Corporate Finance Disclosure Report

2011 Report

Alberta Securities Commission
December 2011

Alberta Securities Commission

Throughout this report we use the terms reporting issuer (RI) and issuer. Sections 1(cc) and (ccc) of the *Securities Act* (Alberta) provide the definition of issuer and reporting issuer respectively. Although most of this report is geared to Alberta RIs, certain securities legislation addressed in this report apply to both issuers and RIs, such as National Instrument 41-101 *General Prospectus Requirements* (NI 41-101) and National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards* (NI 52-107). In these instances, issuer has a specific meaning in application and reference. The report refers to RI unless use of the term issuer is necessary to make the distinction.

INTRODUCTION

The Alberta Securities Commission (ASC) is pleased to share with market participants its observations on the public disclosure provided by Alberta RIs through our 21st annual Corporate Finance Disclosure Report (Report). Our goal is to provide feedback to RIs that can be used in the preparation of future disclosure.

The purpose of our disclosure system is to provide information that allows investors to make informed investment decisions. RIs are expected to communicate a balanced and authentic representation of what has happened with their business as well as material transactions undertaken and events which affect them.

The adoption of IFRS was a significant undertaking for RIs and affected virtually every capital market participant in some respect. It placed a significant additional resource requirement on those already dealing with an environment of continued market volatility and increasing financial market complexity. Alberta RIs had some particularly challenging implementation issues to consider and resolve. The significant planning and preparation done leading up to the adoption of IFRS resulted in, by all observations, an orderly transition and we want to acknowledge the effort of RIs and their advisors.

As market participants may have observed, IFRS can be less prescriptive and provides potentially more scope for judgement. We expect RIs and advisors will apply that judgement by relying on fundamental principles such as fair, balanced and complete disclosure as well as those principles outlined in IFRS. We will continue to monitor and respond to IFRS interpretations that could lead to either the intentional or unintentional creation of a misleading or unclear view of the RI's financial results and position.

We will also continue to actively monitor all elements of RI disclosure. The majority of RIs are committed to maintaining and improving their disclosure. We will focus our efforts in the upcoming year on identifying those RIs that are not as committed to the principles underlying our disclosure system and, in particular, identifying materially incorrect disclosure or disclosure that is misleading or improperly promotional.

In this past year there have been difficult questions and issues raised for regulators and capital market participants related to RIs based in some foreign markets. The ASC will look for practical solutions to the issues identified that do not unnecessarily penalize all RIs.

As always, ASC staff will make themselves available to consult with management of RIs and their advisors. To facilitate a useful and complete discussion of the issues, we expect that those seeking our views have undertaken an appropriate level of research on the matter prior to contacting us.

We welcome comments and feedback on the Report as well as observations on disclosures that are of concern to market participants.

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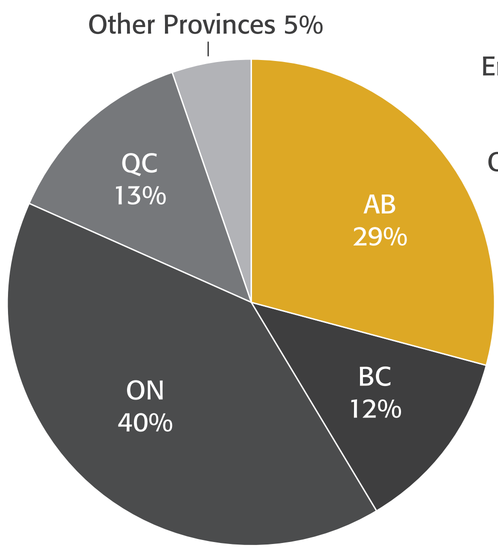
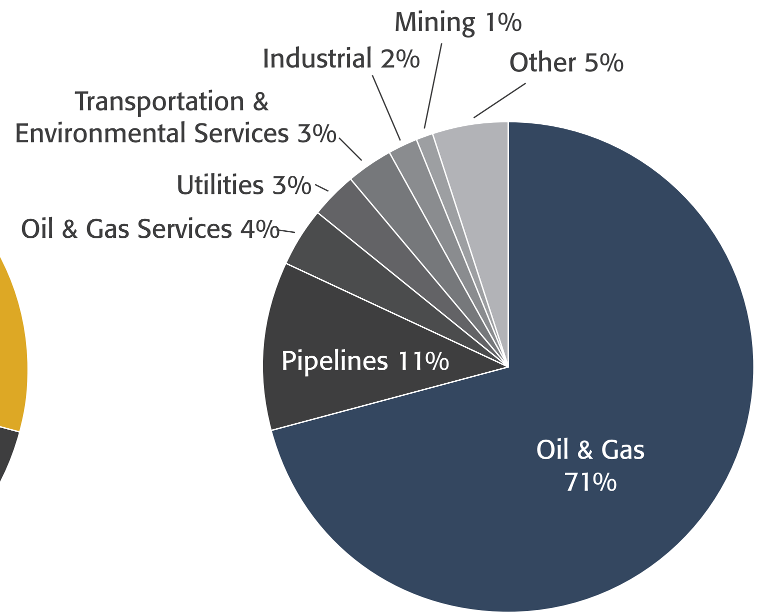
1. THE ALBERTA CAPITAL MARKET

Market Capitalization and Industry

Alberta is the second largest capital market in Canada. The market capitalization of Alberta-based[1] RIs constitutes 29 per cent of active RIs[2]. The ASC regulates 793 Alberta-based RIs, representing a diverse range of industries, with the oil and gas industry making up the majority of RIs at 71 per cent of the total Alberta market capitalization.



Market Capitalization of Active Canadian RIs



Alberta-based RIs by Industry

Corporate Finance

Access to current, reliable information that provides insight to assess RIs' financial condition and operations is vital to investors to ensure they can make informed decisions about their investments, and to maintain confidence in Alberta's and Canada's capital markets. The ASC's Corporate Finance division is responsible for the oversight of this disclosure regime. Through its established team of professionals, Corporate Finance conducts reviews of RIs' continuous disclosure (CD) filings on an ongoing basis as well as offering documents and applications when they are filed. This Report summarizes our observations of recurring and significant deficiencies and provides our expectations for improvement. We aim to include timely, relevant content that will help RIs deliver the highest quality of disclosure and financial reporting.

Access to current, reliable information that provides insight to assess RIs' financial condition and operations is vital.

[1] Represents RIs whose principal regulator (PR) is Alberta.

[2] Represents RIs listed on any Canadian exchange and unlisted RIs, excluding cease-traded RIs. Source: Bloomberg, SEDAR, October 31, 2011.

2. CD REVIEW RESULTS

CD reviews continue to be a key focus area for Corporate Finance. We perform two types of CD reviews, full CD reviews and issue-oriented reviews (IORs).

Type of CD Review	Year ended Nov. 30, 2011	Year ended Nov. 30, 2010[3]
Full CD Reviews	121	159
IORs	192	104
Total files reviewed[4]	**313**	**263**

In carrying out our full CD reviews we look at an RI's CD filings for its most recently completed annual and interim periods, including financial statements, management's discussion and analysis (MD&A), information circulars, news releases, material change reports, websites, and when applicable, annual information forms (AIFs), business acquisition reports, and any other relevant filings. These full reviews allow us to evaluate the RI's CD record as a whole, aiming for completeness, consistency and a fair representation of the RI's operations and financial condition.

