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June 22, 2000

Mr. Purdy Crawford
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Box 50, 1 First Canadian Place
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Dear Sir:

Re: Comments Regarding the Five Year Review of Securities Legislation in Ontario

This letter is in response to your letter dated April 28, 2000 addressed to Ms. Glenda Campbell inviting the Alberta Securities Commission (the “ASC”) to comment on the Request for Comments, Issues List and Commentary published in the Ontario Securities Commission (“OSC”) Bulletin in connection with the above noted matter.

We apologize for submitting our response past the June 9, 2000 deadline and hope that you are still in a position to consider our comments. As you may know, I only became Chair of the Commission on May 15, 2000 and your letter was brought to my attention last week.

We appreciate the opportunity to provide our comments regarding this ambitious undertaking on the part of the OSC. We also look forward to working with the OSC and the other members of the Canadian Securities Administrators (the "CSA") as it proceeds to consider and implement the changes recommended by the report of the OSC Securities Review Advisory Committee (the "Committee").

During my brief tenure as Chair of the ASC, it has become clear that changes made by one securities regulatory body often have significant impact, unintended or otherwise, in other jurisdictions. The progress made by the CSA in its efforts to streamline provincial securities regulation and eliminate provincial borders has been impressive, especially when you consider the success of the mutual reliance initiatives for both exemptive relief applications and prospectuses and AIFs. Other joint CSA initiatives, such as the insider trading reporting system and the national registration database, will enhance these efforts significantly.

The following are our comments on selected issues:

The Closed System

The closed system operates in nine of thirteen Canadian jurisdictions to regulate the issuance of securities and the sale of control block and restricted securities. The resale restrictions imposed under the closed system vary from jurisdiction to jurisdiction (i.e. hold periods of 6, 12 or 18 months in some, 6 or 12 months in others and a shortened 4 month hold period for qualifying issuers under the SHAIF system in Alberta and British Columbia). In contrast, the four remaining jurisdictions operate under an open system without resale restrictions or a concept of “control”.

In response to item 4, we note that the ASC has, with the OSC, taken an active role in a CSA project to rationalize resale restrictions across Canada. This initiative has resulted in the CSA committee exploring many of the issues raised in items 4 through 7 during the development of the proposed national instruments.

One of the most difficult aspects of this project was trying to bridge the gap between open and closed system jurisdictions to ensure that privately placed securities traded into an open jurisdiction cannot be resold back into a closed jurisdiction without any resale restrictions.

The Committee’s request for comments on the closed system is very timely given the rapidly changing nature of the Canadian capital market and the technological advances permitting real time dissemination of information regarding the business and affairs of issuers. We look forward with great interest to the comments received on the closed system and we will continue to work closely with the OSC and other CSA members in responding to the Committee’s recommendations in this area.

Regulation of Registrants

We note in item 11 that you have focused on the question of whether or not the traditional registration requirements, which have historically placed more emphasis on the concept of “trading” as opposed to “advising”, remain relevant and appropriate. Perhaps the larger question to be asked in this context is “What activities performed by securities industry

participants should require registration?"

Registration is a fundamental component of Canadian securities regulation. The ASC supports and is prepared to assist in any efforts made by the OSC to ensure that the registration requirements in securities regulation remain relevant and appropriate in the context of the existing and future financial market place.

In response to item 12, the ASC believes that increased public access to information and non-traditional market participants such as proprietary trading systems and internet providers have and will continue to present significant challenges to the securities regulators in this country. Also, the changing roles of financial intermediaries and the pressure to provide "one stop" and "value added" services to clients continue to challenge the validity and relevance of traditional methods of registering and regulating registrants as well as the provision of effective enforcement and compliance of securities laws in that area.

Given this reality, the ASC is very supportive of the OSC's efforts to solicit comments on the relevancy and applicability of its legislation in this area in order to ensure that securities legislation addresses the realities of the securities industry.

Self Regulatory Organizations and Other Market Intermediaries

Item 14 recognizes the reality and practicality of self regulatory organizations ("SROs") regulating their members in the areas of both market and member regulation. We believe that their resources and expertise in the areas of financial and sales compliance, market surveillance and trading and registration render the existing Canadian SROs well suited and equipped to perform these roles. A natural extension of those functions is the corresponding ability to enforce applicable securities laws against persons under the jurisdictions of recognized exchanges and SROs so as to avoid, wherever possible, duplicative regulatory efforts and enforcement proceedings.

