OSC

ONTARIO SECURITIES COMMISSION

OSC Staff Notice 51-706

Corporate Finance Branch Report 2008

Contents

ONTARIO SECURITIES COMMISSION

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1. Introduction

This report summarizes the operational activities of the Corporate Finance Branch (the Branch or we) during the 2008 fiscal year. As well, we highlight specific initiatives that we have undertaken this year in furtherance of the Ontario Securities Commission's (OSC) strategic goals. The report also discusses other issues and findings that we believe will be of interest to issuers and their advisors.

The Corporate Finance Branch is responsible for monitoring compliance with securities laws by public companies. In particular, our prospectus and continuous disclosure (CD) review programs are an integral part of how we regulate.

The Branch is primarily responsible for approximately 1,100 reporting issuers with head offices in Ontario. This year, we performed 452 CD reviews and 633 offering document reviews, along with processing 432 applications for exemptive relief. Compared to prior years, we completed a significantly higher number of targeted CD reviews. This increase was due to our decision to give special attention to issuer's compliance with the new financial instruments standards introduced by the Canadian Institute of Chartered Accountants (CICA), which impacted all reporting issuers.

We also reviewed issues related to environmental reporting, stock option granting practices and asset-backed commercial paper (ABCP).

Our operational results are described in more detail throughout our report.

This report also discusses a number of other results from our offering document reviews and applications considered, such as eligibility of designated foreign issuers for short form treatment, the meaning of the terms "beneficial ownership" and "control or direction", along with general prospectus requirements for junior issuers.

This year, we added a new section in the report called "Current Priorities". This section highlights our plans for the coming year for policy work, potential targeted reviews and other national initiatives.

We look forward to an exciting year ahead and working together to accomplish our plans.

2. Meeting the OSC's goals

The OSC's Statement of Priorities for the 2008 fiscal period identified four strategic goals to achieve for the next five fiscal years.

The Branch looks to these goals to direct and prioritize operational activities and policy initiatives for each fiscal year. Our report highlights some of the actions that we have taken in support of these goals.

OSC Goals

Goal #1
Identify the important issues and deal with them in a timely way.

Goal #2
Deliver fair, vigorous and timely enforcement and compliance programs.

Goal #3
Champion investor protection, especially for retail investors.

Goal #4
Support and promote a more flexible, efficient and accountable organization.

ONTARIO SECURITIES COMMISSION

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3. Operational programs

Goal #2

Deliver fair, vigorous and timely enforcement and compliance programs.

We promote compliance with securities regulatory requirements through our comprehensive on-going review programs. We have review programs for CD documents and offering documents to determine, to the extent reasonably possible within the scope of the review conducted, whether issuers are complying with their obligations under securities law. We also review applications for relief.

3.1 Profile of reporting issuers

There are approximately 4,200 reporting issuers (other than investment funds) in Ontario. We have primary responsibility as principal regulator for approximately 1,100 reporting issuers with head offices in Ontario. These issuers represent $696 billion, or 34%, of Canada's $2.05 trillion market capitalization.

The chart below shows the percentage market capitalization of reporting issuers by industry and the number of reporting issuers in each industry. The three largest industries by percentage market capitalization are banking and insurance, mining, and technology.

The three largest industries by number of reporting issuers are mining, retail/services/manufacturing and technology.

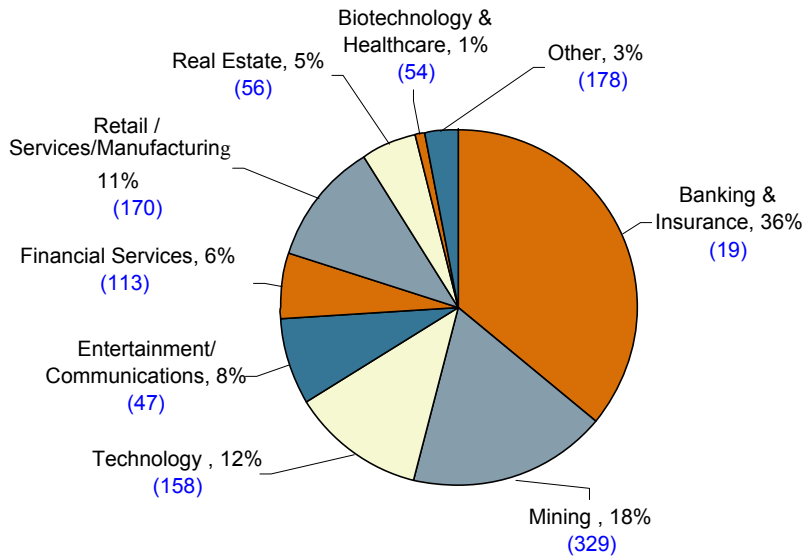
3.2 Our continuous disclosure (CD) review program

We completed 452 CD reviews this year, consisting of 123 full reviews[1], 73 issue-oriented reviews and 256 targeted reviews.

This year we performed targeted reviews on:

- financial instruments disclosure to assess the implementation of the CICA's new accounting standards effective for fiscal years beginning on or after October 1, 2006
- environmental disclosure
- the presentation, disclosure and valuation of non-bank ABCP in financial statements and MD&A
- the timing of stock option grants

Industry Breakdown*



* By Ontario market capitalization percentage and number of issuers as at March 31, 2008.

[1] The reviews we refer to as "full reviews" are broader than issue-oriented reviews, and cover more areas of disclosure.

The chart below shows the composition of reviews performed over the past three fiscal years. In fiscal 2008, our total number of CD reviews increased significantly from the prior two years due to a higher level of targeted reviews. This increase was in direct response to the CICA's new financial instruments standards. Overall, our level of full and issue-oriented reviews remained fairly comparable with the previous two years.

Number of CD reviews completed by year

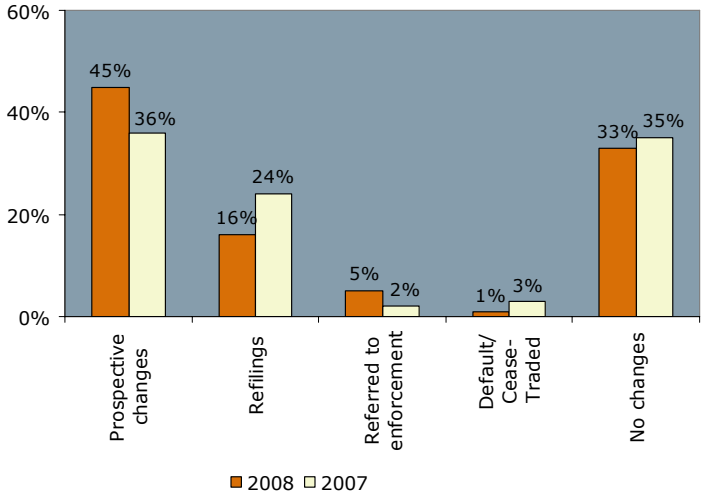
	2008	2007	2006
Full	123	126	142
Issue-Oriented	73	97	90
Targeted	256	163	118
Total	452	386	350

Outcomes of our reviews

There are five categories of possible outcomes from a CD review (prospective changes, refilings, referred to enforcement, default list and cease trade orders and no changes). We characterize the outcome of each CD review based upon the nature and severity of the deficiencies identified, if any. More than one outcome can be associated with a particular file.

