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British Columbia Securities Commission
Alberta Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Financial and Consumer Services Commission (New Brunswick)
Superintendent of Securities, Department of Justice and Public Safety,
Prince Edward Island
Nova Scotia Securities Commission
Securities Commission of Newfoundland and Labrador
Registrar of Securities, Northwest Territories
Registrar of Securities, Yukon Territory
Superintendent of Securities, Nunavut
The Secretary Ontario Securities Commission
M^e Philippe Lebel, Corporate Secretary and Executive Director, Legal Affairs,
Autorité des marchés financiers

23 June 2020

Proposed National Instrument 52-112 Non GAAP and Other Financial Measures Disclosure

We appreciate the opportunity to comment on the Canadian Securities Administrators' ("CSA") Second Notice for Request and Comment on Proposed National Instrument 52-112 *Non GAAP and Other Financial Measures Disclosure* ("Proposed Instrument") and Proposed Companion Policy 52-112 *Non-GAAP and Other Financial Measures Disclosure* ("Proposed Companion Policy").

We strongly support improving transparency and consistency among issuers regarding disclosure of non-GAAP financial measures. Although the number of measures requiring specific disclosures were not reduced, we believe the updated Proposed Instrument has greater clarity and is significantly less complex in its expectations regarding forward-looking information and as such are supportive of the Proposed Instrument.



The Secretary Ontario Securities Commissions

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We have included in the Appendix our observations on certain matters. Please contact Laura Moschitto (416 777 8068) if you wish to discuss any of the issues raised in this letter.

Yours sincerely,

KPMG LLP

A handwritten signature in black ink that reads 'KPMG LLP'. The signature is written in a cursive, slightly slanted style. Below the signature is a single horizontal line that starts under the 'K' and ends under the 'P'.



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Appendix

Incorporating Information by Reference

We support allowing issuers to cross-reference certain required disclosures to MD&A filed on SEDAR. We believe it is helpful to users to find all disclosures in one location and it is common practice to have a section in MD&A where all non-GAAP financial measures are summarized. To this end, we would support expanding the ability to cross reference as follows:

- Allow cross references in documents filed simultaneously with or after the MD&A as best practice is to file documents simultaneously. We observe that the example in the Proposed Companion Policy would not allow an issuer that files its Annual Information Form at the same time as its MD&A to cross reference as the “MD&A has to be filed on SEDAR prior to filing the Annual Information Form.”
- Allow cross references in press releases filed simultaneously with or after the MD&A
- Allow cross references of the following which currently require disclosure in each document (albeit the proximity guidance allows aggregation in one location for 6(e)(ii) and 6(e)(iii))
 - 6(e)(ii) – explaining that the non-GAAP financial measure is not a standardized measure
 - 6(e)(iii) – explaining the composition of the non-GAAP financial measure
 - 8(d)(i) – explaining that the non-GAAP financial ratio is not a standardized measure
 - 8(d)(ii) – explaining the composition of the non-GAAP financial ratio
 - 10(a)(i) – explaining the composition of the capital management ratio

Proximity to the First Instance

We note that the Proposed Companion Policy with respect to paragraph 6(e) indicates that issuers will be able to satisfy the requirement with respect to ‘proximity to the first instance’ by identifying the non-GAAP financial measure when it first appears in a document and then referencing a separate section within the same document.

We believe this should be extended to the following, even if cross referencing is allowed above, as various documents may not be filed prior to the MD&A, and will benefit from consolidating information in one location:

- Non-GAAP financial ratios (8(d)(i)(ii)(iii))
- Total of Segment measures (9)(c))
- Capital Management measures (10(a)(i)(ii))



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Non-GAAP Financial Ratios (NGFR)

A non-GAAP financial ratio includes a non-GAAP financial measure (NGFM) in either the numerator or denominator or both. We are uncertain whether the expectation is that the NGFM measure used in the NGFR be reconciled to a GAAP measure.

The rule requires in 8(d)(i) that the issuer explain the composition of the NGFR and identify each NGFM that is used as a component. It is not clear whether the NGFM can simply be identified qualitatively or must be identified quantitatively. Since financial measure, must include an amount, we believe the intent is to identify the amount which would then require reconciliation of the NGFM to the closest GAAP measure. However, this is not sufficiently clear. We suggest guidance in the Proposed Companion Policy be added to elaborate on what is required when explaining the composition of the NGFR.

Total of Segment Measures (TSM)

We note there is a requirement to provide a quantitative reconciliation of the TSM to the most comparable financial measure presented in the primary financial statements. IFRS 8.28 requires that an entity provide a reconciliation of the total of the reportable segments' measures of profit or loss to the entity's profit or loss before tax expense and discontinued operations or after-tax if an entity allocates to reportable segments tax expense. Given the Proposed Instrument allows cross referencing for the quantitative reconciliation, we would recommend that issuers be allowed to cross-reference to the financial statement note when a reconciliation is contained in the financial statements. This would be consistent with the Capital Management measure which may be referenced to a financial statement note.

Capital Management Measures

Capital management measures are important measures. We note that there is a requirement in 10(a)(ii)(B) to provide a quantitative reconciliation of the most comparable financial measure presented in the primary financial statements. We note that no reconciliation is required when the capital management measure is a ratio. We are not sure what supports the distinction between a capital management measure ratio and a NGFR and note that distinction could lead to abuse. By simply characterizing a measure as a capital management measure that includes a NGFM issuers may be able to avoid providing disclosures that would be required if the ratio was a NGFR.

Forward-looking Information

We note that there is an exemption in 7(3) from providing forward-looking information if the disclosure is made by an SEC issuer and in compliance with Regulation G under the 1934 Act. It is not clear whether the exemption is meant to apply only when the SEC issuer is required to comply with Regulation G or if the



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SEC issuer may voluntarily comply with Regulation G. In particular, if a 40-F SEC issuer voluntarily complies with Regulation G, can the issuer utilize the exemption?

Exemption for Pro Forma Financial Statements

We note that there is an exemption in 4(c)(ii) for specified financial measures that appear on pro forma financial statements. We are concerned that issuers may take this opportunity to present “pro forma EBITDA” or other similar amounts. We believe the exception should be limited to where the pro forma financial statement line captions are consistent with the issuer’s financial statements or otherwise are consistent with required disclosures under the applicable financial reporting framework.

Yours sincerely

Laura Moschitto
Partner, Department of Professional
Practice, KPMG LLP