plain disclosure of all material facts relating to the securities offered by the simplified prospectus and do not contain any misrepresentation.””

with the following:

“(1) Include a certificate of the principal distributor of the mutual fund that states:

“This annual information form, together with the simplified prospectus and the documents incorporated by reference into the simplified prospectus, constitute full, true and plain disclosure of all material facts relating to the securities offered by the simplified prospectus, as required by the securities legislation of [insert the jurisdictions in which qualified] and do not contain any misrepresentations.””

16. This Instrument comes into force on ●, 2012.

Amendments to National Instrument 52-107
Acceptable Accounting Principles and Auditing Standards

1. ***National Instrument 52-107 Acceptable Accounting Principles and Auditing Standards is amended by this Instrument.***
2. ***Section 1.1 is amended by adding the following definitions after “multiple convertible security”:***

“predecessor statements” mean the financial statements referred to in paragraph 32.1(1)(a) of Form 41-101F1 Information Required in a Prospectus;

“primary business statements” mean the financial statements referred to in paragraph 32.1(1)(b) of Form 41-101F1 Information Required in a Prospectus;”.
3. ***Paragraph 2.1(2)(d) is amended by***
 - (a) ***adding “acquisition statements, predecessor statements or a primary business statement that are an” after “any”, and***
 - (b) ***adding a comma after “acquired business”.***
4. ***Subsection 3.11(5) is amended by replacing “subsections (1), (2) and (4)” with “subsections (1) and (2)”.***
5. ***Subparagraph 3.11(5)(a)(i) is amended by replacing “gross revenue” with “gross sales”.***
6. ***Subparagraph 3.11(5)(a)(ii) is amended by replacing “royalty expenses” with “royalties”.***
7. ***Section 3.11 is amended by repealing subsection 3.11(6).***
8. ***Paragraph 3.12(2)(e) is amended by replacing “subsection 3.11(5) or (6)” with “subsection 3.11(5)”.***
9. ***Part 3 is amended by adding the following at the end:***

“3.17 Acceptable Accounting Principles for Predecessor Statements or Primary Business Statements that are an Operating Statement – If predecessor statements or primary business statements are an operating statement for an oil and gas property,

 - (a) ***the operating statement must include at least the following line items:***

- (i) gross sales;
 - (ii) royalties;
 - (iii) production costs;
 - (iv) operating income;
- (b) the line items in the operating statement must be prepared using accounting policies that
- (i) are permitted by one of
 - (A) Canadian GAAP applicable to publicly accountable enterprises,
 - (B) U.S. GAAP if the issuer is an SEC issuer or an SEC foreign issuer, or
 - (C) IFRS if the issuer is a foreign issuer, and
 - (ii) would apply to those line items if those line items were presented as part of a complete set of financial statements, and
- (c) the operating statement must
- (i) include the following statement:

This operating statement is prepared in accordance with the financial reporting framework specified in section 3.17 of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards* for an operating statement.
 - and
 - (ii) describe the accounting policies used to prepare the operating statement.

3.18 Acceptable Auditing Standards for Predecessor Statements or Primary Business Statements that are an Operating Statement –

- (1) If predecessor statements or primary business statements are an operating statement for an oil and gas property that are required by securities legislation to be audited, the operating statement must be accompanied by an auditor's report and audited in accordance with one of the following auditing standards:

- (a) Canadian GAAS;
 - (b) U.S. PCAOB GAAS if the issuer is an SEC issuer or an SEC foreign issuer;
 - (c) International Standards on Auditing if the issuer is a foreign issuer.
- (2) The auditor's report must,
- (a) if paragraph 1(a) or (c) applies, express an unmodified opinion,
 - (b) if paragraph 1(b) applies, express an unqualified opinion,
 - (c) identify all financial periods presented for which the auditor's report applies,
 - (d) identify the auditing standards used to conduct the audit, and
 - (e) identify the financial reporting framework used to prepare the operating statement.”.

10. This Instrument comes into force on ●, 2012.

Amendments to Companion Policy 52-107CP
Acceptable Accounting Principles and Auditing Standards

1. ***Companion Policy 52-107CP Acceptable Accounting Principles and Auditing Standards is amended.***

2. ***Section 2.14 is amended by deleting the following:***

“If acquisition statements are carve-out statements prepared in accordance with Canadian GAAP for private enterprises, as discussed in section 2.18 of this Companion Policy, subparagraph 3.11(6)(d)(iii) requires reconciliation information for non-venture issuers similar to that required by subparagraph 3.11(1)(f)(iv). The above guidance on subparagraph 3.11(1)(f)(iv) also applies to subparagraph 3.11(6)(d)(iii).”.