We monitor outcomes each year to assess overall compliance and to identify areas to focus on in future reviews. In fiscal 2008, 67% of our CD reviews resulted in an outcome requiring a change by the issuer or follow up by the OSC. This is consistent with the prior year.

CD review outcomes



Prospective changes
The majority of our outcomes in fiscal 2008 were commitments by reporting issuers to enhance some aspect of their disclosure in future CD filings. A significant number of these commitments related to improvements in financial instrument disclosure. Other disclosure enhancements included improvements to MD&A and clarification of accounting policies.

We selectively monitor these commitments to confirm that the disclosure enhancements have been appropriately addressed.

Refilings
In 16% of our reviews this year, we identified filings that were so deficient that the issuers were required to restate and refile materials, to make retroactive changes or to file material that had not previously been filed. Our approach to refilings is described in OSC Staff Notice 51-711 *List of Refilings and Corrections of Errors as a Result of Regulatory Reviews.* As set out in that notice, we view such refilings and retroactive accounting changes as significant events. Where a reporting issuer makes a refiling or retroactive accounting change as a result of our review, the name, date of refiling and a description of the deficiency is posted on our Refilings and Errors list (available at www.osc.gov.on.ca) for three years. This year, the majority of refilings related to deficient MD&A, non-compliance with both Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* and with the CICA's new financial instruments standards. The majority of fiscal 2007 refilings related to non-compliance with Multilateral Instrument 52-109.

Referred to Enforcement
In fiscal 2008, 5% of the issuers reviewed resulted in referrals to the Enforcement Branch for further action.

Default list and cease trade orders
If an issuer's CD documents have key deficiencies, we will consider the issuer to be in default of securities law and the issuer's name will be placed on the OSC's default list.

In fiscal 2008, we issued 97 cease trade orders relating to CD deficiencies, which is consistent with the 104 cease trade orders issued in the previous year. The majority of cease trade orders related to failure to file required annual or interim financial statements or MD&A. In some cases, cease trade orders were issued because of failure to file other

required documents, such as a business acquisition report or mining technical report.

No changes
In fiscal 2008,150 of the issuers we reviewed did not have to make any changes to their CD documents or make additional filings. This level is consistent with the prior year.

3.3 Reviews of offering documents

In the 2008 fiscal year, we reviewed 633 prospectuses and rights offering circulars, compared to 584 in 2007. The following chart shows the type of offering document reviews performed over the past three years.

Type of reviews completed of offering documents

	2008	2007	2006
Basic	450	403	394
Full	94	88	89
Issue-Oriented	89	93	60
Total	633	584	543

During the 2008 fiscal year, we completed 94 full reviews, which consisted of 19 short form offerings, 51 long form offerings and 24 rights offerings.

We completed 89 issue-oriented reviews, which consisted of 86 short form offerings and 3 long form offerings. The number of full and issue-oriented reviews is consistent with the 2007 fiscal year.

Outcomes of our reviews

Similar to CD reviews, there are a number of possible outcomes from an offering document review and more than one outcome can be associated with a particular file. Listed below are the possible outcomes from an offering document review. We only track outcomes of full and issue-oriented reviews.

Material Disclosure Changes
A significant number of our reviews in fiscal 2008 resulted in material disclosure changes. This year, 46% of the outcomes related to disclosure changes compared to 36% in the prior year. A disclosure improvement could be in respect of an accounting, legal or other disclosure requirement. This year, a number of these changes related to MD&A, disclosure of risk factors and use of proceeds.

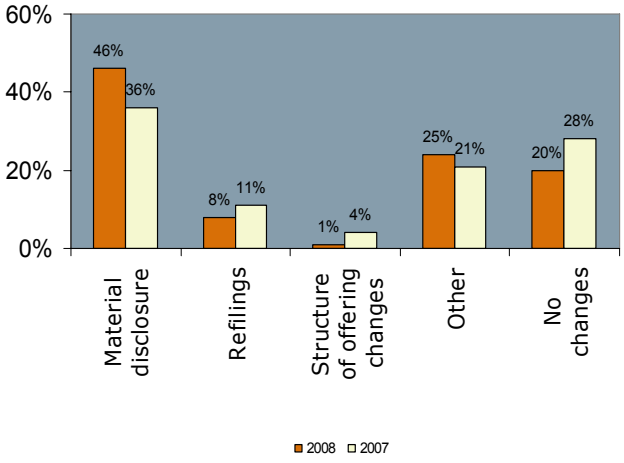
Refilings
This outcome relates to the correction and refiling of significantly deficient documents that an issuer incorporates by reference into a short form prospectus. In particular, a number of technical reports and MD&A disclosure documents were corrected and refiled.

Structure of offering changes
This outcome refers to any situation where, as a result of our review or changes in market conditions, an issuer is required to change the structure of its offering. This occurred in only 1% of the outcomes in this fiscal year, compared to 4% in the prior year.

Other
This category includes outcomes that do not result in a change to an issuer's filings but which are significant to our mandate in other ways. These outcomes include policy or procedural enhancements implemented by the issuer as a result of our review and referrals to enforcement. In some cases, we entered into detailed discussions with the issuer that we believe will be of ongoing value in sensitizing the issuer to our expectations. These outcomes also include matters that enhanced our knowledge of the market as a whole or raised new policy issues. This year, 25% of total outcomes were classified in this category, as compared to 21% in the prior year.

No changes
In fiscal 2008, 20% of the prospectus and rights offering reviews resulted in no significant changes, which is down from the previous year.

Offering document review outcomes



3.4 Applications

In fiscal 2008, we reviewed 432 applications for exemptive relief, compared to 459 in 2007 and 448 in 2006.

Applications filed in Ontario only, or in multiple jurisdictions where Ontario was principal regulator, accounted for approximately 70% of the total applications received. This was consistent with the previous fiscal year.

The applications requested a variety of exemptive relief. Approximately 44% of the applications were for orders not to be a reporting issuer. Other common applications included relief from one or more take-over bid requirements (8%) and for relief from certain CD obligations (7%).

We continue to monitor the types of applications we receive and the exemptive relief granted to determine whether we should consider changes to our rules or policies.

4. Discussion of operational results

This section describes the operational results from our review programs. We also discuss certain issues that have arisen from exemptive relief applications.

Goal #1

Identify the important issues and deal with them in a timely way.

4.1 Summary of industry group results

This summary discusses issues that predominate across all industry sectors, followed by industry specific results.

Management's discussion and analysis (MD&A)

The objective of MD&A is to improve an issuer's overall financial disclosure by providing an analytical and balanced discussion of its results of operations and financial condition. This requires that bad news be reported as openly as good news.

The development of MD&A should begin with management identifying and evaluating information that would give investors an accurate understanding of the issuer's current and prospective financial position and operating results, including the potential effects of known trends, commitments, events and uncertainties.

We remind issuers that disclosure must be both useful and understandable. Management should provide the most relevant information in language and formats that investors can be expected to understand. Issuers should also be aware that investors would find it helpful if information relating to a particular matter is disclosed in one place in the MD&A.

While the quality of MD&A has improved significantly in recent years, we continue to find common deficiencies in the following areas:

Liquidity and capital resources
Investors are becoming increasingly concerned about the adequacy of disclosure on liquidity and capital resources. When discussing liquidity and capital resources in the MD&A, many issuers provide general statements such as "have adequate working capital to fund operations" or "have adequate cash resources to finance future foreseeable capacity expansions".