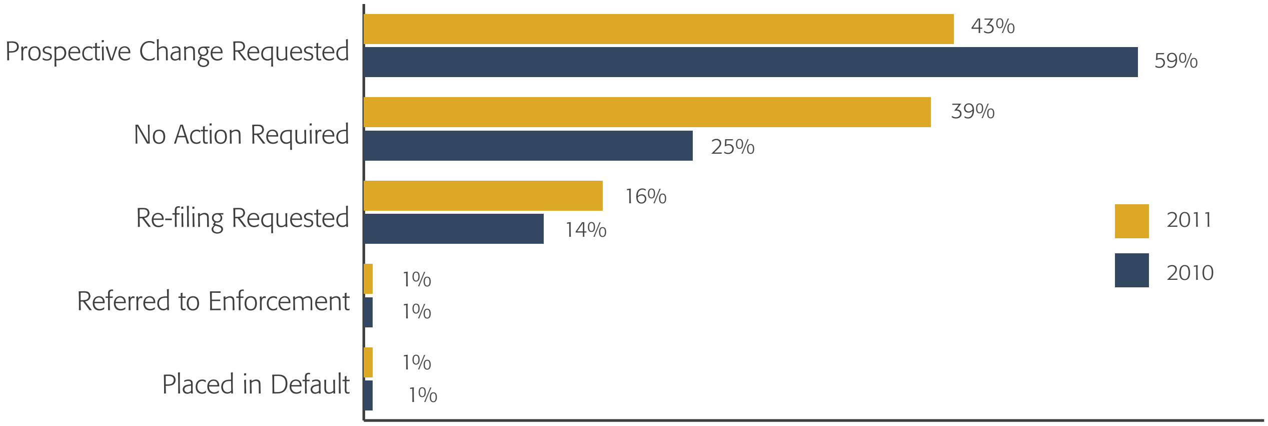
We conduct IORs when there are specific areas where we want to focus our reviews. Given the transition to IFRS[5] was such a pervasive change for most of our RIs, we performed IORs that targeted IFRS-related disclosures as part of a Canadian Securities Administrators (CSA) initiative. With these reviews, we wanted to get an early sense of whether RIs transitioned to IFRS, prepared the appropriate financial statements and reconciliations, and provided disclosure to inform the reader about the impact of the IFRS transition. We reviewed the first quarter interim filings of RIs that transitioned to IFRS, to identify issues at an early stage and bring them to the attention of the RIs for resolution, whether through re-filing certain documents or requesting prospective changes.

[3] Previously reported in the 2010 Corporate Finance Disclosure Report.

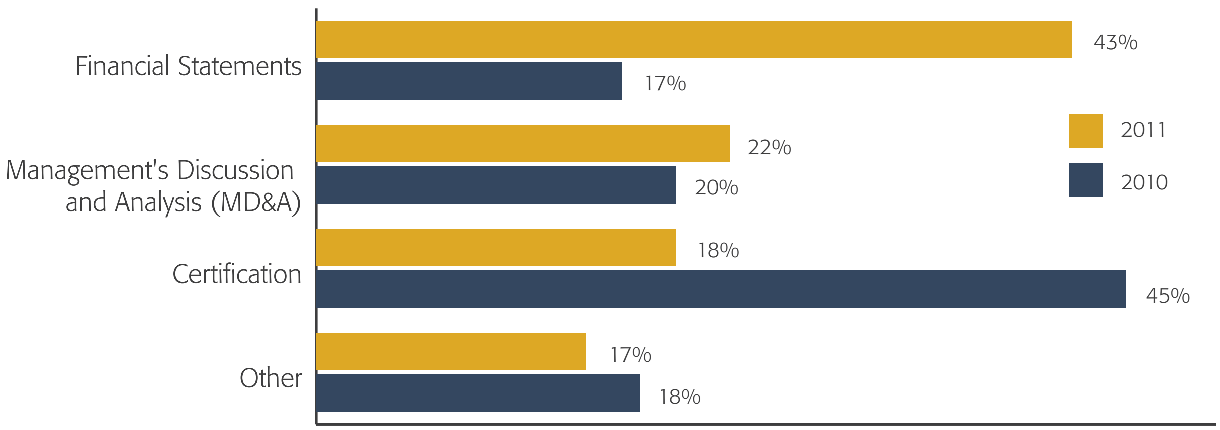
[4] These numbers do not reflect the reviews we carried out on oil and gas disclosures under National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities*.

[5] IFRS is also referred to as Canadian GAAP – Part I.

Based on the outcomes of our CD reviews we noted an increase over the prior year in the amount of re-filings requested. Many of the re-filings were a result of the IFRS-focused reviews; consequently, we saw a significant increase in the proportion of financial statement re-filings, as compared to other documents. In 2010, we carried out IORs on National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* that accounted for the significant number of certification re-filings in 2010.



CD Review Outcomes



Nature of Re-filings

In the following sections, we report on the findings from our CD reviews and identify areas where disclosures can be improved. In some instances we provide examples[6] of deficient disclosure, as well as disclosure that meets our requirements. We include practice tips and reminders to provide practical guidance and suggestions on how to provide better information for the reader.

[6] The examples are based on actual disclosure observed in our CD reviews. While we include examples of disclosure that met our requirements for illustrative purposes, we express no conclusion on the overall quality of any particular RI's disclosure record. We have also changed names, locations, certain aspects of the qualitative content, percentages and amounts to preserve anonymity.

3. IFRS TRANSITION

3.1 Our Observations from the First IFRS Interim Financial Reports

Our approach was to review all the first quarter IFRS interim filings of Alberta-based RIs. Our review was focused on compliance with the disclosure requirements in IFRS 1 and International Accounting Standard (IAS) 34, as well as National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102).

We were pleased with the level of compliance with the filing deadline for the first quarter interim financial reports. RIs were given a 30-day extension for filing their Q1 financial statements, and we noted that very few RIs missed this deadline. Overall, we were satisfied with the results of our reviews; however, there were areas where some RIs did not meet our expectations. Our observations with respect to these areas are summarized below.

A. Missing Financial Statements

Basic compliance was not met if an RI omitted a required financial statement from their first IFRS interim financial report; in these instances re-filing was requested. The most frequently omitted financial statement was the Statement of Changes in Equity for the three months ended at the interim balance sheet date, and the respective comparative period.

In some cases, RIs presented the Statement of Changes in Equity, but included the incorrect comparative period (i.e. the 12 months ended based on their annual balance sheet date rather than the comparative three-month period to their first quarter). In the majority of cases this was a deficiency that we expected RIs to correct prospectively.

Some RIs omitted the Opening Statement of Financial Position in cases where the RI was incorporated during the transition year (e.g. an RI with a December 31 year end, incorporated in February 2010). These RIs are not exempt from presenting their Opening Statement of Financial Position as at their date of inception. RIs that omitted this financial statement were required to re-file their interim financial reports to include the missing financial statement.

B. Unclear Transition Impact

IFRS 1 requires that entities explain how the transition from previous GAAP[7] to IFRS affected its reported financial position, financial performance and cash flows. We expect the components of this explanation to include:

- reconciliations from previous GAAP to IFRS; and
- explanatory disclosure sufficient to understand the material transition adjustments.

Most RIs provided the relevant reconciliations and explanatory disclosure; however, the level of detail and insight of the explanations varied in the disclosures we reviewed. In cases where the RIs did not provide explanations for all material adjustments, or did not sufficiently explain the nature of the adjustment, we required the RI to re-file the interim financial statements.

In a few cases, RIs disclosed that the impact of transition was not material. Our expectation is that if there is an impact on transition (i.e. the figures reported using IFRS are not the same as under the

[7] Canadian Generally Accepted Accounting Principles – Part V (previous GAAP).

RI's previous GAAP), the RI would provide the reconciliations for all relevant periods. In cases where the issuer determines that there were no adjustments recorded, this fact in itself is material to the understanding of the impact of transition, and should be clearly stated.

Few RIs provided disclosure in their MD&A that supplemented the explanations provided in the interim financial report. In most cases the transition disclosure was identical to that in the notes to the financial statements. As the MD&A is meant to further explain a company's overall financial disclosure, it should be used to expand on the transition disclosure required in the interim financial report, where appropriate, especially in a period when risks, trends, estimates and performance may have changed materially from what had previously been reported.

C. Boilerplate Accounting Policy Disclosure

Transition to IFRS requires RIs to examine and, where necessary, change their accounting policies to ensure they are in accordance with IFRS. Not only are readers of financial statements faced with new accounting standards, but in certain cases there may be accounting policy choices within a standard form which an entity can choose. As a result, clear disclosure of the specific accounting policy choices that an RI makes are critical to enhance the relevance and reliability of an entity's financial statements, the comparability of those financial statements over time, and the comparability with the financial statements of other entities.

We encountered boilerplate accounting policy disclosures that provided an over-simplified discussion of the relevant account, transaction, event or condition.

In most cases, RIs were diligent in describing the accounting policies that they had selected and applied. However, there were instances where we encountered boilerplate accounting policy disclosures that provided an over-simplified discussion of the relevant account, transaction, event or condition.

In a few noted circumstances, we were able to identify accounting policy disclosures that appeared to be copied from other RIs, including inappropriate cross-references and policies that were clearly not applicable to the RI. In these cases, we were led to question how relevant the accounting policies were to the RI or whether they were actually applied. Not only could this type of disclosure be confusing to readers, Staff may question whether the RI appropriately transitioned to IFRS.

