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British Columbia Securities Commission
Alberta Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Financial and Consumer Services Commission (New Brunswick)
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island
Nova Scotia Securities Commission
Securities Commission of Newfoundland and Labrador
Registrar of Securities, Northwest Territories
Registrar of Securities, Yukon Territory
Superintendent of Securities, Nunavut

Attention: The Secretary
Ontario Securities Commission
20 Queen Street West
19th Floor, Box 55
Toronto, Ontario M5H 3S8
Fax: 416-593-2318
Email: comments@osc.gov.on.ca

M^e Anne-Marie Beaudoin, Corporate Secretary
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Montréal, Québec H4Z 1G3
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**Re: CSA Notice and Request for Comment
Proposed National Instrument 52-112 – *Non-GAAP and Other Financial Measures Disclosure* & Proposed Companion Policy 52-112 – *Non-GAAP and Other Financial Measures Disclosure***

Dear Sirs/Mesdames:

Suncor Energy Inc. (Suncor, we or the company) appreciates the opportunity to provide comments on the recently proposed National Instrument 52-112 – *Non-GAAP and Other Financial Measures Disclosure* (NI 52-112 or the proposed instrument) as well as the associated proposed companion policy (the Companion Policy).

Suncor is an integrated energy company headquartered in Calgary, Alberta, Canada. We are strategically focused on developing one of the world's largest petroleum resource basins – Canada's Athabasca oil



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sands. In addition, we explore for, acquire, develop, produce and market crude oil and natural gas in Canada and internationally; we transport and refine crude oil, and we market petroleum and petrochemical products primarily in Canada. We also conduct energy trading activities focused principally on the marketing and trading of crude oil, natural gas, power and byproducts. We also operate a renewable energy business as part of our overall portfolio of assets.

We recognize the importance of clear guidelines around the use of non-GAAP financial measures and are largely supportive of the principles-based guidance found in Staff Notice 52-306 – *Non-GAAP Financial Measures* (SN 52-306), which is currently in effect. SN 52-306 provides clear guidance on how an issuer may appropriately disclose non-GAAP financial measures and we question the need for an instrument that makes certain requirements less clear while also providing very prescriptive guidance that will be difficult for issuers across multiple industries to apply effectively and consistently. We view non-GAAP measures as a useful and effective way to demonstrate a company's financial and operating performance by adjusting for items management believes are less important or significant to investors when evaluating the company's performance over a given period. It also allows a company to more clearly disclose the operating results within the context of the specific industry it operates in, as long as the integrity of the IFRS reporting framework is maintained through adequate disclosure and reconciliation.

Our comments below identify areas in NI 52-112 and the Companion Policy that Suncor believes require further clarification or that we believe are too prescriptive to be applied effectively across multiple industries of varying global investment reach and, where applicable, we suggest an alternative approach. There are several proposed requirements in NI 52-112 that we feel will ultimately result in less useful financial information and we believe will increase the regulatory burden on issuers without a corresponding benefit to users of the information. In that regard, we believe that the identified items would benefit from further review and consideration by the Canadian Securities Administrators (CSA).

Comments

- **Companion Policy: Paragraph 3(b) – Prominence of a non-GAAP financial measure**

Describing a non-GAAP financial measure as, for example, “record performance” or “exceptional” without at least an equally prominent descriptive characterization of the most directly comparable measure.

For various reasons, there will be times when a non-GAAP financial measure and the most directly comparable GAAP measure are not both records or have not achieved the same level of performance in a given period. Moreover, referencing multiple records for comparable non-GAAP and GAAP measures would be unnecessarily repetitive and may not be the most effective way to describe the GAAP performance measure.

It is our opinion that references to multiple records or a detailed summary as to why the most comparable GAAP measure is or is not a record would not add value to the user of the information and would make disclosures unnecessarily repetitive, confusing for readers and, at the same time, more burdensome for preparers.

