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British Columbia Securities Commission
Alberta Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan
Manitoba Securities Commission
Ontario Securities Commission
Autorite des marches 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

c/o The Secretary
Ontario Securities Commission
20 Queen Street West, 22nd Floor
Toronto, Ontario
M5H 3S8

13 January 2014

CSA Notice and Request for Comment Proposed Repeal and Replacement of National Instrument 52-108 *Auditor Oversight*

Dear Sirs/Mesdames:

Thank you for the opportunity to comment on the Canadian Securities Administrators (CSA) proposed repeal and replacement of National Instrument 52-108 *Auditor Oversight* and proposed amendments to National Instrument 41-101 *General Prospectus Requirements*, National Instrument 51-102 *Continuous Disclosure Obligations* and National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers*.

KPMG is committed to working with the CSA and the Canadian Public Accountability Board (CPAB) to ensure public confidence in financial reporting and the quality of audits in Canada. Overall, we believe that the proposed amendments achieve the CSA's objective of having better visibility into situations where CPAB's inspections have identified significant issues with respect to an audit firm's ability to perform quality, independent audits. However, we have identified a number of practical considerations with respect to the proposed amendments, including confidentiality concerns related to our participation agreement with CPAB.

Annex A: Proposed National Instrument 52-108 Auditor Oversight and Annex B: 52-108CP Auditor Oversight

The proposed amendments raise concerns regarding privacy and the Freedom of Information (FOI) and Protection of Privacy Acts which we understand to be different across each province. We believe the CSA should take steps to ensure that information that will be provided pursuant to NI 52-108 will be kept private. As currently drafted it is possible that information with respect to individuals could be captured under Section 5 of the Notice. Furthermore, the inspection report issued by CPAB to the audit firm is intended to be a private communication between CPAB and the firm. We believe that the CSA should work with CPAB to have CPAB modify its rules under the participation agreement to permit disclosure of portions of their report in the event that information would qualify for disclosure under the Notice.

Throughout the Notice the CSA uses the term ‘remedial action’. The Companion Policy describes a remedial action as a recommendation, a requirement, a restriction or a sanction, or a different term. We believe that the terms in the notice should be consistent with the language contained in Section 600 of the CPAB Rules regarding requirements, restrictions and sanctions.

Subsection 5(1)(c) of the Notice requires that a participating audit firm notify the regulator if CPAB publicly discloses a remedial action to which the audit firm must comply. We believe this provision is unnecessary as it would require firms to disclose to the CSA information that is already publicly available.

KPMG also has concerns with the scope of reportable matters as currently contained in the draft Notice. For example, Section 6(1) of the Notice requires that ‘remedial actions’ relating to defects in the participating audit firm’s quality control systems be reported when CPAB notifies the firm that the defect has not been remedied. In our experience, certain of CPAB’s repeat findings are often viewed by the regulator as a process of continuous improvement. For example, while a finding from CPAB may relate to a subject area for which we may have received previous inspection comments, the specific issue or concern raised by CPAB related to that area may differ between inspection years.

The Notice can be improved if the term ‘quality control system’ is defined so that there is understanding by all parties as to the nature of the defects expected to be disclosed under Section 6(1). We also wonder whether the types of matters that the Notice intends to be reported under Section 6 are covered by the reportable matters in Section 5; we encourage discussion with CPAB in this respect.

We believe that the reporting timelines under subsection 6(3) would be onerous for firms with hundreds of reporting issuer audit clients. Adequate time to draft and deliver a notice as required under this section should be provided and in certain circumstances, relief to the 10 day timeframe should be made available. Alternately, the Notice should be clarified to extend the delivery period to 10 business days.

Annex C: Companion Policy 41-101 General Prospectus Requirements

We do not have specific comments on the amendments to the General Prospectus Requirements except to note that the proposed amendments are more onerous than what is currently required by the Securities and Exchange Commission for PCAOB registered firms.

Annex D: Proposed Amendments to National Instrument 51-102 Continuous Disclosure Obligations and Annex E: Proposed Changes to Companion Policy 51-102CP Continuous Disclosure Obligations

The amendments to the Continuous Disclosure Obligations that would require the predecessor auditor to report non-compliance with the filing requirements under 4.11(5) present practical challenges for the predecessor auditor. For example, if an auditor resigns without a successor auditor being appointed, does the deadline for notification occur three days following the auditor's termination or three days following appointment of the new auditor? The predecessor auditor in this circumstance is relying on the issuer to notify them of the appointment, which seems contrary to the intention of this subsection.

Inclusion of a requirement on the part of both the predecessor and successor auditor to report non-compliance is duplicative and introduces a monitoring requirement for which the predecessor auditor may not have equal access to information as noted above. Additionally, the Securities and Exchange Commission places the onus only on the successor auditor and we believe that is where the reporting obligation should reside.

Annex F: Proposed Amendments to National Instrument 71-102 Continuous Disclosure and Other Exemptions Relating to Foreign Issuers and Annex G: Proposed Changes to Companion Policy 71-102CP Continuous Disclosure and Other Exemptions Relating to Foreign Issuers

We support the amendment to require foreign issuers to comply with NI 52-108 as this aligns to the current requirement for the auditor of the foreign issuer to comply with the provisions of that instrument.

KPMG supports the CSA's move to improve the Auditor Oversight rules, however we believe that it is critical that any change to the rules should not impair or inhibit frank discussions between audit firms and audit committees and between audit firms and CPAB.

Please contact John Gordon at (416) 777-3357, Reinhard Dotzlaw at (416) 777-3955, or John Jackson at (416) 777-8018 should you wish to discuss any of the above comments.

Yours truly,



John Gordon
Canadian Managing Partner, Audit