OSC Staff Notice 51-708 -
– Continuous Disclosure Review Program Report – August 2002

1. Introduction

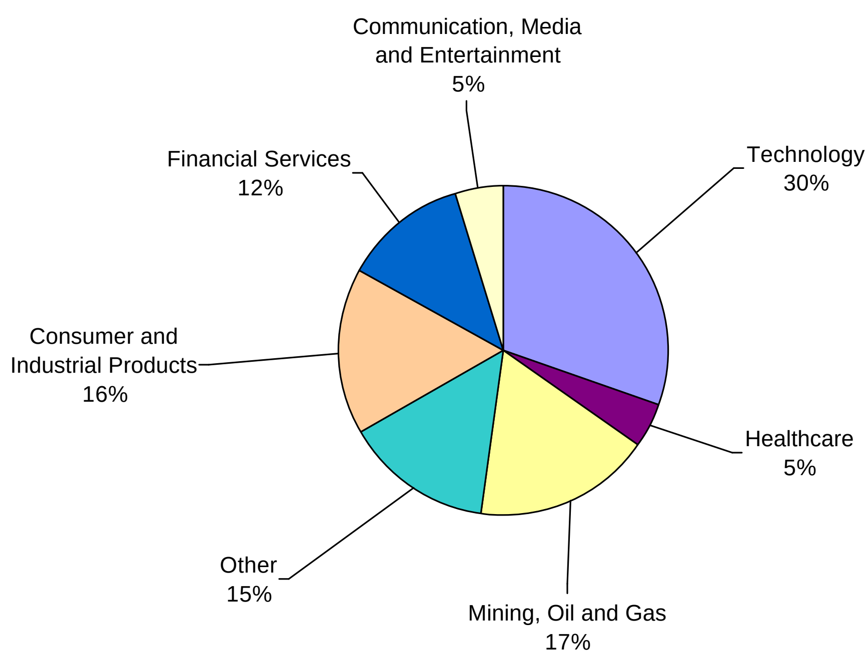
The Continuous Disclosure Team of the Ontario Securities Commission's Corporate Finance Branch intends to issue a report at least annually on the progress of its Continuous Disclosure Review program (the CD Review Program). We described the purpose and scope of the CD Review Program in OSC Staff Notice 51-703, *Implementation of Reporting Issuer Continuous Disclosure Review Program, Corporate Finance Branch.*

This report covers the year ended March 31, 2002. We reported in OSC Staff Notice 51-706 on the results of the CD Review Program for the year ended March 31, 2001. As described in section 3 of this report, the CD team continually reassesses the focus and effectiveness of the CD Review Program.

In addition to the CD Review Program, the CD team is involved in a range of day-to-day activities and policy-making initiatives. These are beyond the scope of this report.

2. Overview Of Activities

In OSC Staff Notice 51-703, we stated that the OSC's goal is to conduct a CD review once every four years on average, for reporting issuers with an Ontario head office. Between April 1, 2001 and March 31, 2002, the Corporate Finance branch completed 517 CD reviews, representing some 29% of active Ontario-based reporting issuers, drawn from the following industries:

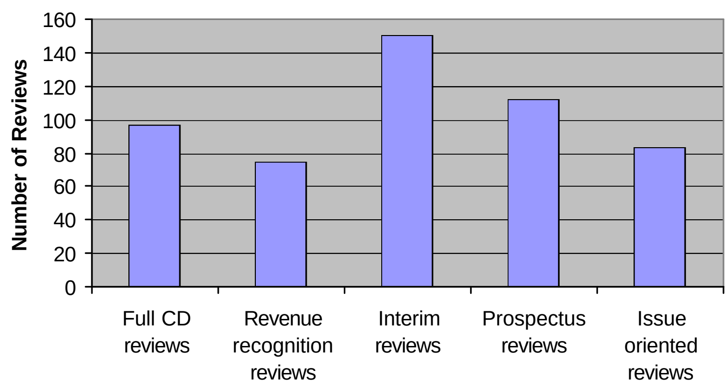


Of these 517 reviews, we carried out 150 as part of a targeted review of interim financial statements and interim management's discussion and analysis. We reported on this initiative in February, 2002 in OSC Staff Notice 52-713 – *Report on Staff's Review of Interim Financial Statements and Interim Management's Discussion and Analysis.* We completed an additional 75 reviews as part of a targeted review of revenue recognition practices. We started this project last year and initially reported on it in February 2001 in OSC Staff Notice 52-701 – *Initial Report on Staff's Review of Revenue Recognition Practices.* A final report on this project is included in section 5(a) of this report.