Where the non-GAAP financial measure is clearly identified as such, a quantitative reconciliation is provided or incorporated by reference, and the most directly comparable figure presented in the issuer's financial statements is presented along with the non-GAAP measure with equal or greater prominence, we believe readers will be provided with sufficient information to understand the non-GAAP financial measure. We believe this type of disclosure will provide investors with more

useful information than mandating that multiple, sometimes competing, discussions be provided. This requirement to present descriptive characterization with equal prominence could have the effect of issuers disclosing less operational detail/context to limit the need and potential risk associated with additional and cumbersome disclosures required to attain an equally prominent characterization.

Proposed alternative – The prominence requirement should be principles based, much like IFRS, and afford management of the issuer a certain level of judgement. An alternative to a specific requirement that descriptions be equally prominent is to have figures be equally prominent while having issuers provide sufficient correlation to the comparable GAAP measure to make the reader aware of the relationship. To limit confusion, issuers should be permitted to focus descriptive discussions on the measure that best reflects how the business is managed. If: (1) a non-GAAP financial measure is reconciled in a meaningful way; and (2) the differences between that measure and the most directly comparable GAAP measure presented in the issuer’s financial statements are sufficiently explained both qualitatively and quantitatively, then there should be no need to repeat certain descriptions or to counter existing ones.

- **Companion Policy: Paragraph 3(b) – Prominence of a non-GAAP financial measure**

Providing tabular or graphical disclosure of non-GAAP financial measures without presenting an equally prominent tabular or graphical disclosure of the most directly comparable measures or without including the most directly comparable measures in the same table or graph.

Similar to the comments above, in our view, requiring issuers to present dual graphs/charts to represent comparable non-GAAP and GAAP financial measures is unnecessarily repetitive and would simply duplicate items already found in a reconciliation to a graph/chart. In some cases, this would render a chart ineffective or confusing.

If the equal prominence principles are adhered to appropriately the first time a non-GAAP financial measure is disclosed in a document and applied consistently, then repeating the GAAP measure in graphical form would not add additional value to users of the information.

Proposed alternative – Rather than require that all non-GAAP tabular or graphical disclosures also include the GAAP measure, the GAAP measure should only be required if its absence renders the non-GAAP chart/graph confusing or misleading. If a clear, sequenced presentation and reconciliation of the non-GAAP financial measure to the most directly comparable measure presented in the issuer’s financial statements is supplemented by a graphic that displays only the non-GAAP measure, then the issuer has clearly communicated the correlation between the two and should not be expected to further complicate the tabular or graphical representation.

- **NI 52-112: Paragraph 3(c) – Comparative information**

3. An issuer must not disclose a non-GAAP financial measure in a document unless all of the following apply:

(c) the document presents the same non-GAAP financial measure for the comparative period;

We agree with this requirement in the case of interim and annual management's discussion and analysis (MD&A), which require a comparison of the company's financial condition and financial performance in the current period to that in the comparative period. However, extending this requirement to other supplemental documents, such as investor presentations, which are intended to provide a user-friendly summary and supplementary information to investors, may cause documents to be unnecessarily lengthy and overly complex for users.

Information about the comparative period may not be relevant or applicable to the information being disclosed in these other documents or there may be a more useful prior period to use for comparison purposes than the prior year or comparative quarter in the prior year, as the case may be. We believe that a requirement to always include the non-GAAP financial measure for the comparative period may lead to arbitrary inclusions of comparative figures, which could cause the documents in which they are found to be unnecessarily complex and cumbersome for users, without providing additional useful information.

Proposed alternative – Outside of the MD&A, we believe that issuers should be given the flexibility to determine when to include the comparative figures. This would be if the absence of such information would render the non-GAAP measure misleading or if they feel it would be valuable and relevant to the discussion. In addition, preparers should be permitted to cross reference such information contained in other disclosure documents.

- **Companion Policy: Paragraph 3(d) – First time disclosure requirements**

The information required by paragraph 3(d) of the Instrument should be presented in the same document as the non-GAAP financial measure..... To prevent duplicate disclosure, an issuer may provide all the required disclosures for all non-GAAP financial measures in one section of the document, and cross-reference to that section each time a non-GAAP financial measure is presented in that same document.