These kinds of statements are not adequate to meet the requirements of Form 51-102F1 *MD&A*. This Form requires that an issuer provide an analysis of its liquidity, including its ability to generate sufficient amounts of cash and cash equivalents, in the short term and the long term, as well as a discussion of any trends or fluctuations that may affect its liquidity. The Form also requires a quantified and analytical discussion of both the company's financial resources and its financial commitments.

In addition, material risks associated with an issuer's principal source of liquidity should be identified and disclosed. For example, fluctuations in operating cash flow may result from rapid technological change or a change in customer demand for the issuer's products. Similarly, an issuer's debt facilities could be adversely affected by a deterioration in the issuer's financial ratios or other measures of financial performance.

While the discussion should be limited to material risks, it should be sufficiently detailed to convey the significance of the risks to the issuer. "Boilerplate" disclosure is unacceptable and, if used, may result in a requirement for a restatement.

Results of operations
Issuers often provide a brief analysis of results of operations that is not quantified. Issuers should provide a detailed, analytical and quantified discussion of the various factors that affect revenues and expenses. Otherwise, a prospective investor cannot:

- assess how a given factor could affect the issuer's operations
- readily perform trend or margin analysis or
- assess the quality and potential variability of an issuer's earnings

Risks and uncertainties, related party transactions and changes in accounting policies
A significant number of issuers include cross-references in their MD&A to the Annual Information Form (AIF), financial statements or another document.

We remind issuers that MD&A must be a self-contained document that complements and

supplements the financial statements. Simply incorporating by reference disclosure from the financial statements and/or AIF may not satisfy the MD&A requirements.

Financial statements

We have summarized below common disclosure and measurement deficiencies in financial statements we reviewed during fiscal 2008.

Premature recognition of revenue
Several issuers prematurely recognized revenue in situations where transactions did not meet all of the recognition criteria set out in CICA Handbook (HB) Section 3400 *Revenue*.

In one case, an issuer recognized revenue where the substance of the transaction was essentially a consignment rather than a sale. In another case, an issuer recorded revenue related to goods that were immediately repurchased by the issuer. Upon examination, it was evident that the risks and rewards of ownership of the asset remained with the issuer and, therefore, the revenue should not have been recognized.

Issuers that recognized revenue inappropriately were required to restate their financial statements.

Revenue recognition policy disclosure
Several issuers did not provide adequate disclosure of revenue recognition policies in accordance with Emerging Issues Committee (EIC) 141 *Revenue Recognition*, EIC 142 *Revenue Arrangements with Multiple Deliverables* and EIC 143 *Accounting for Separately Priced Extended Warranty and Product Maintenance Contracts*. In particular:

- If an issuer has different policies for different types of revenue transactions, including non-monetary (barter) sales, the policy for each material type of transaction should be disclosed.

- If sales transactions have multiple elements, such as a product and service, the issuer should clearly state the accounting policy for each element, how multiple elements are determined and valued, and the description and nature of these arrangements, including performance, cancellation, termination or refund-type provisions.

Many issuers were required to revise or enhance their disclosure of revenue recognition policies in order to provide greater clarity to financial statement users.

Stock-based compensation and volatility
We found several instances of issuers adopting different methods of calculating expected volatility to establish stock option expense. Some methodologies did not consider the factors outlined in the Appendix to CICA HB Section 3870 *Stock-based compensation and other stock-based compensation payments* and, as a result, these expenses were understated. For example, reporting issuers calculated historical volatility of the stock over the most recent period that was not commensurate with the option's expected life.

Intangibles
Issuers in certain industries included intangibles such as land use rights and plantation rights on their balance sheets. There does not seem to be a standard meaning ascribed to these assets and it is sometimes unclear how these assets are valued. We encourage issuers to clearly explain what the asset consists of, how value is attributed to the asset and the basis for amortizing the asset.

Cash and cash equivalents
Given the focus on ABCP and liquidity brought about by the global credit market environment, we focused on issuer's disclosure related to cash and cash equivalents. We found that a significant number of issuers did not disclose the components of cash and cash equivalents, the extent to which their use was restricted or the related policies for determining their composition. These disclosures are required by CICA HB Section1540 *Cash flow statements.*

Banking

We continued to focus on the banking sector throughout the 2008 fiscal year. In particular, we conducted targeted reviews relating to current market conditions. While exposures varied significantly by issuer, our reviews targeted the accounting and disclosure of bank-sponsored conduits and the impact of the non-bank ABCP market, exposures related to the US subprime mortgage market and other structured credit products, and exposure to US financial guarantors.

Over the past few quarters, the banking sector has provided further disclosures in continuous

disclosure filings and on bank websites in the following areas:

- *Higher risk financial instruments.* This includes securities with exposure to the US residential mortgage market, collateralized loan obligations, commercial mortgage backed securities and non-bank ABCP holdings. Increased disclosure included notional exposure, tranche, nature of underlying assets, credit ratings and the financial impact of fair value by type of security.

- *Hedging of financial instruments.* Disclosure of exposure to US financial guarantors and other counterparties, credit related valuation adjustments and counterparty ratings.

- *Off-balance sheet conduits and special purpose entities***.** Disclosure of the categories and ratings of assets a bank sponsored conduit holds, support provided to off-balance sheet entities, conduit funding and liquidity issues related to market conditions.

Also, important for this industry is quantitative and qualitative disclosure on how fair values of financial instruments are determined in the absence of quoted market prices. This information should be provided in sufficient detail to allow a reader to understand how the issuer arrived at its valuation and the measurement uncertainty associated with the valuation.

Mining

The mining industry is currently facing a broad range of challenges, including the impact of an uncertain economy, political instability in several resource rich countries, enhanced environmental standards and the impending adoption of IFRS. Many of these challenges are exacerbated by the large number of small issuers who have limited access to knowledgeable advisors and have not yet developed in-house expertise in certain highly technical areas.

To assist issuers in meeting their regulatory responsibilities in the face of these challenges, we will continue to highlight areas of concern at various mining conferences and workshops. These include the appropriate measurement of stock option expense, the use of non-GAAP financial measures and the valuation of mining properties.

Other areas of concern continue to be deficiencies in technical disclosure, which is a critical component of a mining company's overall disclosure. The objective of the technical report is to provide a summary of scientific and technical information concerning mineral exploration, development and production activities on a mineral property that is material to an issuer. While we noted some improvements in technical disclosure over the 2007 fiscal year, we continue to find the following common deficiencies:

- Failure to name the qualified person responsible for written scientific and technical information in documents such as MD&A, AIF and websites, as required by section 3.1 of National Instrument 43-101.

- Certificates and consents of qualified persons preparing technical reports are often missing or are deficient or non-compliant. We refer issuers to sections 8.1 and 8.3 of National Instrument 43-101 for guidance in this area.

- Multiple projects or mineral deposits on the same projects are subject to multiple technical reports. Technical reports must be based on all relevant material scientific and technical information relating to the property as of the date of the filing of the report. Consequently, multiple projects within a single property must be discussed in a single property-wide technical report.