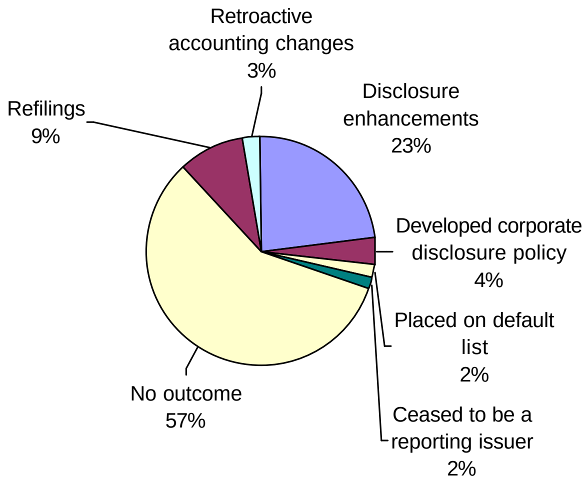
An additional 180 stand-alone CD reviews consisted of 97 full reviews, along with 83 issue-oriented reviews. The issue-oriented reviews responded to items identified through our daily reviews of media reports, investor complaints, as part of a routine application process, or through other sources.

As described in OSC Staff Notice 51-703, we also review a selection of CD materials at the same time as we review certain prospectuses and rights offerings circulars. We carried out 112 CD reviews of this kind during the year.

Our review activities for the year ended March 31, 2002 are summarized in the following table:



The outcomes of our 517 reviews are summarized below. For illustration, each review is counted only once, categorized against what we view as the most significant outcome that resulted from that review.



- 57% of our reviews resulted in no significant changes. This is a slightly lower proportion than last year, but is reasonably encouraging overall. The other 43% of reviews led to a significant "outcome" of one kind or another.

- In 9% of reviews, we identified filings that were so deficient that the issuers were required to refile certain continuous disclosure materials. The vast majority of these related to issues identified in interim financial statements, as discussed in section 5(b). The issues identified include, for example, companies that failed to disclose:

  - an interim balance sheet and/or
  - a comparative balance sheet as at the end of the preceding fiscal year and/or
  - notes to the interim financial statements and/or
  - the correct comparative periods for the income and cash flow statements.

- In 3% of reviews, we found issues that led to accounting changes (typically implemented in the first financial statement filing following the completion of our review.) While there was no definitive pattern to the issues identified, the accounting changes we identified included:

  - **Revenue recognition** – revenue recognized upon installation of a product, (revenue was previously recognized on delivery);
  - **Taxation** – inclusion of a tax provision in the quarterly statements, (previously only the annual statements included a tax provision);
  - **Income statement** – removal of non-GAAP revenue disclosure from the income statement;
  - **Loss classification** – losses on debt venture capital investments classified as a permanent writedown instead of as unrealised losses;
  - **Reverse takeover accounting** – changes with respect to valuation of consideration;

- **Cash flow statement** – removal of non-cash items;
- **Discontinued operations** – gross-up of assets and liabilities related to discontinued operations;
- **Taxation** – tax contingency accounted for in the period during which the issue was settled instead of as a prior period adjustment;
- **Acquisition** – accrual for liabilities relating to the acquisition of a mine;
- **Expense allocation** – exploration expenditures allocated between balance sheet and income statement on a quarterly basis instead of on a yearly basis;
- **Taxation** – removal of inappropriate future tax asset;
- **Classification of debt vs. equity** – classification of commitment to issue shares as equity instead of as a liability.

- Overall, companies are clearly more aware of the importance of good disclosure practices. Our reviews of corporate disclosure policies, discussed in section 3, particularly evidence this.

- However, many companies tend towards a minimal approach to disclosure. In 23% of our reviews, the company agreed to enhance its future disclosures in one way or another.

3. Current Focus

Recent major corporate accounting failures have raised a number of issues concerning transparency and disclosure, the adequacy of corporate governance structures, the objectivity of the auditor and the effectiveness of the audit process. As part of our response to these issues, we will carry out a greater number of full reviews of selected issuers during the year to March 31, 2003, concentrating on companies that have a large impact on the capital market. Our recently-announced Continuous Disclosure Advisory Committee (see section 8(d)) will assist us further in continually reassessing our approach.

4. Corporate Disclosure Policies

Following a survey conducted in October 1999 (the survey) to seek information from reporting issuers on disclosure practices, we issued OSC Staff Notice 53-701 - *Staff Report on Corporate Disclosure Survey*. In July 2002, the CSA issued National Policy 51-201 – *Disclosure Standards*. To support these informational and policymaking initiatives, we request information regarding issuers' corporate disclosure policies and practices as part of our CD and prospectus reviews. We also request a copy of the written disclosure policy, if one exists, and provide feedback on areas that do not appear to be addressed by the issuer's written policy. In preparing this report, we reviewed the responses received from 140 issuers to our questions on corporate disclosure practices.

Of the companies reviewed, 41% have formalized written disclosure policies, compared to 29% from the survey performed in 1999.