Paragraph 3(d) of the proposed instrument would require that issuers include the information required by subparagraphs 3(d)(ii) to (v) in each document where a non-GAAP financial measure appears, even if that information has already been included in a publicly available document released at the same time or during a prior period. Requiring issuers to re-state the quantitative reconciliations and other information already disclosed and easily accessible to users in other documents would be unduly burdensome and could cause certain documents, such as investor presentations and news releases, to become unnecessarily complex and difficult for users to navigate. There is little, if any, benefit that will be gained by users from excessive repetition of reconciliations and other information.

Similarly, issuers will often disclose supplemental financial information, including non-GAAP financial measures, for several prior quarters and years, to provide useful, longer-term

comparative information for the benefit of investors. Typically, non-GAAP financial measures for a prior quarter or year will have been reconciled to the most directly comparable financial measures presented in the issuer's primary financial statements in the MD&A for that prior quarter or year. Requiring issuers to re-state quantitative reconciliations disclosed in prior MD&As in subsequent documents rather than permitting issuers to incorporate those reconciliations into future documents by reference will cause documents to become unnecessarily lengthy and difficult for users to navigate. It would also add unnecessary cost and burden for issuers. It is our view that the addition of several reconciliations from multiple prior periods will only further complicate the supplemental financial information and will be of little value to the end user.

Proposed Alternative – The proposed instrument recognizes the benefit of cross-referencing to a section of the document to avoid duplicating disclosures and even the proposed instrument itself makes references to other instruments/documents. We feel that issuers should similarly be permitted to satisfy the requirements of subparagraphs 3(d)(ii) to (v) of NI 52-112 by cross-referencing to another publicly available document containing such information. As long as the issuer clearly identifies the document containing the information required by subparagraphs 3(d)(ii) to (v) and incorporates the required information from that document by reference, the requirement in paragraph 3(d) should be considered to be met.

- **Companion Policy: Subparagraph 3(d)(iv) – Reconciliation of a non-GAAP financial measure**

An issuer should disclose any income tax effects of its non-GAAP financial measure depending on the nature of that measure. However, adjustments to arrive at the non-GAAP financial measure should not be presented “net of tax” but should be shown as a separate adjustment and clearly explained.

If the two measures being reconciled are on a pre-tax basis, then we see no issue with this application guidance. However, if the non-GAAP and GAAP figures being reconciled are both presented net of tax, we question the value in reintroducing the tax impact when reconciling after-tax figures. If the reconciliation is done in accordance with the guidance already presented in subparagraph 3(d)(iv), then sufficient information should be available to allow the user to understand the reconciliation. In addition, significant tax matters should already be disclosed as part of the company's results.

Furthermore, when attempting to achieve the requirements of the proposed instrument, it is our belief that a table which presents a discrete tax impact for each adjusting item would not create succinct or useful disclosure and could be confusing and does not add additional value to the information being presented. Alternatively, to present a more concise reconciliation, the sum of the total tax impact of the adjusting items could be presented within one tax impact line, but this would not drive enhanced disclosure and would not be as effective as disclosing each adjusting item on an after-tax basis.

Proposed alternative – The instrument should allow for reconciling items to be presented on the same basis as the non-GAAP and comparable GAAP measure being reconciled. If reconciling pre-tax figures, reconciling items should be presented on a pre-tax basis. If reconciling after-tax figures, then the reconciling items should be presented on an after-tax basis.

Thank you for this opportunity to provide comments on the proposed NI 52-112 and Companion Policy. Should you have any questions or comments, please do not hesitate to contact the undersigned.

Sincerely,

SUNCOR ENERGY INC.

Angela Butler, Vice President and Controller

cc. Alister Cowan, Executive Vice President and Chief Financial Officer
Jacquie Moore, Vice President Legal Affairs, Corporate
Shawn Poirier, Director Legal Affairs, Corporate