Manufacturing and retail

The manufacturing and retail sectors face similar challenges in today's market, including inventory management, foreign exchange exposure, the price of raw materials, increased domestic and foreign competition (including the presence of US big box stores) and supply chain management.

The particular challenges faced by issuers in these sectors and the unique attributes of the manufacturing and retail industries highlight certain areas of risk in their financial disclosure. For example, because retail and manufacturing issuers often have revenues and expenses that are denominated in US dollars, they are exposed to foreign currency changes and they may rely on hedging or derivatives to reduce this exposure. In addition, both industries face significant risk of inventory obsolescence that may raise questions relating to the valuation of inventory.

Many manufacturing companies may also have significant intangible assets that give rise to valuation questions. In addition, these companies possibly have revenue recognition concerns relating to long term contracts with specific deliverables.

In conducting our reviews of issuers in these industries, we have targeted these high risk disclosure matters as they are likely subject to significant investor focus.

In fiscal 2008, we found common deficiencies in the following areas:

- deficient disclosure in the notes to the financial statements on the accounting policy for inventory valuation and impairment/write-down provisions
- concerns related to revenue recognition
- issues with MD&A disclosure, specifically relating to inadequate discussion and analysis of overall performance, liquidity, and financial condition

Issuers were required to include prospective disclosure enhancements in the notes to the financial statements and the MD&A. In addition, we are continuing to monitor revenue recognition and inventory practices.

Real estate

Given the downward economic trends in North America in recent months, valuations of income producing properties and rental income from these properties tend to be the two main areas of investor focus for issuers in the real estate industry.

We understand that the tightening of the credit market following the worldwide credit crunch is making it more difficult and more expensive for issuers to raise short-term facilities for acquisitions or construction and the development of new projects. We expect issuers to provide full disclosure and analysis in their MD&A liquidity sections on how they have been impacted by the global credit market environment. To the extent that existing debt, such as mortgage renewals, has been or will be affected, issuers should explain how they intend to address the problem.

We also continue to observe issuers using funds from operations (FFO) in their disclosure documents as a measure of cashflow. CSA Staff Notice 52-306 *Non-GAAP Financial Measures* states that a non-GAAP financial measure should be reconciled to the most comparable GAAP measure. Therefore, when an issuer uses FFO as a cashflow measure, we believe that it is fairly presented only when reconciled to cash flows from operating activities as presented in the issuer's financial statements.

Entertainment and communications

The entertainment and communications industries include a diverse population of reporting issuers that are subject to various risks depending on their particular business. In recent years, these industries have undergone a general consolidation through acquisitions. Given the restructuring of issuers in these industries, we continue to focus our attention on instances where there may be a potential impairment of an issuer's goodwill or intangible assets and examining the quality of discussion related to non-GAAP financial measures.

The consolidation in these industries has also resulted in some issuers diversifying the products they currently deliver, or developing new products for new or emerging markets. Disclosures of revenue recognition policies continue to provide insufficient information about how an issuer records revenue. In addition, discussions of the results of operations frequently fail to show how critical estimates in the revenue recognition process affect an issuer's results from operations.

4.2 Summary of targeted review results

Financial instruments

Almost all reporting issuers were affected by the new financial instruments accounting standards that became effective for fiscal years starting on or after October 1, 2006. These standards include CICA HB Section 3855 *Financial Instruments - Recognition and Measurement*, Section 3865 *Hedges*, Section 3861 *Financial Instruments - Disclosure and Presentation* and Section 1530 *Comprehensive Income*.

The new standards are premised on fair value being the most relevant measure for financial instruments and the only relevant measure for derivatives. Implementation of the new standards required issuers to examine and classify their financial instruments into five main categories: held for trading, held to maturity, loans and receivables, available for sale and other financial liabilities. This affects the measurement basis used and the presentation of gains and losses.

We conducted a targeted review focusing on reporting issuers' implementation of these new standards. We observed that the classification of financial instruments, even among issuers in similar industries, varied based on whether the issuer intended to hold or sell the instrument and its risk strategies. This makes comparing financial results of similar issuers more challenging and highlights the need for meaningful disclosure.

The common deficiencies relating to the implementation of financial instruments were as follows:

- *Insufficient disclosure.* Some issuers did not adequately disclose the adoption of the new standards in their financial statements and MD&A or provide sufficient disclosure related to fair value.

- *Measurement at cost, not fair value*. Several issuers continued to carry investments on their balance sheet at cost. They did not record investments at fair value as required, with the corresponding gains and losses recorded as net income or other comprehensive income, depending upon the appropriate classification.

- *Incorrect presentation of foreign exchange translation gains and losses of a self-sustaining foreign operation.* In accordance with CICA HB Section 1530, these gains and losses are no longer presented as a cumulative translation adjustment on the balance sheet. They must be recognized in a separate component of other comprehensive income.

- *Embedded derivatives or derivatives not identified.* Some issuers failed to identify and measure derivatives upon inception of contracts or to perform a review of embedded derivatives within their contracts, which is necessary to consider bifurcation of the financial instrument.

In approximately 20% of the cases reviewed, the deficiencies were so severe that the issuers were required to restate their financial statements to correctly reflect the adoption of the new accounting standards.

The majority of the remaining reviews resulted in prospective changes to address the above deficiencies.

In light of these outcomes, we will continue to focus on financial instruments as part of our CD review program in the 2009 fiscal year.

Environmental reporting

Investors are increasingly taking environmental matters into account in making investment decisions. We reviewed the filings of 35 issuers in Ontario to assess compliance with CD requirements and the adequacy of disclosure of such matters as financial liabilities related to the environment, asset retirement obligations and the financial and operational effects of environmental protection requirements. We also considered whether information contained in the websites of these issuers was consistent with the environmental disclosure in their CD documents.

We found several areas of deficient disclosure, including the disclosure of environmental liabilities and risks. The information provided by issuers was often boilerplate and did not provide meaningful information to investors. OSC Staff Notice 51-716 *Environmental Reporting* provides additional detail and summarizes the results of our targeted review. The Notice also provides guidance for issuers to consider when discussing environmental matters in their CD documents.

Non-bank sponsored asset backed commercial paper (ABCP)

The freeze in the market for non-bank sponsored ABCP has implications for reporting issuers who sponsor ABCP programs, issuers who hold investments in ABCP and other issuers indirectly impacted by the prevailing global credit market environment.

Reviews were conducted across the CSA of issuers that held a material amount of non-bank ABCP. The reviews focused on valuation in an

illiquid[2] market and disclosure of the non-bank ABCP in financial statements and MD&A.

Determination of fair value
One of the main issues affecting holders of non-bank ABCP was how to determine the fair value of their holdings. Under generally accepted accounting principles (GAAP), issuers must estimate fair value despite uncertainties, lack of information or a restructuring taking place. Fair value must be estimated using an appropriate valuation technique relying on observable inputs or, in the absence of observable inputs, inputs generated by the issuer.

A valuation technique must consider what a willing buyer would pay a willing seller, taking into account all relevant factors including credit risk, liquidity risk, time value, lack of transparency and other product specific risks. Although various valuation methods are acceptable under GAAP, the method must reflect how the market could be expected to price the security. Issuers who did not take into account appropriate factors when determining fair value of non-bank ABCP holdings were asked to restate their financial statements.