A further 15% of companies informed us that they are in the process of drafting formal written disclosure policies. In general, the larger the company, the greater the likelihood that they have adopted or are developing a formal policy.
The following findings are based on the 57 companies who provided us with formalized written disclosure policies (the 1999 survey results were based on 170 companies who replied to a survey sent to 400 companies).

(a) Spokesperson(s), committees and disclosure Record

79% (69% in the survey) of companies have defined spokespersons responsible for communicating with the media, investors and analysts.

- 47% of the companies have a committee responsible for the development and implementation of policies, and the committees are also responsible for monitoring compliance with the stated policies.
- 75% have clearly defined materiality standards.
- 39% of the companies have a policy on maintaining a full disclosure record containing all publicly available information about the company for a period of approximately 5 years.

(b) Conference calls

32% (18% in the survey) of companies broadcast their conference calls in an open forum, where interested parties can listen in on the call by telephone or via a webcast on the internet.

- Approximately 42% of the companies have specific policies on how to release earnings information and conduct conference calls.
- Of the companies that have a policy with respect to conference calls, 25% script their calls in advance.
- To avoid selective disclosure of material information, 54% of the companies review the transcript of the call for inadvertent disclosures; their policies state that if selectively disclosed information were discovered, it would be immediately disseminated via news release.
- Approximately 58% of the companies post transcripts of conference calls on their web-sites for varying amounts of time.

(c) Working with analysts

54% of companies (98% in the survey) acknowledge that they do have one-on-one meetings with analysts.

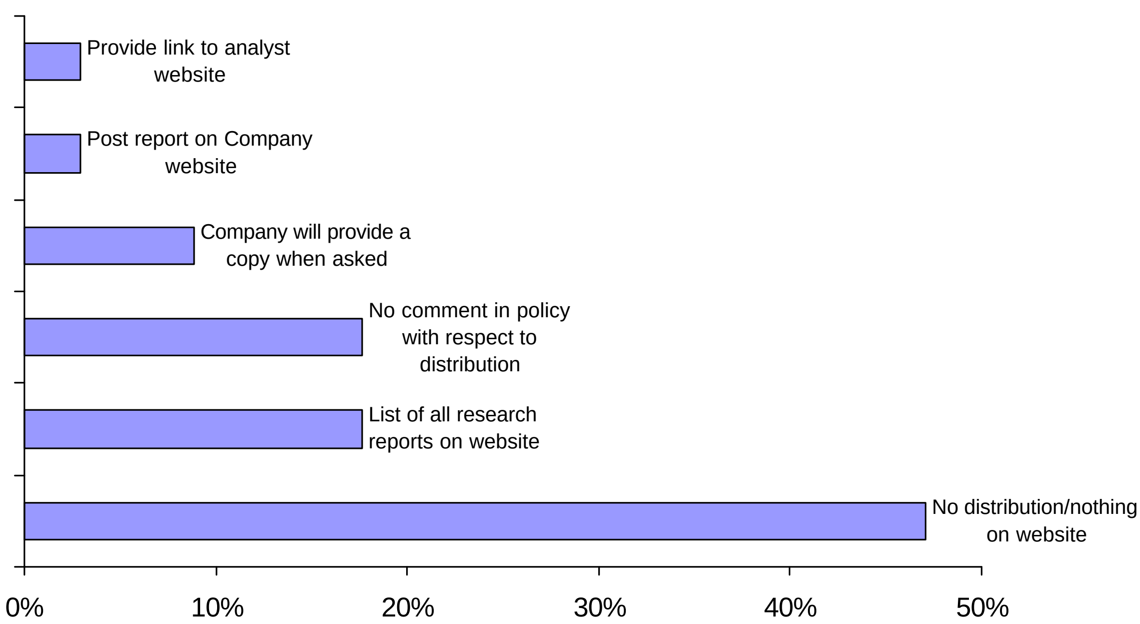
- 68% of the companies have specific policies that govern their meetings and discussions with investors, the media and analysts.
- 68% of the companies conduct meetings with small groups of analysts, investors or media representatives.

- 77% of the companies that participate in small meetings or one-on-one meetings have specific policies stipulating that only non-material information or publicly known information can be discussed in these meetings.
- 62% of the companies review transcripts and notes from meetings for selective disclosure and state that if selective disclosure is uncovered, they will immediately disclose this information publicly.

65% of companies (87% in the survey) will review the reports for factual omissions or errors only.

- 35% of the companies comment on other areas of the report, such as assumptions or earnings projections.
- Most companies that have a policy on working with analysts state that they will not express comfort with respect to analyst reports, nor will they attempt to influence opinions or conclusions. None of the policies specifically stated that they express comfort. In the 1999 survey, 27% reported that they actually express a level of comfort on earnings projections.
- Most policies require that comments are provided either orally or with a disclaimer stating that the report was reviewed for factual accuracy only.