D. IFRS 1 Exemptions Taken Not Disclosed

Most RIs, in their disclosure of the effects of transition, disclosed which of the optional IFRS 1 exemptions were taken. Identifying the exemptions makes it easier for readers to identify areas where the impact of transition would have been different had the relevant IFRS been applied retrospectively. We found some RIs who disclosed no transition impact and no identification of exemptions taken, while presenting events and transactions that would suggest that there would have been material differences between their previous GAAP and IFRS. In these instances we questioned the appropriateness of this disclosure. The most common cases involved business combinations and share-based payments.

E. Inconsistent Terminology

The transition involved the introduction of new terminology as presented in IFRS. While the new terminology is not necessarily prescribed, we noted that many RIs adopted the new terms to be consistent with those used in the adopted standards. Some RIs, however, introduced the new terminology in certain disclosures, but used terms inconsistently.

EXAMPLE

We reviewed an interim financial report that did not meet our expectations because different terminology was used throughout the financial statements to discuss one concept, the RI's decommissioning provision. For example, in the statement of financial position and the specific note disclosure, the RI used the term 'asset retirement obligation', while the accounting policy note and the IFRS reconciliation note referred to 'decommissioning/site restoration provision' and 'ARO'. Our observation was that the inconsistent use of the terms within the RI's interim financial report could be confusing to readers.

F. Mixed GAAP disclosure in MD&A

IFRS 1 provides guidance with respect to the required disclosures when an entity presents historical summaries for periods before their date of transition to IFRS. While we did not encounter RIs that presented historical summaries disclosing previous GAAP in their financial statements, we noted that most RIs presented mixed-GAAP summaries in their interim MD&As, specifically in the Selected Annual Information and Summary of Quarterly Results. While the majority of RIs appropriately identified the periods prepared using previous GAAP, as such, there were some instances where it was not clear whether the periods prior to the date of transition to IFRS had been presented in accordance with the RIs' previous GAAP. Given the requirement to discuss factors that caused period to period fluctuations, including changes in accounting policies, it is important RIs identify periods where they have applied different accounting policies.

G. Decommissioning Liabilities - Discount Rate

Decommissioning liabilities are a significant consideration and financial statement item for many Alberta RIs. In determining the amount to recognize, RIs calculate the present value of the expected expenditures, using a discount rate that reflects the time value of money and the risks specific to the liability that they have not reflected in the future cash flow estimate. Management must make an accounting policy choice in determining whether this rate includes or excludes the credit risk of the RI. Under previous GAAP, RIs were required to use a credit-adjusted risk-free rate. Through our reviews, we noted some weaknesses with respect to RIs' disclosures of discount rates.

Incomplete Disclosure:

- Over 50 per cent of the RIs reviewed did not disclose the requirement to re-measure the provision at each reporting period in order to reflect rates in effect at that time.
- Over 50 per cent of the RIs reviewed provided no disclosure of the discount rates applied upon transition to IFRS, or in the comparative first quarter. In most of these cases, the RIs disclosed that there was a transition impact as a result of changing their discount rate, and the dollar amount of the adjustment, but did not actually disclose what the rates were at these dates.

Inconsistent Disclosure:

We noted a few RIs who presented discount rates that appeared inconsistent with the disclosure of whether the rate was credit-adjusted. In one instance, an RI disclosed in its filings under both previous

GAAP and IFRS that it was using a credit-adjusted risk-free rate; however, upon comparing the actual rates used, it appeared that the RI was actually using an un-adjusted rate to measure the provision under IFRS, as the rate reported at the RI's year end decreased by nearly five per cent. We expect RIs to update their disclosures to reflect the estimates and assumptions actually used.

3.2 Expectations for Annual Filings

As RIs proceed towards the preparation of their first annual IFRS financial statements, we have highlighted a few areas where improvements can be made based on our reviews. In addition, we have identified certain areas where the expectations or disclosure requirements in the annual filings are greater than the interim filings.

A. Equal Prominence of all Financial Statements

We noted a few instances where RIs presented their Opening Statement of Financial Position in the notes to the financial statements. While this presentation did not warrant restatement in the interim periods for RIs presenting condensed interim financial statements in accordance with IAS 34, the annual financial statements must include this statement as a primary statement.

IFRS 1 requires an entity prepare and present an Opening Statement of Financial Position as part of the first annual IFRS financial statements. IAS 1 states that an entity shall present all of the financial statements with equal prominence. The ASC will consider the presentation of any of the financial statements in the notes to the annual financial statements a deficiency requiring re-filing.

B. Accounting Policy Disclosure

We encountered boilerplate and nonspecific accounting policy disclosure in the interim financial reports. Our expectation for RIs presenting their first annual IFRS financial statements is that they review their accounting policy disclosure to ensure it is complete, clear and entity-specific.

PRACTICE TIPS

- When aiming for completeness, the ASC discourages RIs from presenting a laundry-list of accounting policies, regardless of relevance and materiality to the RI as this could be confusing to readers, and could distract from the actual policies used and those most important for the RI. Find a balance of completeness and relevance.
- Accounting policy disclosure should be sufficiently clear to allow readers to understand what principles, bases, conventions, rules and practices the RI applied. When valid choices exist, clear disclosure of the accounting policy chosen provides useful information to the user.
- In the absence of an IFRS that specifically applies to a transaction, event or condition, RIs may need to use their judgement in developing and applying an accounting policy that results in information that is relevant, reliable, comparable and understandable. In making this judgement, a prescribed hierarchy must be applied[8]. It is especially important to clearly disclose the accounting policy used to help users understand the financial statements.

[8] RIs should look to paragraphs 10, 11 and 12 of IAS 8 *Accounting Policies, Changes in Accounting Estimates and Errors* in applying this judgement.

C. Reconciliations

Required Reconciliations

Reconciliations are a required component of an RI's explanation of transition to IFRS, as outlined in IFRS 1. We noted several RIs omitted some or all of the required reconciliations in their interim financial reports. We expect RIs to include all reconciliations that are required by IFRS 1.

In some cases, RIs determined that there would be no reconciling items between the IFRS figures disclosed, and those presented in accordance with the RI's previous GAAP. In these instances, we would expect the RI to disclose this fact for each of the relevant reporting dates.

Starting Point

In a few cases we noted that the starting point for the reconciliations was a figure other than what the RI had presented in accordance with previous GAAP for the same period. Rather, the RI had adjusted the reported figures. IFRS 1 clearly states that if an entity becomes aware of errors made under previous GAAP, the reconciliations need to distinguish the correction of those errors from changes in accounting policies. In addition to errors discovered through the transition process, it is our expectation that the RI would identify the effects of any other material adjustments, such as reclassifications and prior year errors, to the reported numbers separately from the impact of transition to IFRS.

> *Our expectation for RIs presenting their first annual IFRS financial statements is that they review their accounting policy disclosure to ensure it is complete, clear and entity-specific.*

One helpful approach some RIs used that clearly differentiated IFRS transition adjustments from other adjustments was to present an additional column in their reconciliation that quantified and clearly explained the effects of adjustments that were not a result of transition.

Explanations

Most RIs provided reconciliations in the form of full statements of financial position and statements of comprehensive income presented in accordance with previous GAAP, and reconciled on a line-by-line basis to IFRS, with clear cross referencing to explanatory notes. The quantitative and qualitative disclosure is expected to be in sufficient detail to enable users to understand the material adjustments made. Detailed disclosure of each material impact is especially important for RIs presenting multiple adjustments that affect common line items.

We noted that some RIs did not differentiate the effect of each material adjustment in their disclosure of the transition impact. We saw an example of an RI's transition note that presented a material adjustment to its property, plant and equipment balance in the equity reconciliation. The explanatory note stated that the adjustment was a result of changes in depreciation due to componentization, recognition of additional finance leases and revaluation of its decommissioning liability. The RI did not disclose the respective amounts for each adjustment and consequently, the impact of each transition difference was not clear. The RI could improve this disclosure by discussing the impact of each transition difference, and clearly identifying the direction (increase or decrease) and amount for each item, at each relevant reporting date.

EXAMPLE

Example of a reconciliation explanation note that met our expectations:

Note: The RI presented the quantitative reconciliations for equity and comprehensive income, and referenced detailed explanations (such as the example presented below) for each type of adjustment.

(a) Decommissioning Liability Adjustment

Under Previous GAAP, the decommissioning liability was measured as the estimated fair value of the retirement and decommissioning expenditure expected to be incurred utilizing a discount rate equal to the pre-tax borrowing cost of the Company (credit-adjusted rate). Under IFRS, the liability is measured as the best estimate of the expenditure to be incurred discounted at a pre-tax risk free rate.