Financial instrument disclosures
Because of the market uncertainty associated with ABCP holdings and the significant judgment involved in determining fair market value, full and transparent financial statement disclosure was essential in understanding the impact of these holdings to the issuer and how the issuer arrived at its valuation. The disclosure requirements for financial instruments are outlined in CICA HB Section 3862 *Financial Instruments - Disclosures* and Form 51-102F1 *MD&A*, Item 1.14, financial instruments and other instruments.

Many issuers were asked to provide further disclosure in future filings on the methods and assumptions used to determine fair market value and the impact of non-bank ABCP holdings on the issuer's ability to meet cash needs and planned growth objectives.

Stock options backdating

Options backdating generally describes the act of changing the actual option grant date to an earlier date, when the market price of the underlying stock was lower (resulting in a more favourable exercise price). A related issue involves timing the grant of stock options based on expectations of stock price movements.

We reviewed the timing of option grants as part of our CD review program. These reviews were a significant element of the targeted review program for fiscal 2008, resulting in a number of investigations by the Enforcement Branch.

4.3 Other results

This section highlights other recurring issues or deficiencies we have identified through our operational programs.

Eligibility of designated foreign issuers for short form prospectus distributions

We reviewed a number of short form prospectuses filed under National Instrument 44-101 *Short Form Prospectus Distributions* by designated foreign issuers to assess whether such issuers satisfied the requirement to include full, true and plain disclosure in a prospectus.

Under this requirement, issuers that file a short form prospectus may need to include quarterly financial information. It remains an open issue whether a short form prospectus filed by a designated foreign issuer that includes only half year and annual financial statements can satisfy this requirement, despite the fact that the issuer is qualified to file a short form prospectus. On a case by case basis, additional, or more current, financial information may be required.

Application for relief from CD requirements while subject to a compulsory acquisition

We have received several inquiries about the availability of relief from the requirement to file financial statements and related documents pending the completion of a compulsory acquisition under corporate law.

We are generally receptive to an application for relief in these circumstances, subject to the following:

- The filer will have no other securities, including debt securities, outstanding following completion of the compulsory acquisition.
- The filer has taken all actions required to make the compulsory acquisition inevitable.

[2] The Accounting Standards Board also provided guidance on accounting issues related to ABCP in three Financial Reporting Commentaries dated October 29, 2007, January 18, 2008 and April 18, 2008.

- The application clarifies the shareholder rights that are affected. For example, the filer should disclose any agreements or arrangements with shareholders regarding fair value or releasing claims.

- The filer will take any action required to complete the acquisition as soon as possible to minimize the period in which financial information will not be available to investors.

- By way of press release or bid documentation, the filer provides advance notice of the application for the requested relief in order to give affected shareholders the opportunity to come forward.

- The relief is limited to specific periodic filings (i.e. financial statements, MD&A and certificates) and does not extend to other CD obligations.

Underwriters' over-allocation position and stabilization

We note that a number of preliminary prospectuses filed after March 17, 2008 do not comply with the new requirements in Form 41-101F1 and Form 44-101F1 relating to underwriters' over-allocation positions and stabilization. We remind issuers, underwriters and their counsel to address these requirements specifically when drafting a preliminary prospectus and to update the disclosure before filing the final prospectus.

For example, we expect to see disclosure if the underwriters expect the offering to be over-subscribed, thereby creating an over-allocation position. If the final prospectus discloses the anticipated size of the over-allocation position, issuers may include cautionary language that sales cannot be confirmed until the delivery of a final prospectus and that purchasers are entitled to subsequently exercise statutory rights of rescission.

We also expect to see disclosure on how stabilization transactions are expected to affect the price of the securities. For example if, following the closing of the offering, the market price of the securities is expected to be below the offering price, the short position created by the over-allocation position may be filled through purchases in the market, creating upward pressure on the price of the securities. This expectation should be disclosed in the prospectus.

National Instrument 41-101 – general prospectus requirements specific to junior issuers

Under National Instrument 41-101, in order to provide investors with adequate disclosure about junior issuers (as defined), there are certain additional disclosure requirements that apply. These requirements include enhanced disclosure on the use of proceeds, MD&A, and management's background and relevant experience.

We have noted that junior issuers often fail to include the additional required disclosure. We remind junior issuers that we consider this to be fundamental information for investors in making an informed investment decision.

Applications for exemptive relief - exchange discounted normal course issuer bid (NCIB) purchases

Section 101.2 of the *Securities Act* (Ontario) (the Act) provides an exemption from the formal bid requirements for an issuer bid that is made in the normal course through the facilities of the TSX if the issuer bid is made in accordance with the TSX rules.

A number of issuers have applied for exemptive relief to conduct certain NCIB purchases at a discount to the closing market price at the time of each proposed purchase. As a result of the discounted purchase price, the proposed purchases cannot be made through the TSX trading system and, therefore, will not be made through the facilities of the TSX for purposes of section 101.2 of the Act.

We will consider the following factors when recommending exemptive relief:

- Whether all relevant terms of the proposed purchases are specifically determined and known by the issuer (i.e. dates, timing, parties, number of shares to be sold, etc.).

- When and how the shares to be sold were acquired by the selling shareholder (i.e. whether the selling shareholder accumulated blocks of shares simply for the purposes of using the TSX's block purchase exception and/or simply for arbitrage purposes).

- The discount to the closing market price and the last independent trade of a board lot of the subject shares at the time of each proposed purchase.

- Whether the issuer and the selling shareholder are aware of any undisclosed material change or any undisclosed material fact in respect of the issuer at the time of each proposed purchase.

- Whether there has been notification to the TSX, compliance with requirement by the TSX Company Manual for the block purchase exceptions and the issuance of a press release by the issuer.

Applications for exemptive relief - vendor placements

In the context of a cross-border securities exchange take-over bid, a bidder may propose to employ a third party to sell the securities of the bidder that tendering foreign target shareholders would otherwise be entitled to receive under the offer and then deliver the proceeds, less expenses, to such target shareholders. These arrangements are commonly referred to as "vendor placements".

When a formal securities exchange take-over bid is made, the bidder must offer identical consideration to all holders of the same class of securities. If a vendor placement is involved, exemptive relief from the identical consideration requirement is needed since non-Canadian target shareholders will receive cash proceeds from the vendor placement sales while Canadian target shareholders will receive the bidder's securities. Exemptive relief from the identical consideration requirement has been granted to enable an offeror to extend the offer to non-Canadian offeree shareholders through a vendor placement. Factors that we will consider in recommending such exemptive relief include the following:

- the percentage of non-Canadian ownership in the target (registered and beneficial) and the source of this ownership information (in particular, for unsolicited bids)

- the percentage of the bidder's securities post-transaction to be sold under the vendor placement
- the liquidity of the bidder's securities following completion of the vendor placement
- the timeliness of the proposed vendor placement process

- the reliance on, and availability of, registration exemptions under foreign securities laws

5. Developing issues

Recent cases of interest interpreting the terms "beneficial ownership" and "control or direction"

We routinely receive pre-files, applications and public enquiries that raise questions on the meaning of the terms "beneficial ownership" and "control or direction" in Ontario securities law. The Commission has recently issued a number of decisions that have considered these terms both in the context of early warning requirements for take-over bids and insider reporting requirements for trusts.