We note that The Alberta Stock Exchange (the "ASE") and its successor the Canadian Venture Exchange Inc. ("CDNX") define "Exchange Requirements" (to which their listed issuers, members, shareholders and other participants are subject) as including the applicable securities legislation, rules, policies, blanket orders, rulings, forms or regulations from time to time enacted by the British Columbia Securities Commission (the "BCSC") or the ASC. By virtue of this definition, CDNX has, at least in theory, the ability to enforce the securities legislation of both Alberta and British Columbia. Based on our experience with the former ASE, we are supportive of having SROs enforce securities legislation, where appropriate.

As a direct result of the merger of ASE and the Vancouver Stock Exchange to form CDNX, the ASC had occasion to examine (or re-examine) the philosophy, objective and criteria for recognizing self regulatory organizations and exchanges in Canada. In addition, ASC staff have been involved as members of the CSA committee responsible for publication of the marketplace operation and trading rules. As a result of these projects, the significance and importance of consistent, equitable regulation and oversight of recognized SROs and exchanges has become obvious to the ASC.

What has become equally obvious to the ASC through this process is the need to integrate mutual reliance principles into the area of exchange and SRO oversight. Just as the areas of prospectus and AIF review and exemptive relief applications have benefited from the introduction of mutual reliance review system concepts and procedures, the area of exchange and SRO oversight could also benefit significantly from this model. Since the formation of CDNX, the ASC and the BCSC have been operating pursuant to a joint protocol for CDNX oversight based on the designation of a single "functional regulator" for each operating area of CDNX. We believe this model should be extended to exchange and SRO oversight generally so that a particular exchange or SRO is overseen by one primary securities regulator.

Tiered-Holding System

In response to item 18, the ASC agrees that existing laws governing the transfer of securities should be examined to determine their continued relevance and applicability.

The ASC has been a leader within the CSA in considering the importance of settlement rules in reducing systemic risk associated with certificated securities transactions and physical transfer and delivery of securities in Canadian securities markets. The need to examine these issues from both a legal and practical perspective has become critically important given the imminent change from a T+3 settlement cycle to a T+1 settlement cycle.

We look forward with interest to the Committee's report on these matters and intend to remain actively involved in all CSA initiatives in this area.

Continuous Disclosure Obligations

The ASC has, with the OSC, taken an active role in CSA initiatives exploring the issues raised in item 19. In particular, staff of several CSA jurisdictions are currently working to:

- develop effective and efficient programs for monitoring, reviewing and enforcing compliance with continuous disclosure requirements;
- consider public comment on proposals for enhanced continuous disclosure standards

that were included, both as an element of a proposed "integrated disclosure system" and for potential application to all reporting issuers, in the CSA Concept Proposal for an Integrated Disclosure System (the "IDS Proposal") published for comment in January 2000; and

- consider public comment and prepare a report and recommendations concerning the proposal to introduce a statutory civil remedy for investors in the secondary market in cases of misrepresentation in continuous disclosure (the "Civil Remedy Proposal") , which was published for comment in CSA jurisdictions in May 1998.

The issues raised in items 20 and 26 have been and remain under consideration by CSA committees on which ASC staff have played an active role, notably in connection with the IDS Proposal and the Civil Remedy Proposal. The ASC notes that the Civil Remedy Proposal's suggestion concerning the definition of "material change" for non-mutual fund issuers attracted public criticism, largely on the ground that it would unnecessarily alter a key element of securities regulation with which market participants are already familiar, without providing greater certainty. The IDS Proposal solicits comment on a proposal that all reporting issuers file a material change or similar continuous disclosure report upon the occurrence of either a material change or one of a list of specified events irrespective of whether the event constitutes a material change.

With respect to item 21, Alberta securities legislation parallels Ontario's in its traditional adoption of Canadian generally accepted accounting principles and auditing standards as set out in the CICA Handbook. The ASC believes that this approach remains generally appropriate in view of the desirability of consistent financial reporting standards and the comparability of financial reporting.

CSA staff follow closely CICA proposals as published in CICA exposure drafts, as well as evolving recommendations and requirements of the Financial Accounting Standards Board and the Securities and Exchange Commission in the United States. The CSA are also actively engaged, through the International Organization of Securities Commissions (IOSCO), in promoting greater uniformity and consistency in accounting standards and financial disclosure.