The estimated decommissioning liability as at January 1, 2010 was $1.3 million higher than the estimate under Previous GAAP as a lower discount rate of 4% was used under IFRS (8% under Previous GAAP). Of the difference, $0.9 million was added to exploration and evaluation assets as it relates to wells that have been capitalized and $0.4 million was charged to deficit as it relates to wells that were not successful but that were not abandoned and the costs had previously been charged to dry hole expense. Under IFRS, the accretion of the asset retirement obligation for the three months ended March 31, 2010 was $0.06 million lower than the accretion of the asset retirement obligation under Previous GAAP and for the year ended December 31, 2010 was $0.2 million lower than the accretion of the asset retirement obligation under Previous GAAP as the higher liability amount was more than offset by a lower discount rate. The estimated asset retirement obligations as at December 31, 2010 and March 31, 2010, using a discount rate of 4%, were respectively $1.1 million and $1.2 million higher than the amounts estimated under Previous GAAP using a discount rate of 8%.

D. Disclosure of Judgements and Estimation Uncertainty

IAS 1 outlines the requirement to disclose the judgements that management has made in the process of applying its accounting policies and that have the most significant effect on the amounts recognized in the financial statements. This requirement is in addition to the disclosure with respect to the assumptions made about the future, and other sources of estimation uncertainty. While many RIs present disclosure relating to estimation uncertainty (as previous GAAP had a similar requirement) the disclosure of significant judgements is new to most RIs, and as a result, we wanted to highlight this disclosure requirement for RIs in preparation for their annual financial statements.

EXAMPLE

Example of judgement and estimates disclosure that did not meet our expectations:

The preparation of the condensed consolidated interim financial statements in conformity with IFRS requires management to make judgements, estimates and assumptions that affect the application of accounting policies and the reported amounts of assets, liabilities, income and expenses. Actual results may differ from these estimates. Estimates and underlying assumptions are reviewed on an ongoing basis. Revisions to accounting estimates are recognized in the period in which the estimates are revised and in any future periods affected.

The most significant of these are the estimates for depreciation, convertible debentures, income taxes, contingencies, allowance for doubtful accounts, and stock based compensation. Actual results could differ from those estimates.

Many RIs presented disclosure similar to the example above, including a section called 'Estimates and Judgements', but only discussed estimates. In most cases, RIs noted the fact that management is required to make judgements in the process of preparing the financial statements; however, they rarely disclosed the actual judgements. RIs do not appear to recognize the distinction between estimates and judgements under IFRS. This may be complicated by the fact that in some areas, a specific item could involve both judgement and estimation uncertainty. For example, with respect to an RI's disclosure regarding an acquisition, we would expect the RI to provide disclosure related to both:

- judgement – management's determination of whether a transaction constitutes a business combination based on the criteria in IFRS 3 or an asset acquisition; and
- estimation uncertainty – the RI's specific assumptions made in measurement (e.g. contingent consideration).

EXAMPLE

Example of judgement disclosure that met our expectations:

Excerpt from an accounting policy note:

Oil and natural gas assets are grouped into cash generating units (CGUs) that have been identified as being the smallest identifiable group of assets that generate cash flows, that are independent of cash flows of other assets or groups of assets. The determination of these CGUs was based on management's judgement in regards to shared infrastructure, geographical proximity, petroleum type and similar exposure to market risk and materiality.

PRACTICE TIPS

- Some common areas of judgement to consider:
    - determination of control or significant influence
    - determination of cash-generating units (CGUs)
    - determination of functional currency
- More detailed disclosure of factors assessed may be necessary to understand the application of judgement.

4. CD REVIEWS

In conducting CD reviews, we may identify material deficiencies in the filings that result from non-compliance with securities regulations or accounting standards. By identifying the issues and bringing them to the attention of RIs, we note an improvement in the quality of their CD filings. When we note recurring and/or pervasive issues, we highlight them in our Report so that other RIs are mindful of these items and our expectations when preparing their CD filings.

4.1 Financial Statements and Disclosures

A. Financial Statements

We continue to identify issues with respect to gaps in the periods of financial statements filed both relating to reverse takeover transactions (section 4.10 of NI 51-102) and after becoming an RI (section 4.7 of NI 51-102).

Reverse Takeovers (RTOs)

In an RTO transaction, the legal parent in the acquisition is the RTO acquiree, while the legal subsidiary (but accounting parent) is the RTO acquirer. This causes some confusion for RIs as the legal parent is not the same as the parent for accounting purposes.

Once an RI appropriately determines the RTO acquirer and RTO acquiree in an RTO transaction, it is critical to ensure that each of the parties to the RTO presents all of their required financial statements.

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An RTO acquirer must file financial statements for all annual and interim periods ending before the date of the RTO and after the date of the financial statements included in an information circular or similar document prepared in connection with the transaction. In addition to the RTO acquirer's financial statements, the RTO acquiree must file its own financial statements and the related MD&A for all interim and annual periods ending before the date of the RTO, **even if the filing deadline for those financial statements is after the date of the RTO**.

EXAMPLE

Illustration of required financial statements prior to an RTO transaction

The date of the RTO is July 10, 2011. Both the RTO acquirer and RTO acquiree have December 31 year ends. An information circular filed in connection with an RTO contains the following financial statements:

PrivateCo (the RTO acquirer) – year ended December 31, 2010 (with applicable comparative periods) and 3 months ended March 31, 2011

In this scenario, the RTO acquirer would be required to file its financial statements for the interim period ended June 30, 2011[9], as this period ended before the date of the RTO, and these financial statements were not included in the information circular. The RTO acquiree is also required to file its financial statements and MD&A for the interim period ended June 30, 2011 as this period ended before the date of the RTO.

[9] The relevant timelines for filing these financial statements are discussed in section 4.10(2) of NI 51-102.

Financial Statements after becoming an RI

An RI is required to file annual and interim financial statements for periods immediately following the periods for which financial statements of the issuer were included in a document filed a) that resulted in the issuer becoming an RI or b) in respect of a transaction that resulted in the issuer becoming an RI.

EXAMPLE

Illustration of required financial statements after becoming an RI

An issuer filed a document that resulted in the issuer becoming an RI. The issuer has a December 31 year end. The document appropriately contained financial statements of the issuer for the year ended December 31, 2009 and the three and nine month periods ended September 30, 2010. The issuer became an RI April 5, 2011.

In this scenario, the issuer is required to file its annual financial statements for the year ended December 31, 2010 and the interim period ended March 31, 2011[10], even though it was not an RI at that time. This is required to prevent a gap in the disclosure record for the RI.

B. Financial Statement Disclosures

With the continued global economic uncertainty and the transition to the less prescriptive IFRS, we noted through our CD reviews recurring deficiencies related to areas requiring more judgement on the part of management, and areas where the RI noted differences between IFRS and their previous GAAP.

Decommissioning and Restoration Provisions

IAS 37 establishes the standards for recognizing and measuring these provisions. Many RIs recognized that there were differences between the requirements under these standards and those standards using their previous GAAP, resulting in transition adjustments. However, we did note some RIs who did not appear to comply with the broader recognition requirements.

We identified a few instances where RIs appeared to be conducting activities that would result in decommissioning and restoration liabilities, but did not recognize a provision. IAS 37 states that an RI shall recognise a provision when: (a) an entity has a present obligation (legal or constructive) as a result of a past event; (b) it is probable that an outflow of resources embodying economic benefits will be required to settle the obligation; and (c) a reliable estimate can be made of the amount of the obligation. The standard also explains that, except in extremely rare cases, an entity will be able to determine a range of possible outcomes and can therefore make an estimate of the obligation that is sufficiently reliable to use in recognizing a provision. As a result, our expectation is that it would be extremely rare for an RI to successfully argue that it failed to recognize the provision due to the lack of a reliable measurement. In those rare cases, we would expect the RI to disclose the liability as a contingent liability. We will

Our expectation is that it would be extremely rare for an RI to successfully argue that it failed to recognize the provision due to the lack of a reliable measurement.

[10] The relevant timelines for filing these financial statements are discussed in section 4.7 of NI 51-102.

continue to review RI disclosures for appropriate recognition of these provisions.