Compliance with early warning requirements
In the recent Sears Canada[3] decision, the Commission considered whether a number of hedge funds that had opposed a proposed offer and going private transaction had complied with the early warning requirements. Although the Commission decided that there was no evidence of abusive market behaviour, they concluded that there "might well be situations, in the context of a take-over bid, where the use of swaps to park securities in a deliberate effort to avoid reporting obligations under the Act and for the purpose of affecting an outstanding offer could constitute abusive conduct sufficient to engage the Commission's public interest jurisdiction".

We are aware of a number of recent studies[4] that identify this and similar strategies as having been adopted by sophisticated investors to accumulate substantial economic positions in an issuer without public disclosure. These investors then convert their positions into voting positions at an opportunistic time. As a result, a number of international jurisdictions have introduced additional disclosure-based reforms.

We are presently reviewing a number of issues relating to the potential use of derivatives to avoid early warning requirements and similar securities law requirements based on the concepts of beneficial ownership and control or direction.

Trusts and Insider Reporting
The Commission has had a number of opportunities recently to consider whether an insider has "control or direction" over securities held in a trust[5].

We will consider all of the facts and circumstances surrounding the creation and management of a trust in determining this question. These include:

- trust documentation
- whether the person is a settlor or beneficiary of the trust
- how the decisions of the trust are made
- the business conducted by the trust
- the level of involvement the person has in the affairs of the trust (e.g. making suggestions to the trustee(s) of the trust)
- whether the person has trading authority over securities in the trust

In addition, the Commission reaffirmed its earlier position that a person or company has "control or direction" where the person directly or indirectly has or shares (a) voting power or power to direct the voting of securities, or (b) investment power, including the power to acquire, dispose or direct the acquisition of securities.

Peer-to-peer lending websites

Peer-to-peer lending websites generally facilitate the matching of individual borrowers and individual lenders. We have received inquiries on launching peer-to-peer lending websites in Canada. We note that these websites may differ in structure. Any business that plans to operate a peer-to-peer lending website should obtain legal advice and consider:

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3 *In the Matter of Sears Canada Inc., Sears Holding Corporation, and SHLD Acquisition Corp. v. Hawkeye Capital Management, LLC, Knott Partners Management, LLC, and Pershing Square Capital Management, L.P.* dated August 8, 2006 (former Vice Chair Wolburgh Jenah and Commissioners Davis and Perry).

4 See, for example, Henry T.C. Hu & Bernard Black, *Equity and Debt Decoupling and Empty Voting: Importance and Extensions*, University of Pennsylvania Law Review, vol 156, no. 3, January 2008 at 625 and various earlier papers cited therein.

5 *In the Matter of Eugene Melnyk et al* dated May 18, 2007 (decision) and June 6, 2007 (reasons) (Vice Chair Turner and Commissioners Howard and Perry); *In the Matter of Sterling Centrecorp Inc., and SCI Acquisition Inc. v. First Capital Realty Inc. and Gazit Canada Inc.* dated June 4, 2007 (Decision and reasons) (Vice Chair Ritchie and Commissioners Hands and Perry); and *In the Matter of Roger D. Rowan, Watt Carmichael Inc., Harry J. Carmichael and G. Michael McKenney* dated June 20, 2008 (Commissioners Shirriff, Thakrar and Knight).

- The type of securities within the meaning of the Act (e.g., evidences of indebtedness, investment contracts) that are being offered under the proposed structure.

- The type of trades and distributions that will occur by virtue of the structure.

- How the business will comply with applicable securities legislation, including adviser and dealer registration requirements.

- Whether the proposed structure would constitute a marketplace under National Instrument 21-101 *Marketplace Operation.*

Since the peer-to-peer lending structure is novel in Canada and raises a number of regulatory issues, we suggest that any business planning to operate peer-to-peer lending websites submit a pre-filing letter to its principal regulator.

6. Current priorities

6.1 Plans for fiscal 2009

Each year, we conduct targeted reviews to assess compliance with new accounting and regulatory initiatives. We plan to conduct the following targeted reviews for fiscal 2009, however, our plans could be affected by changing market conditions and the effect of these changes on our risk assessment.

Financial instruments disclosure

Given the difficulty issuers have had with the implementation of the new financial instrument sections in fiscal 2008, we will review the implementation of CICA HB Section 1535 *Capital Disclosures*, Section 3862 *Financial Instruments - Disclosures* and Section 3863 *Financial Instruments - Presentation*.

These sections apply to interim and annual financial statements relating to fiscal years beginning on or after October 1, 2007 and focus on exposures to risk and how those risks are managed. We believe that a compliance review for these sections will allow us to review the quality of risk disclosures, which is important information for investors to consider when making investment decisions.

Current market conditions heightened the importance of the need for transparent disclosure of exposures and risks associated with structured credit products and off-balance sheet entities. In order to meet the disclosure requirements of CICA HB Section 3862 and Form 51-102F1 *MD&A*, issuers should disclose both qualitative and quantitative information in sufficient detail to provide meaningful disclosure of risks arising from financial instruments and off-balance sheet transactions.

Non-GAAP financial measures

We have continued to monitor the disclosure of non-GAAP financial measures as part of reviews and will be conducting a targeted review focusing on this issue this year. It has become apparent that issuers in almost all industries utilize some type of a non-GAAP financial measure considered common to that particular industry. Through these reviews, we have noted that the disclosure recommendations outlined in Staff Notice 52-306 *Non-GAAP Financial Measures* are often not considered and, in some cases, the non-GAAP disclosures appear to be misleading.

Inventories

The CICA recently issued HB Section 3031 *Inventories.* This standard is generally harmonized with International Accounting Standard 2 (IAS 2) *Inventories* and applies to interim and annual financial statements for fiscal years beginning on or after January 1, 2008. We plan to conduct a targeted review to assess compliance with these new requirements.

Key changes from the previous standard on inventories include:

- reduction in the number of alternatives for the measurement of inventory as last-in, first-out (LIFO) is no longer permitted
- reversal of prior write-downs to net realizable value is permitted when there is a subsequent increase in net realizable value
- increased disclosure requirements
- requirement of impairment testing at each period

Forward-looking information

In December 2007, the CSA adopted new disclosure requirements for forward-looking information, which are set out in National Instrument 51-102 *Continuous Disclosure Obligations*. The new requirements came into effect in 2008 and include definitions for future-oriented financial information (FOFI) and financial outlook. There is now a blanket prohibition on disclosing any kind of forward-looking information without a reasonable basis, including FOFI, financial outlooks or other forward-looking information.

If an issuer discloses material forward-looking information, the issuer must:

- identify the forward-looking information as such
- caution users of forward-looking information that actual results may vary from the forward-looking information and identify material risk

factors that could cause actual results to differ materially from the forward-looking information

- state the material factors or assumptions used to develop forward-looking information
- describe the issuer's policy for updating the forward-looking information if it includes procedures in addition to those described in the MD&A

This year, we will be completing a targeted review of issuers that have disclosed forward-looking information to determine the level of compliance with the new disclosure requirements.

Fair value of illiquid securities

The freeze in the market for non-bank sponsored ABCP highlighted the challenges associated with fair valuing illiquid securities and the importance of disclosure in assisting the market's understanding of risks associated with financial instruments and an issuer's valuation.