The following summarizes the 34 companies who commented in their policies on how analysts reports are distributed.

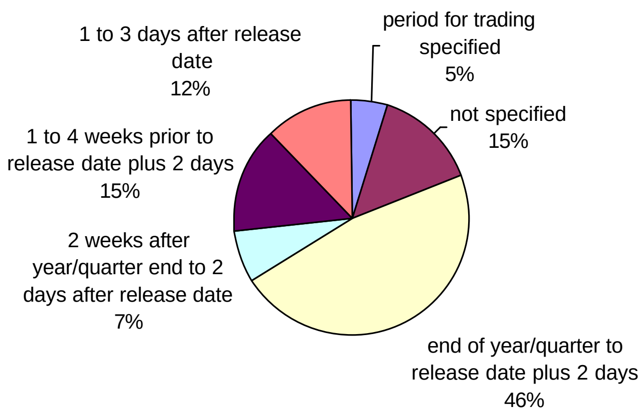


(d) Trading blackouts and quiet periods

72% of the companies have a policy with respect to blackout periods as part of their trading policies.

Blackout periods are specific times when trading by employees may not take place – usually associated with the release of scheduled earnings announcements.

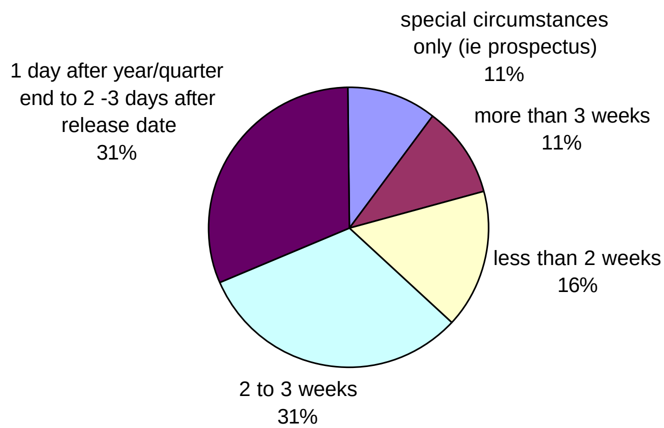
Specific blackout periods:



33% of the companies have specific quiet periods as part of their disclosure policies.

Quiet periods represent a time when company representatives will not comment on the status of the current quarter or year's operations or their expected results, or make any comments as to whether the company will meet, exceed or fall short of any earnings estimates made.

Specific quiet periods:



(e) Next Steps

We will continue to ask issuers about their corporate disclosure policies and to raise awareness of the importance of written disclosure policies and the other best practices set out in NP 51-201. A further report will be issued at a later date.

5. Accounting and Financial Reporting Matters

(a) Final Report on Staff's Review of Revenue Recognition

In March 2001, we issued OSC Staff Notice 52-701 - *Initial Report on Staff's Review of Revenue Recognition*, in which we reported preliminary findings and comments arising from our review of practices of a sample of Canadian reporting issuers. This is our final report on our review.

Of the 75 companies reviewed, one was required to restate and refile its financial statements because of matters relating to reported revenue. 29 companies committed to make enhanced disclosure in the notes to the financial statements or in MD&A. For reasons unrelated to our review, nine of the companies ceased to be reporting issuers during the review period.

We are pleased to have observed that many companies not included in the review also increased their disclosure of revenue recognition policies and related MD&A discussion during 2001. We also identified several companies that announced changes in revenue recognition polices in press releases and analyst conference calls, and either attributed their reasons for making these changes to OSC Staff Notice 52-701 or made reference to it.

(b) Interim Reporting

During the year, we carried out a review of interim financial statements and interim MD&A for the three month period ended March 31, 2001. The objective of our review was to assess compliance by reporting issuers with the requirements of OSC Rule 51-501 - *AIF and MD&A*, OSC Rule 52-501 - *Financial Statements*, and the standard on interim financial statements as set out in section 1751 of the Handbook of the Canadian Institute of Chartered Accountants. These rules and standard apply to reporting issuers with fiscal years beginning on or after January 1, 2001.

The rules were issued to address the poor quality of interim financial reporting in Ontario. They provide guidance on the type of financial and other disclosure that should be included in interim financial statements and interim MD&A. Shortly after the rules were issued, we commenced our review to determine if the guidance provided by the OSC was being followed.

We reported the findings from our review of interim financial statements and interim MD&A in OSC Staff 52-713 - *Report on Staff's Review of Interim Financial Statements and Interim MD&A*, which was issued in February, 2002. Overall, our findings suggested that companies were not as well informed about the rules and standard as we might have expected. Of the 150 issuers chosen for the review, 17 failed to include the minimum components of interim financial statements, or failed to include the minimum components for the appropriate periods. These 17 issuers were required to refile their interim financial statements. An additional 40 issuers committed to improve disclosure in interim MD&A and notes to the financial statements, in future filings. Additional issuers also re-filed interim financial statements as a result of similar errors identified in the course of our full reviews.