We also noted that insufficient disclosure with respect to the estimates involved in measuring these provisions was a recurring issue. Reliable estimates are especially important in the case of provisions, where their recognition and measurement require management to make more difficult, subjective or complex judgements than is required for most other items on the Statement of Financial Position. While most RIs provided their accounting policy and the disclosures required by IAS 37, some RIs omitted disclosures with respect to the material estimates and assumptions used. While we would not expect RIs to disclose budget information or forecasts in making the required disclosures, we would expect disclosure of material assumptions used (e.g. discount rate, expected timing of outflows).

Impairment

IAS 36 *Impairment of Assets* outlines the disclosure requirements regarding recognizing an impairment loss. During recent periods, the number of impairments have increased. There are several factors that have led to this increase, including economic factors and the transition to IFRS (which has different standards for impairment recognition than previous GAAP). It is our expectation that RIs will clearly disclose events and circumstances that led to the recognition of impairment losses in their filings.

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EXAMPLE

Example of impairment disclosure that met our expectations:

On transition to IFRS, the Corporation performed impairment testing for goodwill and, as a result of the identification of impairment indicators, on the ABC CGU. To test for impairment, under IFRS, the recoverable amount used in recognizing and measuring impairment is the higher of the CGU's fair value less cost to sell and its value in use (VIU). Under previous GAAP, the recoverable amount used to determine whether the recognition of an impairment loss is required is the undiscounted future cash flows from the asset's use and eventual disposition.

Upon adoption of IFRS, an impairment loss of $1,000,000 was recognized against property, plant and equipment related to the Corporation's ABC CGU as a result of calculating the CGU's VIU using a discounted cash flow analysis, which was estimated to be greater than the CGU's fair value less cost to sell. The impairment had the effect of reducing depreciation on property, plant and equipment by $100,000 for the period ended December 31, 2010 (June 30, 2010 - $50,000).

(Note: The RI also discussed its CGUs, including their determination, and the RI's detailed accounting policy related to impairment testing in its financial statements. This disclosure, considered as a whole, met our expectations.)

Financial Instruments

We continue to encounter deficiencies in the areas of measurement and disclosure of financial instruments.

There have been issues with respect to measurement of financial instruments where the RI issued warrants exercisable in a currency that was not the RI's functional currency. The RI did not adjust the classification of these warrants to reflect this fact in accordance with IAS 32. An obligation to issue shares for a price that is not fixed in the RI's functional currency is generally classified as a derivative liability and measured at fair value with changes recognized in the statement of net income and comprehensive income as they arise, in accordance with IAS 39.

We also identified deficiencies with respect to compliance with IFRS 7 *Financial Instruments: Disclosures*, as follows:

- Categorization – Some RIs provided incomplete disclosure of the categories of their financial instruments. This is particularly common when an RI introduces a new line item in its financial statements, but does not reflect this in its financial instrument disclosures.
- Risk disclosure – RIs provided incomplete or boilerplate risk disclosure with respect to their financial instruments. Our expectation is that the disclosure be complete and sufficiently entity-specific to enable readers to evaluate the nature and extent of risks arising from financial instruments to which the entity is exposed.
- Sensitivity Analysis – We expect RIs to disclose a sensitivity analysis for each type of market risk to which they are exposed. This disclosure should include the methods and assumptions used in preparing the analysis.

Asset vs. Business Acquisition

In a few noted instances RIs accounted for certain acquisitions as asset purchases when they should have accounted for the transactions as business combinations under IFRS 3 *Business Combinations* (IFRS 3). Like previous GAAP, IFRS 3 sets out the three elements of a business – inputs, processes and outputs – however IFRS clarifies that outputs are not necessarily required for an integrated set of activities and assets to qualify as a business (e.g. development stage business). In addition, a business need not include all the inputs or processes that the seller used if market participants are capable of acquiring the business and continuing to produce outputs. IFRS 3 may capture a wider range of transactions in the scope of business combinations than was the case under previous GAAP. Inappropriately accounting for the transaction could have a pervasive impact on the measurement of the elements purchased.

IFRS 3 may capture a wider range of transactions in the scope of business combinations than under previous GAAP.

Functional Currency

We noted that a number of RIs disclosed changes in functional currency for some or all of the entities comprising the consolidated group as a result of transition to IFRS. The changes were largely a result of the fact that IAS 21 groups and prioritizes the factors that an entity uses in its determination of functional currency. In some cases we questioned the lack of change in functional currency where an RI disclosed factors that appeared to suggest that the functional currency for one or more of its entities was something other than what the RI was reporting.

We have the following expectations with respect to determination and disclosure of functional currency:

- In preparing consolidated financial statements, each entity within the group is required to determine its functional currency in accordance with IAS 21. The RI should be able to support this determination based on their analysis of the factors set out in the standard, as applied to the particular facts and circumstances of each entity.
- RIs should include the disclosures required by IAS 21, including disclosure of the functional currency, if it is different than the reporting currency, and the reason for using a different presentation currency. In addition, where the functional currency is not evident, as the indicators are mixed, management should use judgement to determine the most reasonable functional currency based on the underlying transactions, events and conditions that are relevant to the entity. RIs are expected to disclose these judgements in accordance with IAS 1.

Additional GAAP Measures

The implementation of IFRS has introduced a new consideration in respect of disclosure of additional GAAP measures. Additional GAAP measures are line items, headings and subtotals that RIs are required to present in the financial statements when such presentation is relevant to an understanding of an RI's financial position and performance. These measures are presented in addition to the minimum financial statement line items required by IAS 1. Additional GAAP measures differ from non-GAAP measures in that non-GAAP measures are not required by an RI's GAAP, and they either include or exclude amounts as compared to directly comparable measures that are calculated and presented in accordance with the RI's GAAP. An RI should not include non-GAAP measures in its financial statements. The disclosure expectations for non-GAAP measures disclosed outside of financial statements have not changed with the introduction of additional GAAP measures[11].

In cases where RIs disclosed additional GAAP measures in their financial statements, these measures were generally subtotals that had previously been classified as non-GAAP measures in filings under previous GAAP. We have highlighted a few key considerations for RIs disclosing additional GAAP measures in their financial statements.

Relevance:

- For an additional GAAP measure to be required, it needs to be relevant. Generally, if management considers an additional GAAP measure to be sufficiently relevant to be presented in the financial statements, we would expect an RI to discuss and analyze this measure in the MD&A as part of the discussion of the RI's financial condition and/or results of operations (depending on the nature of the measure).

Appropriateness:

- When presenting additional GAAP measures in the financial statements, RIs need to be mindful of the appropriateness of the measure, and the label ascribed to the measure. For example, if an RI presents 'Results from Operations' as a subtotal in its Statement of Comprehensive Income, it should consider the nature of items that make up this subtotal,

[11] Refer to CSA Staff Notice 52-306 (Revised) *Non-GAAP Financial Measures*

and what items have been excluded in assessing whether this presentation provides reliable, comparable and understandable information. This is especially important if a measure is given a label for which there is a generally recognized composition (e.g. EBITDA, cost of sales, gross profit, etc.) as readers may have an expectation of the nature of items that would normally be included and excluded in such a measure, and this could differ from what the RI is presenting. When an RI discloses an additional GAAP measure that is generally recognized, but adjusted for specific items (e.g. adjusted EBITDA) in the financial statements, we would likely question the appropriateness and relevance of such a measure, and its presentation as an additional GAAP measure.

Blank Subtotals:

- Our expectation is that generally RIs will appropriately label line items and subtotals presented in financial statements. In cases where we encounter blank subtotals in the financial statements, and the same values are referenced (and given a name) in the MD&A, this would likely lead us to question the appropriateness of the disclosure in the financial statements and the MD&A.

No Auditor Review of Interim Financial Statements

While interim financial statements filed by an RI as part of its CD filings are not required to be reviewed by the RI's auditors, it is important to inform readers of the financial statements if a review has not been performed. Section 4.3(3) of NI 51-102 requires that RIs present this information in a notice accompanying the interim financial statements. We noted several instances where RIs filed interim financial statements without such a notice. However, upon questioning the RI, it was confirmed that the financial statements had not been reviewed. As the absence of a notice should provide negative confirmation that the RI's auditors have reviewed the financial statements, it is important for RIs to provide this notice when applicable.

4.2 MD&A Disclosure

In conducting our full CD reviews, we consider the quality of RIs' MD&A disclosures, assessing compliance with the requirements of Form 51-102F1 *Management's Discussion and Analysis* (51-102F1) and consistency with the financial statements. We have identified a few specific areas where improvement is needed.