3. ***Section 2.17 is amended by***

(a) ***adding*** “, predecessor statements, or primary business statements” ***after*** “Acquisition statements”,

(b) ***replacing*** “Subsection” ***with*** “In the case of acquisition statements that are an operating statement, subsection”,

(c) ***replacing*** “an operating statement to be prepared” ***with*** “the operating statement to be prepared”,

(d) ***before*** “For the purpose of preparing”, ***adding the following:***

“In the case of predecessor statements or primary business statements that are an operating statement, section 3.17 requires the line items in the operating statement to be prepared in accordance with accounting policies that comply with the accounting policies permitted by one of: Canadian GAAP applicable to publicly accountable enterprises, U.S. GAAP if the issuer is an SEC issuer or SEC foreign issuer, or IFRS if the issuer is a foreign issuer.”, ***and***

(e) ***by replacing*** “For the purpose of preparing the operating statement” ***with*** “For the purpose of preparing an operating statement”.

4. ***Section 2.18 is amended by***

(a) ***adding*** “, predecessor statements, or primary business statements” ***after*** “Acquisition statements”,

(b) ***replacing*** “Subsection 3.11(6) specifies the financial reporting framework required for acquisition statements that are” ***with*** “Acquisition statements, predecessor statements or primary business statements may be”,

- (c) *after* “acquired business”, *replacing* “or” *with* “,”,
- (d) *after* “business to be acquired,”, *replacing* “and” *with* “the predecessor entity or primary business. In some cases,”,
- (e) *adding* “,which” *after* “Such financial statements”, *and*
- (f) *replacing the following:*

““carve-out” financial statements. Subsection 3.11(6) requires carve-out financial statements to be prepared in accordance with one of Canadian GAAP applicable to publicly accountable enterprises, IFRS, U.S. GAAP, or Canadian GAAP applicable to private enterprises, and in each case include specified line items. For carve-out financial statements prepared in accordance with Canadian GAAP applicable to publicly accountable enterprises or IFRS, the exceptions and exemptions included as Appendices in IFRS 1 would be relevant for determining the opening statement of financial position at the date of transition to IFRS.”,

with the following:

“carve-out financial statements, should generally include:

- (a) all assets and liabilities directly attributable to the business;
- (b) all revenue and expenses directly attributable to the business;
- (c) if there are expenses for the business that are common expenses shared with the other entity, a portion of those expenses allocated on a reasonable basis to the business;
- (d) income and capital taxes calculated as if the business had been a separate legal entity and had filed a separate tax return for the period presented; and
- (e) a description of the method of allocation for each significant line item presented in financial statements.”

5. Section 3.5 is amended by

- (a) *deleting* “or carve-out financial statements” *wherever it appears*,
- (b) *replacing* “Paragraph 3.12(2)(e) requires” *with* “Paragraphs 3.12(2)(e) and 3.18(2)(e) require”, *and*
- (c) *replacing* “subsections 3.11(5) and (6)” *with* “subsection 3.11(5) and section 3.17”.

6. These amendments become effective on ●, 2012.

**Amendments to
National Instrument 51-102 *Continuous Disclosure Obligations***

1. ***National Instrument 51-102 Continuous Disclosure Obligations is amended by this Instrument.***
2. ***Section 1.1 is amended in the definition of “executive officer”, by inserting “(a.1) a chief executive officer or chief financial officer;” after “(a) a chair, vice-chair or president;”.***
3. ***Paragraph 8.10(1)(b) is amended by adding the following after “that is not of securities of another issuer”:***

“, unless the vendor transferred the business referenced in paragraph (1)(a) to such other issuer which

 - (i) was created for the sole purpose of facilitating the acquisition; and
 - (ii) other than assets or operations relating to the transferred business, has no
 - (A) substantial assets; or
 - (B) operating history”
4. This Instrument comes into force on ●, 2012.

Amendments to National Instrument 13-101
System for Electronic Document Analysis and Retrieval (SEDAR)

1. ***National Instrument 13-101 System for Electronic Document Analysis and Retrieval (SEDAR) is amended by this Instrument.***

2. ***Division A of Part II of Appendix A is amended by***
 - (a) ***in section (a) “General Filings”,***
 - (i) ***repealing items 1, 2 and 3,***
 - (ii) ***deleting “– POP System” wherever it appears,***
 - (iii) ***repealing item 6,***
 - (iv) ***inserting the following items:***
 - 6.1 Base Short Form PREP Prospectus
 - 6.2 Base Long Form PREP Prospectus,
 - (v) ***in items 7 and 8 by replacing “Short Form Prospectus” with “Base Shelf Prospectus”,***
 - (vi) ***deleting “– Shelf” wherever it appears,***
 - (vii) ***in item 9, adding “Shelf” before “Prospectus Supplement”, and***
 - (viii) ***adding the following item after item 16:***
 - 16.1 Supplemented Short Form PREP Prospectus,
 - (b) ***repealing section (b) “British Columbia Filings”,***
 - (c) ***in section (c) “Quebec Filings”, repealing item 2, and***
 - (d) ***repealing section (d) “Alberta Filings”.***

3. This Instrument comes into force on ●, 2012.