The notice comments on and illustrates the types of issues we encountered. We encourage companies to review the staff notice. We also encourage companies to consult with their advisors, particularly where unusual transactions occur and need to be reported in a timely manner, during the course of the interim period.

(c) Non-GAAP Earnings Measures

The CSA issued *Staff Notice 52-303 - Non-GAAP Earnings Measures* (the Staff Notice) on January 7, 2002 to provide guidance to issuers who publish earnings measures other than those prescribed by GAAP. The Staff Notice outlines common problems and communicates to issuers our expectations when non-GAAP earnings measures are presented.

To assess whether issuers are meeting the expectations set out in the Staff Notice, we reviewed the earnings releases of 137 Ontario-based TSE 300 companies, with the following results:

- 67 (or approximately 49%) companies did not use non-GAAP earnings measures at all in their earnings releases;

- 10 (or approximately 7%) companies used non-GAAP earnings measures in their earnings releases and met substantially all of the expectations set out in the Staff Notice; and,
- 60 (or approximately 44%) companies used non-GAAP earnings measures in their earnings releases but did not meet all of the expectations set out in the Staff Notice.

Companies commonly failed to:

- state explicitly that the non-GAAP earnings measures used in earnings releases had no standardized meaning and were therefore not comparable with measures used by any other companies

- explain the objectives for using non-GAAP earnings measures (i.e. what does the non-GAAP measure mean, and what is it supposed to represent) and why certain items were excluded from those measures

- present the GAAP measures *prominently*. Factors relevant to assessing appropriate prominence include the relative placement of the GAAP and non-GAAP information in the earnings release, the quality of the accompanying analysis and explanation, and the clarity of the release taken as a whole.

We have corresponded with 18 of the 60 companies which caused us particular concern. These companies either did not disclose their GAAP earnings at all, or only provided GAAP-based information in the financial statements attached to the earnings release. We remind issuers that regulatory action might be taken against issuers that disclose information in their earnings releases in a manner considered misleading and therefore potentially harmful to the public interest.

(d) Management Discussion & Analysis

MD&A plays an important role in enabling readers to assess an issuer's past performance, financial position and future prospects. MD&A provides the reader with a historical and prospective analysis of the issuer's business from management's perspective. We assess MD&A against an issuer's financial statements to determine whether management has adequately explained all material events disclosed in the financial statements and whether liquidity and capital resources are described in sufficient detail.

We entered into several discussions during the year regarding issuers' MD&A, obtaining undertakings to provide more meaningful and relevant information on financial condition and results of operations and cash flows. We frequently found that issuers were not adequately discussing:

- short-term and long-term ability to generate adequate amounts of cash;
- known trends or expected fluctuations in liquidity taking into account known demands or commitments;

- commitments for capital expenditures along with the source of funds needed to fulfill the commitments; and
- qualitative and quantitative risk factors that could have an effect on future operations and financial position.

“Boilerplate” comments on (for example) the strength of an issuer’s ability to generate superior cash flows, or on its intention to access the public or private equity markets from time to time, do not provide meaningful information on short-term and long-term ability to generate cash and expected fluctuations in liquidity.

Proposed National Instrument 51-102 - *Continuous Disclosure Obligations*, issued for comment in June 2002, will expand the MD&A guidance currently contained in NI 44-101 F2. Much of the enhanced guidance is consistent with recent SEC proposals, addressing the disclosure surrounding liquidity and capital resources, including off-balance sheet arrangements, and critical accounting estimates that impact on financial condition. Many of the proposals are relevant in assessing how to fully comply with current MD&A requirements, and issuers can choose to follow them even before NI 51-102 is adopted. *Management Discussion and Analysis: Guidance on Preparation and Disclosure,* a draft issued for discussion and comment by the Canadian Institute of Chartered Accountants, contains further useful guidance.

(e) Canadian Gold Mining Companies

During the year, we conducted an issue-oriented review of the continuous disclosure provided by gold industry issuers. Our goal for this review was (a) to identify whether the practices adopted by Canadian gold mining companies for recognizing, measuring and disclosing revenues reflect an appropriate application of the standards set out in the CICA Handbook; and (b) to assess practices relating to identification and measurement of asset impairment. We also inquired into the companies’ corporate disclosure policies.

We selected 16 Canadian gold mining companies. We did not find any major issues relating to impairment or to the recognition and measurement of revenue. We requested that four of the companies expand their disclosure with respect to their revenue recognition policy note.

Three of the issuers changed their corporate disclosure policies in some way to address our recommendations. Five issuers informed us that they were in the process of completing a formal written policy, and two others initiated a formal policy on our recommendation.