A. Venture issuers[12] without significant revenue

Section 5.3 of NI 51-102 establishes additional disclosure requirements for venture issuers without significant revenue. Without having established significant revenue, these RIs are expected to provide more detailed disclosures with respect to their expenditures, both capitalized and expensed. In addition, their MD&A should focus on the discussion and analysis of financial performance on expenditures and progress towards their business objectives and milestones.

In some cases, we note that while RIs may provide disclosure in the financial statements, it is not presented at the level of detail required by 51-102F1. For example, if the RI's business primarily involves mining exploration and development, it should provide disclosure with respect to exploration and development costs on a property-by-property basis. The companion policy to NI 51-102 also

[12] Venture issuer is defined in NI 51-102.

provides guidance on whether a component of cost would generally be considered material for the purposes of this disclosure requirement[13]. This may be more detailed than the aggregation thresholds used in preparing the RI's financial statements.

B. Forward Looking Information (FLI)

While the requirements regarding disclosure around FLI are not new, we continue to encounter varying levels of disclosure. We have noted improvements in some areas, such as RIs avoiding boilerplate disclosure; however, there are still deficiencies noted in the disclosure of risk factors and material factors and assumptions used to develop the FLI.

EXAMPLE

Example of disclosure of material assumptions that met our expectations:

(This is an excerpt of an RI's MD&A disclosure for the material assumptions used in developing its FLI; the RI provided a similar level of disclosure for each of the factors that the RI identified in the first paragraph)

Material Assumptions on Forward-Looking Information

The Company's presentation of forward-looking information is based on internally generated budgets relating to drilling plans and related costs, production and sales rates as well as estimated royalties, operating costs and administrative expenses. The Company bases the commodity pricing for budget purposes on a range of publicly available pricing forecasts and also considers general economic conditions. The combination of these elements gives rise to expected financial results, inclusive of debt and working capital for the budget period.

Production and Sales Rates

For 2011, the Company has revised its production rates and expects that production and sales of light crude oil will average 800 boe/d. There are many factors that could result in production and sales levels being less than anticipated, including: greater than anticipated declines in existing production due to poor reservoir performance, mechanical failures or inability to access production facilities; the unanticipated encroachment of water or other fluids into the producing formation; transportation delays or sales pipeline restrictions; and, the inability to drill, complete and tie-in wells on schedule due to a lack of oilfield services being available on a cost efficient basis, poor weather, the inability to negotiate surface access with the landowners, or regulatory delays in obtaining all necessary drilling and production approvals.

C. Environmental Disclosures

Environmental Risks

The disclosure of risk factors relating to an RI and its business includes environmental risks and any other matters that would be most likely to influence an investor's decision to purchase the RI's securities. RIs should disclose environmental risks in a meaningful way, avoiding boilerplate disclosure.

[13] If the component exceeds the greater of a) 20% of the total amount of the class; and b) $25,000 (section 5.2 of NI 51-102 CP)

EXAMPLE

Example of one aspect of environmental risk disclosure that met our expectations:

(This is an excerpt of an RI's AIF disclosure for one type of environmental risk)

Physical Risks

The Company is not insured against most environmental risks. The Company has established an environmental committee to periodically review the risks related to environment, health and safety issues and evaluate the cost and coverage of available insurance against certain environmental risks to determine if it would be appropriate to obtain such insurance. Without such insurance, and if the Company becomes subject to environmental liabilities, the payment of such liabilities would reduce or eliminate its available funds or could exceed the funds the Company has available and result in financial distress or bankruptcy. Should the Company be unable to fully fund the remedial cost of an environmental problem it might be required to enter into interim compliance measures pending completion of the required remedy.

Integration With Financial Reporting Functions

We noted that some RIs have established reserves and environmental committees, and health and safety committees. However, in reviewing the charters for these committees, the large majority of charters did not address environmental disclosures. The committee's role was generally limited to provide assistance to an RI's board of directors in fulfilling their oversight responsibilities to ensure that the RI conducted its activities in an environmentally responsible manner. Although the existence of these committees demonstrate that many RIs have created controls and procedures around environmental matters, these committees do not appear to be fully integrated with RIs' financial reporting functions as we continue to observe boilerplate environmental disclosures and/or missing disclosures. For instance, the existence of an environmental committee would suggest that an RI has implemented environmental policies that are fundamental to its operations. However, no description of these environmental policies and the steps taken to implement them were included in the RI's AIF pursuant to item 5.1(4) of Form 51-102F2 *Annual Information Circular* (51-102F2).

Other Considerations

In our reviews the following disclosure requirements relating to environmental matters were commonly absent in RIs' continuous disclosure filings:

- Item 5.1(1)(k) of Form 51-102F2 requires an RI to disclose the financial and operational effects of environmental protection requirements on the RI's capital expenditures, earnings and competitive position in the current financial year and the expected effect in future years.
- Venture issuers not required to file an AIF and/or not voluntarily filing an AIF would still be required to provide risk disclosures that may affect the RI's business in their MD&A (which may include environmental risks).

For further information on environmental disclosures RIs can refer to the CSA Staff Notice 51-333 that provides guidance to RIs on existing continuous disclosure requirements relating to environmental matters under securities legislation.

4.3 Other Reporting Requirements

In addition to financial reports and MD&As, our CD reviews include other filings that are triggered by specific events, transactions and reporting requirements. Some of the key deficiencies noted in our CD reviews are summarized below.

A. Business Acquisition Reports (BARs)

Part 8 *Business Acquisition Report* of NI 51-102 outlines the requirements applicable to BARs, including when they are required to be filed, and which financial statements are required to be included. We have identified cases where BARs were not filed, were filed late, or were deficient. In cases where we note that an RI has not filed a BAR by the required deadline, the RI will be placed into default until the required BAR has been filed.

We also noted a few instances where the periods of financial statements included in the BAR were not appropriate. It is important to carefully consider the guidance in Part 8 of 51-102 as well as the Companion Policy to NI 51-102 in determining which financial statements are required to be included.

PRACTICE TIP

When preparing a BAR, check if your RI meets the criteria in Section 8.4(4) of NI 51-102 to include earlier financial statements in lieu of the most recently completed interim period (e.g. both the date of the acquisition and the filing of the BAR are within 45 days (60 days for a venture issuer) after the business' most recently completed interim period).

The required annual financial statements of the acquired business relate to the most recently completed financial year. In order to align with annual financial statement filing requirements, and avoid excessively onerous filing deadlines, section 8.2(2) of NI 51-102[14] provides an extension from the standard requirement to file a BAR within 75 days after the acquisition date if the most recently completed financial year of the acquired business ended 45 days or less before the acquisition date.

In some instances, the RI prepared acquisition statements included in a BAR using accounting principles that were not appropriate based on the requirements in NI 52-107. The instrument sets out the acceptable accounting principles and auditing standards that need to be applied for the acquisition statements. There were some deficiencies where the RI prepared the acquisition statements in accordance with accounting principles as adopted by an acquired company's local jurisdiction, which was not a designated foreign jurisdiction. The designated foreign jurisdictions are defined in NI 52-107.

[14] RIs qualifying for the extension must file a BAR within 120 days after the acquisition date for venture issuers and within 90 days after the acquisition date for issuers other than venture issuers.

Significant Probable Acquisition

If prospectus disclosure about a significant probable acquisition includes financial statements, RIs should be aware that due to the passage of time between filing the prospectus and the date they complete the significant acquisition, the financial periods of the financial statements included in the prospectus and the subsequently filed BAR, may be different. For example, if an RI filed a prospectus on November 30, 2010 and the date the RI completed the acquisition was March 1, 2011, (assuming the acquired business had a December 31 year end) the financial statements required in the prospectus and the BAR would differ in the following manner:

Financial statements included for the acquired business:

Final Prospectus dated November 30, 2010:

- comparative audited annual financial statements for the year ended December 31, 2009 and December 31, 2008;
- interim financial statements for the period ended September 30, 2010 (reviewed);
- pro forma balance sheet as at December 31, 2009; and
- pro forma income statement for the year ended December 31, 2009 and for the period ended September 30, 2010.

BAR (due on May 15, 2011):

- comparative annual financial statements for the year ended December 31, 2010 (audited) and December 31, 2009 (unaudited);
- pro forma balance sheet as at December 31, 2010; and
- pro forma income statement for the year ended December 31, 2010 and for the period ended March 31, 2011.*

* Included at the RI's discretion (pursuant to part 8.4(5)(b)(i)(B) of NI 51-102) for an interim period after the date of acquisition.

