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Reply Attention of *Sean M. Farrell*
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Date *March 8, 2006*

Submission to: British Columbia Securities Commission
 Alberta Securities Commission
 Saskatchewan Financial Services Commission (Securities Division)
 The Manitoba Securities Commission
 Ontario Securities Commission
 Autorité des marchés financiers
 New Brunswick Securities Commission
 Registrar of Securities, Prince Edward Island
 Nova Scotia Securities Commission
 Securities Commission of Newfoundland and Labrador
 Registrar of Securities, Northwest Territories
 Registrar of Securities, Yukon Territory
 Registrar of Securities, Nunavut

c/o: Rosann Youck
 Chair of the Continuous Disclosure Harmonization Committee
 British Columbia Securities Commission
 E-mail: ryouk@bcsc.bc.ca

and

Anne-Marie Beaudoin
Directrice du secrétariat de l'Autorité
Autorité des marchés financiers
E-mail: consultation-en-cours@lautorite.qc.ca

Re: **Request for Comments on
Proposed Amendments to National Instrument 51-102 (“NI 51-102”)
Debt-only Issuers**

We are taking the opportunity presented by the request for comments on the proposed amendments to NI 51-102 to submit comments on the treatment of debt-only issuers (**DOIs**) for consideration by the Canadian Securities Administrators. For purposes of our comments, DOIs do not include issuers of convertible debt securities whose equity securities are publicly listed.

DOIs

DOIs do not issue equity securities to the public. An equity security constitutes an ownership interest in the issuer. Typically, DOIs have a single shareholder which holds all of the equity securities of the DOI.

DOIs issue debt securities to the public. Unlike an equity security, a debt security constitutes an entitlement to payment of principal and interest. Debt securities do not trade on stock exchanges, are held by a limited number of holders, are rarely traded and are rated by arm's length rating agencies.

Venture Issuers

Venture issuers (**VI**s) are equity issuers whose securities are not listed on the Toronto Stock Exchange, a U.S. marketplace or a marketplace outside of Canada and the United States.

VI's are treated differently from other equity issuers in the following respects:

- (a) timing requirements for the filing continuous disclosure documents under NI 51-102; and
- (b) the level of disclosure required in certain disclosure documents under NI 51-102.

The policy rationale for the differential treatment of VI's is based on a deliberate cost/benefit analysis reflecting the different disclosure needs and constraints of VI's relative to other equity issuers. This analysis is in part driven by the relative financial resources of VI's compared to other equity issuers.

Submissions

We submit that:

- (a) the distinction between debt securities and equity securities is significant in the context of continuous disclosure and other obligations applicable to reporting issuers; and
- (b) the application of a cost/benefit analysis to DOIs should yield a result similar to that currently in place with respect to VI's.

In contrast to VI's, relative financial resources would be less of a determinative factor in this analysis; instead, the nature of debt securities in contrast to equity securities should be the principal driver of the analysis. It is submitted that this distinction at a minimum justifies the treatment of DOIs as VI's and could justify additional disclosure changes for DOIs on the basis that a number of the disclosure requirements applicable to equity issuers are not relevant or material to securityholders of DOIs.

We also submit that it is in the best interests of the Canadian capital markets for DOIs to issue debt securities under a prospectus (as opposed to on a private placement basis) as this will promote the development and liquidity of the market for debt securities. The current treatment of DOIs as VI's provides a cost effective way for DOIs to do this in a context that maintains the integrity of the capital markets.

Yours truly,

Sean M. Farrell