This year we will be conducting a targeted review of illiquid securities valuation. Our review will focus on:

- the valuation methodologies used
- the internal processes in place to determine and assess fair value
- the disclosures required by CICA HB Sections 3862 *Financial Instruments – Disclosures,* 3855 *Financial Instruments – Recognition and Measurement* relating to fair value
- the disclosures required by Item 1.12 *Critical Accounting Estimates* and Item 1.14 *Financial Instruments and Other Instruments* of Form 51-102F1 *MD&A*

Going concern

The CICA recently issued an amended HB section 1400 *General Standards of Financial Statement Presentation*. These amendments apply to interim and annual financial statements relating to fiscal years beginning on or after January 1, 2008 and specifically address going concern issues. We will be conducting a targeted review to assess and facilitate compliance with these new requirements. Specifically, we will focus on management's assessment of an entity's ability to continue as a going concern when preparing financial statements, along with disclosure of material uncertainties that may affect an entity's ability to continue as a going concern.

6.2 Transition to International Financial Reporting Standards (IFRS)

In 2006, the Canadian Accounting Standards Board (AcSB) announced a strategic plan calling for the adoption of IFRS by "publicly accountable enterprises" in Canada. Recently, the AcSB confirmed that IFRS will come into effect on January 1, 2011. IFRS is a single set of global accounting standards that are set by the International Accounting Standards Board (IASB).

Converting to IFRS represents a fundamental change to reporting standards and is one of the most significant changes that issuers will have to deal with over the next few years. The process will require a significant commitment of resources by issuers and regulators, along with sufficient advance planning to ensure a smooth transition.

Timeline for IFRS conversion

The diagram below outlines the expected timeline for calendar year-end reporting issuers converting their financial statements to IFRS. The first reporting period under IFRS for calendar year-end reporting issuers will be the first quarter ending March 31, 2011.

2008	Training and knowledge of IFRS Prepare convergence plan Provide qualitative IFRS disclosure in MD&A
2009	Consider IFRS policy choices Review system implications Update IFRS disclosure in MD&A
2010	Compile comparative data for use in 2011 Restate 2010 statements for 2011 IFRS filing Add quantitative IFRS disclosure in MD&A
2011	IFRS reporting as primary GAAP

As the diagram above clearly indicates, the timeline for IFRS conversion is highly compressed. In addition to their ongoing business activities, issuers will have to fully research and plan for the impact of converting to IFRS during fiscal years 2008 and 2009. This includes:

- developing a detailed conversion plan
- implementing IFRS training for employees
- reviewing the IFRS Handbook for accounting policy selections
- implementing these decisions in their reporting systems (which includes monitoring proposed or anticipated changes to standards that could be in effect by December 31, 2011)

The completion of this work is critical for the required compilation of fiscal 2010 IFRS comparative information.

Reporting issuers need to be aware that developing and implementing an IFRS conversion plan is not just an accounting exercise, since it will affect a wide variety of an issuer's business activities. Issuers will have to consider how the transition to IFRS will affect all business functions that rely on financial information, including:

- executive compensation plans and related disclosure requirements
- income and other taxes
- treasury activities such as foreign exchange and hedging
- bank covenants and other contracts or agreements
- internal controls and certification
- investor relations
- information technology systems

Corporate governance

Audit committees will need to actively monitor the issuer's IFRS conversion plan, given this fundamental change to reporting standards and the impact it could have on many areas of an issuer's business. Audit committee education and awareness of IFRS related issues is critical to discharging their stewardship responsibilities.

Disclosure

During the period leading up to the changeover date, issuers will have to communicate to the market their readiness for the transition and the potential impact that the application of IFRS will have on their financial statements and related disclosures.

In May 2008, the CSA issued Staff Notice 52-320 *Disclosure of Expected Changes in Accounting Policies Relating to Changeover to International Financial Reporting Standards*. The notice provides guidance to issuers on the disclosure necessary to communicate to stakeholders prior to implementation.

In addition, issuers will have to begin considering the additional disclosure requirements under IFRS that will generally result in more detailed disclosure in the notes to the financial statements than under Canadian GAAP. They will need to allocate sufficient resources for identifying and collecting information that will be required to be included in the first IFRS financial statements and the 2010 comparative period.

Industry specific issues

Canada's transition to IFRS will have significant impact on some issuers where existing IFRS guidance is fairly limited or differs materially from Canadian GAAP. We highlight some of these industries below.

Banking

The Office of the Superintendent of Financial Institutions (OSFI) announced that Federally Regulated Financial Institutions will not be permitted to early adopt IFRS. Banks commonly use securitization vehicles to move assets off their balance sheets to free capital for additional lending. Consolidation of special purpose entities (SPEs) differs between IFRS and Canadian GAAP. The concept of a qualified special purpose entity exists under Canadian GAAP, which is commonly used to avoid consolidation, however the concept of a qualified special purpose entity does not exist under IFRS. The IASB is working with standard setters in the US to try and achieve harmonization with respect to the accounting for SPEs.

Insurance
The most significant impact of the transition to IFRS on the insurance industry will be the standard that results from the IASB project on insurance contracts. The standard will result in a consistent basis of accounting for insurance contracts worldwide. The standard is expected to be issued as an exposure draft in late 2009 and as a final standard in 2011. The publication of the final standard will be subsequent to the January 1, 2011 Canadian transition date to IFRS. The AcSB is considering how to approach the adoption of IFRS for insurance companies on January 1, 2011, in light of the subsequent publication of the final IFRS for insurance contracts.

Mining
IFRS, as currently in effect, does not specifically address many attributes of a mining company's operations. Specifically, these attributes include large upfront investment with low success rates and long lead times, significant back-end costs associated with the closing of a mine, and activities that both produce saleable product and contribute to the development of the mine.

IFRS 6 *Exploration for and Evaluation of Mineral Resources* provides guidance for the financial reporting of expenditures incurred in the exploration for, and evaluation of, mineral resources. It does not address development of mineral resources. Guidance on a limited range of relevant issues may also be found in IAS 16 *Property, Plant and Equipment*, IAS 36 *Impairment of Assets* and IAS 37 *Provisions, Contingent Liabilities and Contingent Assets*.

While the IASB is currently undertaking a comprehensive research project to address a broad range of issues faced by the mining sector, guidance is not expected for several years. In the meantime, these issues will need to be addressed by mining companies that report under IFRS.

Real Estate
One of the standards that may impact a number of the issuers in this industry, regardless of the nature of their business, is IAS 40 *Investment Property*. Issuers who hold assets such as land or buildings that meet the definition of investment property may choose to record these assets using the fair value model.

Under the fair value model, period to period valuation changes in these assets are recorded in the income statement. In addition, this model does not require these assets to be depreciated or tested for impairment, as compared to the historical cost model.

This standard is quite different than existing Canadian GAAP and may significantly impact an issuer's balance sheet and income statement upon transitioning to IFRS, depending upon the nature of their assets and the choices they make under this standard.

Audit of comparative financial statements on first-time adoption of IFRS

IFRS 1 *First-time Adoption of International Financial Reporting Standards* requires the comparative financial statements in the first set of IFRS financial statements to also be reported in accordance with IFRS. Securities law requires annual financial statements to be audited. Accordingly, the comparative IFRS financial statements must also be audited.

For reporting issuers that change over to IFRS at December 31, 2011, the 2010 year end will have already been filed with securities regulators and audited on a Canadian GAAP basis. The change-over to IFRS will mean an additional audit of the 2010 financial statements and issuers should plan accordingly.