REMINDER

Including disclosure relating to a significant acquisition in an RI's Information Circular, Filing Statement or Prospectus does not relieve the RI from the requirement to file a BAR with respect to that acquisition.

B. Notices

Change in Corporate Structure

We continue to see cases where these notices are not filed, or they are filed with deficiencies. Section 4.9 *Change in Corporate Structure* of NI 51-102 sets out the requirements outlining when to file a Notice of Change in Corporate Structure, and what information is to be included in the notice. We have seen deficiencies where the description of the transaction in the notice is not adequate and we have to seek further information in the RI's other filings to gain a sufficient understanding.

Change in Year End

Section 4.8 of NI 51-102 outlines when and how an RI should file a notice of change in year end. The most common deficiency noted is inadequate disclosure of the length and ending date of the periods, including comparative periods, of the financial statements to be filed for the RI's transition year and its new financial year (section 4.8(3)(e) of NI 51-102).

REMINDER

Appendix A – *Examples of Filings Requirements for Changes in the Year End* is included in the companion policy to NI 51-102 to assist in determining the appropriate periods for this disclosure requirement.

We continue to see cases where RIs fail to file a notice of change in year end following an RTO transaction where the RI's year end after the transaction is not the same as the year end of the RTO acquirer before the transaction. We remind RIs that, in accordance with section 4.10 of NI 51-102, they are required to file a notice of change in year end unless:

a) both the RI (legal parent) and the RTO acquirer (legal subsidiary, accounting parent) had the same year end prior to the transaction; or

b) the RI (legal parent) changes its year end to be the same as the RTO acquirer (legal subsidiary, accounting parent).

PRACTICE TIP

When assessing whether there has been a change in year end following an RTO transaction, focus on the year end of the RTO acquirer as it compares to the year end of the RI following the transaction. It is the RTO acquirer's financial statements that will make up the RI's financial statements following the transaction; those financial statements must be prepared and filed as if the RTO acquirer had always been the RI.

C. Material Change Report (MCR)

We continue to see disclosure deficiencies with respect to MCR. When the material change is in respect of the closing of a restructuring transaction section 5.2 of Form 51-102F3 *Material Change Report* (51-102F3) sets out our expectation that the MCR will contain the disclosure required by section 14.2 of Form 51-102F5 *Information Circular* (51-102F5) for each entity that resulted from the restructuring transaction. As such, the MCR must include, or incorporate by reference, prospectus level disclosure (including financial statements). This requirement does not apply if an RI sent an information circular, or filed a prospectus or securities exchange takeover bid circular, in respect to the transaction.

REMINDER

To the extent that a Filing Statement, or other information, incorporated by reference in the MCR does not satisfy all of the prospectus level disclosure requirements, an RI must provide this information.

D. Executive Compensation

Amendments to Executive Compensation Disclosure Requirements

New amendments to Form 51-102F6 *Statements of Executive Compensation* (51-102F6) came into effect that apply in respect of financial years ending on or after October 31, 2011. Some of the key substantive changes resulting from the amendments require more disclosure as follows:

- If an RI has established a compensation committee, the name of each committee member, whether they are independent, and the skills and experience of each of the committee members;
- Fees paid to each compensation consultant and/or advisor for the two most recently completed financial years and the services provided, other than compensation services; and
- Inclusion of a statement if an RI is relying on an exemption from the disclosure of performance goals and why such disclosure would seriously prejudice the RI's interest. Disclosing goals based on publicly available metrics such as earnings per share and revenue growth is not considered to be seriously prejudicial to an RI's interest.

In addition, related consequential amendments have been made to Form 58-101F1 *Corporate Governance Disclosure* and Form 58-101F2 *Corporate Governance Disclosure (Venture Issuer)* allowing RIs to incorporate disclosure regarding compensation practices by reference to the information required to be included in Form 51-102F6.

E. SEDI Filings

Insiders are reminded that on November 1, 2010, the filing deadline to report changes in a reporting insider's holdings was reduced from 10 calendar days to five calendar days. Following this change, we noted a 43 per cent increase in the average number of late filings per month. While the average number of late filings is on the decline, it is still higher than the average noted prior to the change.

5. OFFERING DOCUMENTS

In addition to our responsibility to review RIs' CD filings for compliance with securities legislation, ASC Staff are responsible for the review and clearance of offering documents where Alberta is the PR[15]. During the year, we received a number of inquiries and noted deficiencies related to prospectus filings. We have summarized some of our findings below.

During the year ended November 30, 2011 there was a total of 227 offering documents filed by RIs and issuers where Alberta is the PR, an eight per cent decrease from the prior year. A large part of the overall decline resulted from the equity market volatility, particularly in the third quarter of 2011.

Type of Filing	Year ended November 30, 2011	Year ended November 30, 2010	% Change
Initial Public Offering (IPO) Prospectus	32	32	-
Long Form Prospectus	5	5	-
Short Form Prospectus	159	189	(16%)
Rights Offering Circulars	6	5	20%
CPC Prospectus	25	15	67%
Total	**227**	**246**	**(8%)**

A. Use of Proceeds

We continue to find deficiencies in prospectuses related to the use of proceeds. Many of these issues relate to insufficient disclosure presented, as compared to the requirements set out in the relevant Forms.

Reasonable Detail

We expect RIs to present the use of proceeds in sufficient detail to enable readers to comprehend each of the principal purposes the RI will use the net proceeds

We expect RIs to present the use of proceeds in sufficient detail to enable readers to comprehend each of the principal purposes the RI will use the net proceeds, and their relative amounts. Depending on the nature of the expenditures, additional details may be required (e.g. retiring indebtedness, asset acquisitions, etc.).

[15] The TSX Venture Exchange is responsible for the review of capital pool company (CPC) prospectuses. The ASC receipts the CPC prospectus.

EXAMPLE

Example that did not meet our expectations:

The net proceeds to the Corporation from the sale of the Offered Shares are estimated to be $15 million after deducting the Underwriters' Fee of $0.80 million and the estimated expenses of the Offering of $0.25 million. If the Over-allotment Option is exercised in full, the net proceeds of the Offering are estimated to be $17.23 million after deducting the Underwriters' Fee of $0.92 million and estimated expenses of the Offering of $0.25 million. See "Plan of Distribution".

The Corporation intends to use the net proceeds of the Offering to increase its 2012 capital budget and accelerate its drilling and land acquisition program in the ABC area.

With respect to the disclosure of the principal purposes of the use of proceeds in the above example, improvements could be made by providing further detail to clearly identify each of the principal purposes, with approximate amounts, per section 6.3 of Form 41-101F1 *Information Required in a Prospectus* (41-101F1)[16]. For example, disclosing the RI's anticipated cost of material drilling programs, the amount of the proceeds allocated to land acquisitions, and any other components of the capital budget that that the RI anticipates to fund with proceeds from the offering (as the details of the capital budget had not been disclosed), and what these amounts will accomplish. Providing clear disclosure of the anticipated use of proceeds enables readers to compare sources of funding to the anticipated uses of that funding, helping them to make informed investment decisions.

REMINDER

If an RI has negative cash flow from operating activities in its most recently completed financial year (for which financial statements have been included in the prospectus), the RI should:

- prominently disclose this fact in the use of proceeds section;
- disclose whether, and if so, to what extent the proceeds of the distribution will be used to fund any anticipated negative cash flow from operating activities in future periods; and
- disclose negative cash flow from operating activities as a risk factor.

Objectives and Milestones

We often find that the RI's disclosure of the business objectives and milestones that the RI expects to accomplish using the net proceeds of the distribution is boilerplate. Some RIs refer to the RI's general business objective (or corporate strategy) and state that its use of proceeds for the current distribution is consistent with that objective, rather than stating the specific objectives that the RI expects to accomplish with the net proceeds, and significant events or milestones that must occur for the RI to accomplish those objectives (with related time periods and costs). Fulfilling an RI's corporate strategy is an ongoing process, so when RIs disclose a general objective in their offering documents, RIs rarely identify particular significant events or milestones that must occur to accomplish these general business objectives. Our expectation is that the business objectives disclosed in the prospectus are specific to the use of the distribution's net proceeds, and with focused business objectives, there are more likely to be related events or milestones to disclose.

[16] There is a comparable requirement in section 4.2 of Form 44-101F1 *Short Form Prospectus* (44-101F1).

Junior Issuers[17]

Junior issuers should also be mindful of additional disclosures that they are required to present in a long form prospectus, such as:

- breakdown of total funds available - including estimated net proceeds, the estimated working capital (deficiency) as at the most recently completed month-end and the total other funds available to be used to achieve the principal purposes identified by the issuer; and
- the disclosure of the issuer's business objectives and milestones for the total funds available, not just net proceeds from the distribution.