Respecting item 23, the ASC shares with other regulatory and market participants concern about any failure on the part of an issuer of securities to provide timely disclosure of material information to markets as a whole.

Our emphasis is on high-quality, broad disclosure, as soon as appropriate, to produce well-informed markets, rather than on discouraging issuers from responding to investor or analyst inquiries. To the extent that "selective disclosure" produces significant inequalities in information, existing legal requirements or restrictions are likely to have been contravened.

Breaches of continuous disclosure obligations or insider trading prohibitions, or failures by corporate directors to satisfy their fiduciary obligations to their shareholders, may lead to action by regulators and/or by investors. For these reasons, the ASC has not yet been persuaded that new restrictions are called for.

The Commission looks forward to the OSC Securities Review Advisory Committee's findings in respect to all of these questions and to working with OSC and other CSA staff in responding to such findings.

Mutual Funds

Through the CSA Mutual Fund Committee, the CSA has made significant progress in the consideration of an appropriate governance model for mutual fund issuers. The ASC has been and will continue to be actively involved on this committee and looks forward to working with OSC staff and the other committee representatives on this project.

In response to item 24, it has become apparent throughout this process that statutory reforms may be necessary in the fund governance area. However, a specific governance model has yet to be determined. A significant amount of work has been performed to date to examine existing fund governance models and to recommend an appropriate model to be imposed on mutual fund issuers. We look forward to the Committee's recommendations and will continue to participate in the relevant CSA initiatives in this area.

Shareholder Communications and Take-over Bids

With respect to item 28, the ASC is aware of the pending amendments to the *Canada Business Corporations Act* as outlined and will likely recommend similar amendments to the Alberta *Business Corporations Act*.

With respect to item 29, the ASC, together with the OSC and several other jurisdictions, took an active role in drafting uniform wording for the legislative amendments currently awaiting proclamation in five jurisdictions to implement the recommendations of the Zimmerman Committee with respect to the regulation of take-over bids.

The ASC will continue to work with the OSC and other CSA members to ensure that the take-over bid and issuer bid regulation reflects the increasing trend towards cross-border mergers and acquisitions as Canadian issuers enter into strategic alliances and partnerships with North American and global firms in order to compete more effectively.

The challenge for Canadian securities regulators is to ensure that the rules governing the regulation of take-over and issuer bids take account of the regulatory differences in other jurisdictions, most particularly the United States and the United Kingdom.

Mandate and Role of the Commission

The ASC also received rule-making authority approximately five years ago together with the British Columbia Securities Commission and the OSC. In the interim, two other jurisdictions have received rule-making authority as well.

While the rule-making model differs somewhat in each jurisdiction, each model is designed to promote openness, public participation and certainty in regulation not present in the regulation-making process under which provincial governments adopt regulations without the benefit of public input.

The public notice and comment process provides an opportunity for the public, particularly market participants who are directly affected, to comment on proposed rules and for the Commission to respond to those concerns before adopting a final rule.

The Alberta rule-making model is the most streamlined and flexible rule-making model in Canada. For example, the Alberta model does not require that the ASC obtain formal Ministerial approval to publish for comment or make a rule nor are the prescribed minimum public comment periods as long (30 days rather than 90 days).

With increasing globalization of securities markets, a flexible Canadian regulatory framework and a streamlined rule-making process is essential to preserving a Canadian securities market. Just as we have endeavoured to streamline our regulatory review processes and harmonize securities legislation wherever possible, we also need to adopt more uniform and simplified rule-making model to deal with regulatory matters in a timely, effective and co-ordinated manner.

Experience has shown that it takes a minimum of 17 months to put a national or multilateral rule in place. Much of this is attributable to the necessity to seek Ministerial approval and the extended minimum 90 day comment periods mandated under the Ontario model. These requirements impact adversely on our ability as securities regulatory bodies to implement new initiatives on a timely basis.. We suggest that the Ontario rule-making process be simplified to facilitate a more timely and efficient process for implementing rules in more than one jurisdiction This could result in other jurisdictions following suit to the benefit of all market participants.

We trust the foregoing comments are of assistance to you. Please do not hesitate to contact us if you require clarification of our comments.

Yours truly,

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