6.3 Other policy initiatives

Goal #3

Champion investor protection, especially for retail investors.

We participate in a number of CSA policy initiatives. The following is a summary of some of the projects initiated or completed during the 2008 fiscal year:

- Amendments to Part XX – Take-Over Bids and Issuer Bids of the Act, new OSC Rule 62-504 *Take-Over Bids and Issuer Bids,* new National Policy 62-203 *Take-Over Bids and Issuer Bids* and new Multilateral Instrument 61-101 *Protection of Minority Security Holders in Special Transactions* and related Companion Policy 61-101CP (MI 61-101)[6] all came into force in Ontario on February 1, 2008[7].

[6] MI 61-101 introduces harmonized requirements in Québec and Ontario for enhanced disclosure, independent valuations and majority of minority security holder approval for specified types of transactions. These requirements are substantially similar to those previously set out in Regulation Q-27 *Respecting Protection of Minority Securityholders in the Course of Certain Transactions* in Québec and in Rule 61-501 *Insider Bids, Issuer Bids, Business Combinations and Related Party Transactions* in Ontario.

[7] In all other Canadian jurisdictions, the take-over and issuer bid regimes are harmonized through the application of Multilateral Instrument 62-104 *Take-Over Bids and Issuer Bids*, which contains provisions similar to Part XX of the Act and OSC Rule 62-504.

- National Instrument 41-101 *General Prospectus Requirements* became effective on March 17, 2008.

- New National Policy 11-202 *Process for Prospectus Reviews in Multiple Jurisdictions* and new National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions* came into force on March 17, 2008. These new interface policies replaced the existing Mutual Reliance Review System policies for prospectuses and applications.

- A revised National Instrument 51-102F6 *Executive Compensation* was published for comment on February 22, 2008. The comment period expired on April 22, 2008. The instrument is expected to be implemented on December 31, 2008.

- A revised National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* was published in final form on August 15, 2008. The instrument is expected to be implemented on **December 15, 2008**.

  [OSC Web Editor's Correction Notice dated 2008-09-15: The bolded date above originally read December 31, 2008 and has been corrected to December 15, 2008.]

- CSA Notice 51-323 *XBRL Filing Program and Request for Volunteers* was issued on January 19, 2007. The Notice announced the launching of the CSA's XBRL voluntary filing program in May 2007. We continue to focus on raising awareness of the program to increase issuer participation.

7. Service standards and procedural matters

7.1 How we performed this year

We are committed to delivering dependable, prompt and high quality services.

When an issuer files an offering document with us and we are the principal regulator, we aim to complete our review within 30 working days. When an issuer files an application for exemptive relief with us and we are the principal regulator, we aim to complete our review within 40 working days. In the vast majority of situations, we are able to meet these service standards.

Service Standards

	2008	2007
Offering documents	88%	92%
Applications	81%	85%

7.2 Insider reporting procedural matters

Our insider reporting group is responsible for administering insider reporting requirements under the Act. Our objective is to facilitate transparent, timely and complete insider reporting.

To assist insiders with their obligations, we strongly encourage insiders and their agents to review:

- National Instrument 55-102 *System for Electronic Disclosure by Insiders (SEDI)* and the related forms
- CSA Staff Notice 55-308 *Questions on Insider Reporting*
- CSA Staff Notice 55-301 *Questions and Answers on the System for Electronic Disclosure by Insiders*

Insider transaction issues

We continue to see insiders and their agents file insider reports on SEDI that do not correctly report their transactions in the manner required by Form 55-102F2 *Insider Report* and other applicable securities law.

Two specific areas of concern were identified during our fiscal 2008 year reviews. Some insiders continue to use the settlement date instead of the trade date for the date of the transaction that they report on the system. Other insiders do not always report the grant of derivatives (e.g. options, warrants or rights) and any subsequent expiration of these securities.

Insider profile issues

We continue to identify instances where insiders have not filed an amended insider profile on SEDI within 10 days of a change in their name or relationship to any reporting issuer. As well, many insiders that cease to be an insider of a reporting issuer do not reflect this on SEDI.

Other areas of concern that we noted include:

- Individuals using the issuer's address rather than their residential address.
- Incorrect reporting of the manner the insider holds securities. For example, securities owned directly but held through a nominee such as a broker or book-based depository (i.e. CDS) are considered direct holdings.

Issuer events

We remind issuers to file an issuer event report on SEDI no later than one business day after a stock dividend, stock split, consolidation, amalgamation, reorganization, merger or other similar event that affects all holdings of a class of securities of an issuer in the same manner.

7.3 Other procedural matters

Applications

Relief in Multiple Jurisdictions
National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions* came into effect on March 17, 2008. The policy describes the process for the filing and review of an application for exemptive relief in more than one Canadian jurisdiction.

Since National Policy 11-203 came into effect, we have noticed the following frequently occurring errors:

- Only applications for relief from a requirement of securities law listed in Appendix D to Multilateral Instrument 11-102 *Passport*

System qualify as a "passport application" or a "dual application" under National Policy 11-203. Filings have been made as passport or dual applications in circumstances where the requested relief is not listed in Appendix D.

- We have received applications for relief containing draft decision documents that are not in the proper form. Filers that do not comply with the form of decision document required for the particular type of application may need to refile a corrected application.

- Failing to provide an electronic copy of the application and draft decision document in Word (see section 5.5 of National Policy 11-203).

We also remind filers to submit all of the material listed in National Policy 11-203 when filing an application.

We note that applications for revocations of cease trade orders must be made separately to each local jurisdiction that issued a cease trade order (the process in National Policy 11-203 does not apply to those applications).

8. Contact information

General inquiries	Contact Centre Ontario Securities Commission 20 Queen Street West, Suite 1900, Box 55 Toronto, Ontario M5H 3S8 Telephone: (416) 593-8314 Toll-Free (North America): 1-877-785-1555 Email: inquiries@osc.gov.on.ca
Branch report inquiries	Margo Paul, Director Telephone: (416) 593-8136 Email: mpaul@osc.gov.on.ca Kelly Gorman, Manager Telephone: (416) 593-8251 Email: kgorman@osc.gov.on.ca Michael Brown, Assistant Manager Telephone: (416) 593-8266 Email: mbrown@osc.gov.on.ca Michael Balter, Senior Legal Counsel Telephone: (416) 593-3739 Email: mbalter@osc.gov.on.ca Nina Hertzog, Accountant Telephone: (416) 593-2381 Email: nhertzog@osc.gov.on.ca
Cease trade orders and filing CD documents	Ann Mankikar, Supervisor, Financial Examiners Telephone: (416) 593-8281 Email: amankikar@osc.gov.on.ca
Preliminary receipts	Merle Shiwbhajan, Review Officer Telephone: (416) 593-8239 Email: mshiwbhajan@osc.gov.on.ca Moses Seer, Administrative Support Clerk Telephone: (416) 593-3684 Email: mseer@osc.gov.on.ca
Final receipts	Fareeza Baksh, Selective Review Officer Telephone: (416) 593-8062 Email: fbaksh@osc.gov.on.ca
Applications for exemptive relief	David Mattacott, Applications Administrator Telephone: (416) 593-8325 Email: dmattacott@osc.gov.on.ca