REMINDER

Disclosure of the estimated working capital is as at the most recent month end before the prospectus; this may not necessarily coincide with the most recent financial statements that are included in the prospectus.

B. Cover Page and Prospectus Summary

The cover page provides the basic disclosures concerning the distribution, as outlined in Item 1 of NI 41-101 and NI 44-101 *Short Form Prospectus Distributions* (NI 44-101). The summary of the prospectus, as discussed in Item 3 of NI 41-101, is meant to briefly summarize information that would most likely influence the investor's decision to purchase securities. In both cases, these disclosures are meant to provide emphasis to the critical information presented in the prospectus. We have noted an increase in promotional disclosure in these sections, which is not appropriate given our expectation of balanced disclosure. We have also seen an increase in the amount of information that RIs are presenting in their cover pages and prospectus summaries. Our observation is that emphasis on critical information can be lost when it is presented amongst a large volume of non-essential information.

An area that we have noted where emphasis has been lost is in the presentation of risk disclosure. Some RIs present boilerplate risk disclosure in the cover page and summary section, and do not necessarily highlight the specific risk factors that would be most likely to influence investors' decisions. Risk factors that differentiate the RI or the offering (e.g. working capital deficiency, going concern, etc.) would likely be considered more influential.

C. Notice of Intention and Transition

An RI must file a Notice of Intention (NOI) in the form of Appendix A of NI 44-101 at least 10 business days prior to filing its first preliminary short form prospectus. The NOI must be filed with the RI's notice regulator, as that term is described in the instrument.

Providing the NOI at least 10 business days prior to filing the first preliminary short-form prospectus allows us to conduct a review of the RI's CD filings, especially those that are anticipated to be incorporated by reference in the prospectus. Given the interrelationship between CD filings and the short form prospectus distribution system, issues raised in the context of a CD review, including the review performed upon an RI filing a NOI, may be taken into consideration when reviewing a prospectus. As unresolved items may delay or prevent the issuance of a receipt, it is in the RI's best

[17] Junior issuer is defined in NI 41-101.

interest to ensure that its CD filings are in order when it files a NOI, and that it appropriately addresses any significant issues that may arise.

We note that when RIs file NOIs, it is not always clear how they intend to be qualified. This is commonly seen with venture issuers who do not have a current AIF. These RIs are not qualified at the time of filing the NOI, but intend to be qualified by the time they file their preliminary short form prospectus. In most of these cases, the RIs confirm that they will file a current AIF prior to the filing of their prospectus.

We have also seen cases where RIs intend to rely on the exemptions for new RIs and successor issuers under section 2.7 of NI 44-101, but do not actually meet the criteria for relying on the exemptions. RIs who intend to rely on these exemptions should be prepared to support their position that section 2.7 is applicable to them.

REMINDER

The definition of successor issuer excludes divestitures; however, if the divestiture represents a divestiture of substantially all of the business of the predecessor entity to the issuer, the issuer would likely be considered a successor issuer.

If an issuer is relying on this basis for qualification to file a short form prospectus, it must ensure that the financial statements of the predecessor entity are a relevant and accurate proxy for its financial statements as a successor issuer.

D. Connection Test

National Policy 11-202 *Process for Prospectus Reviews* (NP 11-202) outlines the process for prospectus reviews. The policy includes guidance for identifying the PR for a prospectus filing. In cases where the RI has its head office in a specified jurisdiction (for investment funds, this would be the investment fund manager's head office), that jurisdiction is the PR. Otherwise, the PR is the specified jurisdiction that the RI has the most significant connection. The factors that an issuer or RI has to consider in assessing significant connection are listed in Part 3 of NP 11-202.

PRACTICE TIP

When filing an IPO prospectus in cases where the PR is not evident (e.g. the issuer's head office is not in a specified jurisdiction – as that term is defined in MI 11-102), RIs should have an analysis prepared, documenting the determination of the PR, considering the factors laid out in NP 11-202. RIs may consider including this analysis in the cover letter to the prospectus.

E. Oil & Gas Disclosures

Given the prevalence of Alberta-based RIs engaged in oil and gas activities, we highlight a few common weaknesses noted in our reviews of offering documents.

Inappropriate Terminology:

Issuers and RIs are reminded that disclosure in a prospectus must be consistent with National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities* (NI 51-101) if engaged in oil and gas activities. We have noted issuers and RIs who use terminology and classifications that are not consistent with the Canadian Oil & Gas Evaluation Handbook (COGEH). This issue was especially evident in disclosure of resources other than reserves. In several instances, issuers and RIs disclosed material volumes without using proper COGEH terminology, without disclosure of the specific classification, and/or without the appropriate cautionary statements as prescribed in NI 51-101.

Inconsistent Disclosure:

We identified material inconsistencies within the Form 51-101F1 S*tatement of Reserves Data and Other Oil and Gas Information* (51-101F1) filings incorporated by reference into short form prospectuses. Most commonly, the volumes and/or associated net present value disclosures were not consistent with each other within the same form. In other instances, we noted that RIs either introduced new reserve change categories or combined these items in the RI's reserve reconciliation tables. RIs are expected to verify that reserve and resource disclosures, whether included or incorporated by reference in their prospectuses, do not contain material inconsistencies.

RIs are expected to verify that reserve and resource disclosures do not contain material inconsistencies.

PRACTICE TIP

When filing an IPO prospectus that references an RI's reserves and/or resources, be prepared to provide a copy of the applicable reserve or resource report for our review.

6. 2011 CSA INITIATIVES

During the year, the CSA published staff notices and amendments to securities legislation. Some of these notices communicate staff's expectations or provide guidance to improve disclosure. Other notices summarize results from recent reviews conducted across the CSA and identify areas where RIs did not comply with requirements. Copies of all CSA staff notices and amendments are available on the ASC website (www.albertasecurities.com). RIs and their advisors should review these publications in advance of their 2011 year-end reporting.

Relevant CSA staff publications issued during 2011
CSA Staff Notice 41-306 *IFRS Transition – Prospectus Issues* (published September 29, 2011)
Amendments to Form 51-102F6 *Statement of Executive Compensation* (effective for years beginning on or after October 31, 2011)
CSA Multilateral Staff Notice 51-336 *Issuers Using Mass Advertising* (published September 13, 2011)

7. CONTACT PERSONNEL AND OTHER INFORMATION

Feedback on the Report and other Corporate Finance Matters

We welcome comments on this Report and other Corporate Finance matters directed to any of the individuals listed below:

Cheryl McGillivray, CA

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(403) 297-3307
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Anne Marie Landry, CA

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Secondment to the ASC

The ASC's secondment program provides an opportunity for a senior accountant, manager or senior manager from an audit firm or an RI to gain valuable contacts and experience within the ASC, including accounting, auditing, MD&A analysis and securities legislation (e.g. CD rules, prospectus rules and participation in policy setting committees). If you are interested in more information about this program, please contact the individuals listed below:

Tom Graham, CA

Director, Corporate Finance
(403) 297-5355
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Lara Gaede, CA, CFA

Chief Accountant, Office of the Chief Accountant
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CA Training Office

We are extremely pleased that the ASC has been recognized as a CA Training Office (CATO). By becoming a CATO we can provide an attractive alternative for CA students to obtain their practical experience requirements. Our CA training program will allow CA students to complete rotations in three divisions at the ASC: Corporate Finance and two others, selected from Market Regulation, Enforcement, Financial Services and the Office of the Chief Accountant.

Upcoming Presentations

From time to time, the ASC will also host webinars and breakfast seminars on various topics related to securities requirements including CD matters. Breakfast seminars related to this Report and other topics are scheduled for Edmonton on January 10, 2012 at the Sutton Place Hotel and for Calgary on January 12, 2012 at the Westin Calgary. A related webinar is scheduled for January 13, 2012.

If anyone planning on attending one of the above seminars or webinars has a specific topic or question that they would like us to address at an upcoming session, we would be pleased to consider your request. Please submit your topic or question to cf-report@asc.ca by January 6th, 2012. We will consider submissions after this date for potential future presentations.

Information about future seminars and webinars can be found on the ASC website at www.albertasecurities.com. Archived presentation slides and related reference materials from past seminars are also available on the ASC website[18].

[18] Archived presentation materials are available on the ASC website under "Events & Presentations" in the "News & Publications" section.