(f) Stock-Based Compensation Plan Disclosures

For various issuers, we noted that many of the disclosures required by EIC 98 - *Stock-Based Compensation Plans - Disclosures,* were not provided. In particular, issuers did not provide adequate descriptions of the plan and did not segregate the exercise prices into meaningful ranges. In all instances, issuers acknowledged the deficiencies and committed to provide the required disclosures in future financial statements. We will assess this area further as part of the CSA's current review of executive compensation disclosure.

(g) Segment Disclosures

We continued to encounter cases where issuers have inappropriately aggregated segments that do not have "similar economic characteristics," and have not followed the guidance set out in *EIC 115 – Segment Disclosures – Application of the Aggregation Criteria in CICA 1701*. In these cases we request that issuers provide to us their analysis of long-term average gross margins and sales trends to support their application of the aggregation criteria. Certain issuers committed during the year to amend their segment disclosures while other files remain open at the time of writing.

(h) Income Taxes

Several issuers did not disclose the information required by CICA Handbook Section 3465 - *Income Taxes* regarding the nature and effect of temporary differences, the major components of income tax expense and a reconciliation of the income tax rate. All issuers contacted committed to provided these disclosures in the future.

Appendix B of Section 1751 - *Interim Financial Statements* discusses the application of Section 3465 to interim financial statements. Paragraph B21 requires that tax losses carried forward should only be used to reduce a provision to the extent that they have not been previously recognized as a tax asset. We entered into discussions with an issuer that failed to record an income tax provision in its interim financial statements on the basis of the availability of tax losses carried forward, even though the losses had previously been reflected as an asset. The issuer restated its interim financial statements, reducing earnings per share by 34%.

(i) Information Circulars

Our full continuous disclosure reviews include reviews of information circulars, where we focus on whether all shareholders have an opportunity to make an informed decision based on timely information. During the year, we entered into several discussions with issuers that led to the amendment of information circulars. In one case, the issuer updated its pro forma financial statements to comply with Canadian GAAP. In another case, the issuer updated the information circular to inform shareholders that OSC staff was reviewing the accounting for the purchase of a subsidiary and that the information could change depending on the outcome of that review.

One issuer had filed an information circular informing shareholders that the general meeting would be combined with a special meeting to approve a reverse takeover transaction. The circular contained financial statements for the reverse acquiror; however, these statements were prepared on the basis of a foreign GAAP with no reconciliation to Canadian GAAP. OSC Rule 54-501 - *Prospectus Disclosure* requires prospectus level disclosure in circulars when a meeting is being held to consider such an acquisition. This came to our attention only a few days before the meeting date. We ultimately agreed with the issuer that the meeting could continue, but that the approval of the reverse takeover would be conditional on the delivery of additional financial information prepared in accordance with Canadian GAAP, together with a new proxy form allowing shareholders to change their vote within 21 days of receipt of this additional financial information.

(j) Websites

In reviewing websites, we focus on whether all financial information is presented clearly and is consistent with information presented in an issuer's continuous disclosure filings. During the year, we contacted many issuers regarding incomplete or inaccurate information presented on websites. For example, we identified the following problems:

- An issuer presented outdated information and analyst reports. The issuer updated the information and removed the outdated reports.
- An issuer disclosed a 52 week high for their share price of $12.00 instead of the actual high of $1.98. The issuer contacted their service provider to correct a faulty link that caused the error.
- An issuer described the operations of several business for which no disclosure was made in the financial statements and which had little connection to the issuer's own operations. The issuer removed this information from the website.

(k) Material Change Reports

We often encounter cases where financial statement disclosures, press releases or other sources contain disclosure of events that were not correctly reported as material changes at the time that they occurred. In these cases, we obtain commitments from issuers on the steps they will take in the future to ensure that they meet their reporting obligations under section 75 of the Securities Act (Ontario). Every corporate disclosure policy should include guidance on how to determine whether information is material.

(l) Business Combinations and Intangible Assets

As indicated in OSC Staff Notice 52-713, we are focussing on the application of the new *CICA 1581 - Business Combinations*, and *CICA 3062 - Goodwill and Other Intangible Assets*. For companies with a December 31 fiscal year end, the full impact of these standards came into effect for the interim period ended March 31, 2002.

Section 3062 Transition Disclosures

CICA 3062 contains important transition rules to which companies should pay close attention. In particular, issuers should provide clear and complete disclosure of the impact of the transition to the new standard. For example, companies with a December 31 fiscal year end are required within six months of the date that *CICA 3062* is initially applied, i.e., June 30, 2002 to:

- complete the first step of the goodwill impairment test; and

- disclose in their next interim financial statements, which reportable segment(s) might have to recognise an impairment loss, and the period in which that potential loss will be measured.

Where the impairment loss is expected to be material, companies should carefully consider whether this potential impairment represents a material change. If it does, in accordance with Ontario securities law, companies should issue a press release and material change report providing details of the potential impairment.

An example where the first step of the impairment test was not carried out within 6 months of the date of adoption of *CICA 3062* was recently brought to our attention. The issuer acknowledged that *CICA 3062* was not complied with, and consequently, that its interim financial statements on the public record were not presented in accordance with generally accepted accounting principles. The issuer agreed to re-file its interim financial statements, which included disclosure required by *CICA 3062*. In addition, the company also issued a press release and material change report acknowledging the failure to make timely disclosure, as required by Ontario securities law.

Section 1581 – Purchase Price Allocations: Intangible Assets

CICA 1581 requires allocating the cost of purchase in a business combination to all assets acquired and liabilities assumed, including intangible assets other than goodwill that meet the recognition criteria included in *CICA 1581*. Only if an intangible asset does not meet the recognition criteria included in *CICA 1581*, should it be included in the amount recognized as goodwill. Examples of intangible assets to be recognized separately from goodwill are included in the appendix to *CICA 1581*.

We have encountered situations where intangible assets that meet the criteria for recognition apart from goodwill appear to have been acquired in a business combination, but have not been accounted for in accordance with the standard. We will aggressively pursue such deficiencies in financial statements. We recognise that determining the fair value of such intangible assets may require the use of independent professional advisors. However, in our view, when an auditor provides valuation services in allocating the purchase price in a business combination, this causes significant concerns about whether the auditor remains objective.

Section 1581 – Determination of the Purchase Price

When accounting for business combinations effected by issuing shares, *CICA 1581* indicates that the quoted market price of the shares issued is generally used to estimate the fair value of the acquired enterprise. *CICA 1581* also indicates that quoted market prices in active markets, if available, are the best evidence of fair value and are therefore used as the basis for fair value measurement. We have encountered situations where the quoted market price of shares issued to effect a business combination was used in determining the purchase price of the acquisition, when the market for the issuer's shares being issued was inactive or illiquid. Where it cannot be demonstrated that there is an active, liquid market for the shares being issued to effect a business combination, it is inappropriate, in our view, to use the quoted market price of those shares in determining the cost of the purchase. In these instances, the fair value of the assets acquired, the services received or the debt settled should be used. Paragraph 24 of Accounting Guideline 11 provides guidance on this.

6. Resolving continuous disclosure issues

Through the continuous disclosure review process, we identify deficiencies in filings and bring them to the attention of an issuer in a comment letter. The two resulting responsibilities are:

1. the issuer's responsibility to promptly correct the public record; and
2. our responsibility to take action against an issuer that has breached the *Securities Act.*

Issuers that act in good faith and share our objective of resolving outstanding issues for the public interest will find the review process less onerous. They are also more likely to see the matter concluded through the comment letter process without our taking further action.

Correcting the public record

To resolve a deficiency, an issuer may have to restate past filings, make immediate disclosure in a press release, or improve disclosure in future filings. How we resolve a deficiency depends on the nature of the deficiency, the timing of the issuer's filings and the issuer's willingness to correct the deficiency. We encourage issuers to inform us of a problem with their public filings when it comes to their attention.

Regulatory action

While our main concern is to have deficiencies promptly corrected, issuers should not assume that once they have fixed the public record, our involvement is complete and the matter is closed. Even when all the issues have been resolved, we have the responsibility to consider if any further regulatory action is warranted because the issuer has breached the Securities Act. In each particular case, we consider the following questions:

1. How did the issue come to our attention? Did we identify it or did the issuer contact us first?
2. If the issuer contacted us, did they promptly identify the deficiency and fully report it to us?
3. Did the issuer fully co-operate when asked to provide information to us? Did the issuer respond diligently by providing complete responses to our questions?
4. How quickly and effectively did the issuer correct the public record?
5. Did the disclosure surrounding the correction of the public record accurately reflect the circumstances?
6. Was the deficiency an isolated incident or the latest occurrence in the issuer's history of poor disclosure practices?

7. When the deficiency occurred because of a breakdown in the issuer's internal reporting processes, has the issuer taken corrective action to ensure it will not happen again?
8. What actions have been taken by the senior management of the issuer and its Board of Directors and Audit Committee in response to the deficiency?

We may conclude that no further regulatory action is warranted under certain conditions. These decisions are made on a case-by-case basis.

7. Other Continuous Disclosure Matters

(a) Executive Compensation

As a result of the discontinuance of the TSE300 Stock Index, affected issuers should use the S&P/TSX Composite Index as its replacement in preparing the performance graph required by Form 40, *Statement of Executive Compensation.* For more information on how this new index is calculated and which companies are included, consult the Toronto Stock Exchange's website, www.tse.com.

We will issue further guidance on executive compensation reporting matters later in the year, after the completion of the CSA's current project in this area.

(b) SEDAR Profile Information

We remind issuers of their responsibility, as set out in the National Instrument 13-101 - *System for Electronic Document Analysis and Retrieval (SEDAR),* for maintaining an accurate and current SEDAR filer profile. This continues to be an ongoing problem. For example, documents that are wrongly categorized on SEDAR cause unnecessary difficulty for investors or others that consult the SEDAR record, and in some cases could cause an issuer to be placed on the default list even when a document has been filed within the time period required by the Act. This issue and others were discussed in CSA Staff Notice 13-306 – *Guidance for SEDAR Users.* We will be verifying the SEDAR profile during CD, prospectus and application reviews.

(c) Defaulting Reporting Issuers

List Of Defaulting Reporting Issuers

We remind issuers that OSC Policy 51-601 - *Reporting Issuer Defaults,* discusses the guidelines followed and factors considered by the Commission in determining if a reporting issuer is in default. Generally, when an issuer has filed an application to cease to be a reporting issuer that is in process of being reviewed by securities regulators, the issuer will not be shown on the list of defaulting reporting issuers. However, we may vary this approach if it is warranted by the circumstances - for example, if an application has been in progress for a long time due to lack of cooperation by the applicant.

Cease Trade Orders

During the year, we continued our highly proactive approach to monitoring defaults arising on financial statement filing requirements by Ontario-based companies. OSC Policy 57-603 states that when a defaulting reporting issuer satisfies the defined Alternate

Information Guidelines, the Commission will generally respond to a default in complying with financial statement filing requirements by imposing a cease trade order only on certain directors, officers and insiders (a management CTO), rather than on trading in the issuer's securities as a whole. We will generally impose a cease trade order on the issuer's securities as a whole (an issuer CTO) only when the default has continued for more than two months.

During the year, CSA Staff Notice 57-301 - *Failing To File Financial Statements on Time - Management Cease Trade Orders*, was issued. This Notice describes the CSA's uniform approach to cease trade orders, and further defines the circumstances in which an issuer CTO is considered appropriate. In general, an issuer CTO is an appropriate response to financial statement filing defaults that are not likely to be rectified within a relatively short time period, and where the circumstances leading to the default are likely to continue. These circumstances include companies that no longer have an active business, are insolvent, or who have lost a majority of their board of directors. CSA Staff Notice 57-301 contains further detail on the "profile" that generally defines a management CTO as the appropriate response to a financial statement filing default.

We generally request that a company fitting the profile should contact its principal regulator at least two weeks before the financial statements are due to be filed and request in writing that the company be subject to a management CTO rather than an issuer CTO. However, even if such a request is not made, we may issue a management CTO rather than an issuer CTO if we believe it is appropriate. In that case, we will name in the CTO the individuals we believe have access to material undisclosed information. Conversely, we may impose an issuer CTO if the circumstances warrant it, even though a company has requested a management CTO.

During the year to March 31, 2002, approximately 200 issuer CTO's were imposed on Ontario-based companies compared to 28 management CTO's. For approximately half of the management CTO's, the relevant financial statements were still outstanding two months after the due date, and therefore led to issuer CTO's.

Sometimes, companies request an extension to the filing deadlines for various continuous disclosure documents. A company that is granted an extension would not be regarded as a defaulting reporting issuer, and no management CTO's would be issued during the period of the extension. Filing extensions are rarely granted, and the great majority of filing defaults are dealt with as set out in Policy 57-603.

(d) Continuous Disclosure Advisory Committee

In OSC Staff Notice 51-707, we announced the creation of a Continuous Disclosure Advisory Committee (CDAC). The OSC recognizes the importance of receiving regular, informed input from the marketplace, and this Committee represents the latest initiative towards that goal. The Committee will advise us on a range of matters including the planning, implementation and communication of its CD review program, and the impact of policy- and rule-making initiatives related to continuous disclosure area. The CDAC will also serve as a forum to make the CD team aware of emerging issues and to critically assess its procedures. We recently chose the first members of the CDAC and are planning to hold its initial meeting in September.

(e) Mutual Reliance for Continuous Disclosure

Staff of the OSC participate actively on the CSA Continuous Disclosure Mutual Reliance Review System committee. The committee is founded on the goal that all reporting issuers in Canada be treated equitably regardless of their principal regulator. The common approach to cease trade orders set out in CSA Staff Notice 57-301 and described above represents an important step toward this goal.

More recently, the CSA has commenced its first coordinated national issue-oriented CD review project. This project examines how well companies comply with their executive compensation disclosure requirements. A report will be issued later this year. National Instrument 51-102 - *Continuous Disclosure Obligations*, when finalized, will harmonize continuous disclosure requirements among all Canadian jurisdictions and will greatly assist in establishing a common approach toward regulatory review.

Questions may be referred to:

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