

MANAGEMENT'S DISCUSSION AND ANALYSIS

MD&A

Guidance on Preparation and Disclosure

Comprehensive Revision — July 2009

UPDATE #3

A Publication of the Canadian Performance Reporting Board

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PREFACE

It has long been recognized that financial statements alone are not sufficient to communicate overall performance of an entity. Senior management, boards of directors and investors now turn to a broad array of information in order to explain and evaluate the overall performance and prospects of an organization. In particular, Management's Discussion and Analysis (MD&A) has become a core element of the communication package for external reporting purposes.

The Canadian Institute of Chartered Accountants (CICA) mission is to foster public confidence in the CA profession by acting in the public interest and helping members excel. In support of this mission, CICA's Canadian Performance Reporting Board (CPRB) advances the relevance and quality of business reporting for Canadian entities. The CPRB is not a standard setter. Rather, it is authorized by the Board of Directors of the CICA to publish research and guidance on issues and practices related to business reporting that it considers to be in the public interest.

Management's Discussion and Analysis: Guidance on Preparation and Disclosure is published by the CPRB in recognition of the importance of MD&A as a financial reporting communications tool. Originally published in November 2002 and revised in 2004, the guidance responded to concerns that many MD&A disclosures lacked usefulness and clarity. These 2009 revisions reflect changes in legislation, securities regulation, the economic environment, and best practice in MD&A reporting. While there has been much progress in reporting since 2002, reviews of published MD&As continue to demonstrate that more improvement is needed. *Evaluating and Improving Management's Discussion & Analysis—A Baseline Report*, published in 2008, identifies several areas for improvement, including, for example, the relationship of strategy to other aspects of the MD&A.

Preparers should recognize that the Canadian Securities Administrators set out rules for the preparation of MD&A in National Instrument 51-102 *Continuous Disclosure Obligations*. This CICA guidance document aims to assist senior management and boards of directors by providing principles and a reporting framework when preparing and issuing MD&A reports. While the guidance focuses on MD&A in annual and interim reporting, it should also be a useful resource when preparing MD&A in connection with an initial public offering.

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In future, *Management's Discussion and Analysis: Guidance on Preparation and Disclosure* will be regularly updated. Future revisions will address any changes in the principles or framework needed to be compatible with financial reporting in an International Financial Reporting Standards environment.

SUMMARY OF REVISIONS

While the 2009 revisions do not materially change the principles or recommended practices for preparing MD&A, the guidance contains several significant revisions. These reflect changes in securities regulation and legislation, the economic environment, and best-practice in MD&A reporting:

- The guidance now suggests prefacing the MD&A with an executive summary to help frame and focus the discussion. As well, it reemphasizes the notion that the MD&A should be the vehicle to report all important information related to an entity's performance and prospects.
- The focus on a forward-looking orientation has been reinforced and supplemented with additional guidance about the criteria for forward-looking information in light of the securities regulators' revisions to National Instrument 51-102.
- The guidance recognizes that a complete discussion of historical results may be misleading if it fails to discuss known matters about future prospects that will affect results.
- The strategy section has been revised, expanding the examples of disclosures and removing the recommendation to discuss vision.
- The discussion of the nature of key performance drivers and how key performance indicators relate to them has been expanded.
- The capability section has been revised to focus on productive capacity, leadership, the labour force, and liquidity, and the delivery of capabilities through the extended entity.
- The results discussion contains additional guidance about non-GAAP financial measures.
- The prospective analysis discussion now focuses on an entity's outlook, including both qualitative and quantitative considerations, and disclosures needed when providing forward-looking information.
- The risk discussion contains additional guidance about disclosures that may need to be considered.
- The oversight section has been updated in view of securities regulators' certification requirements and civil liability legislation for secondary market disclosures.

EXECUTIVE SUMMARY

Introduction

The MD&A should be written primarily for current and prospective investors to help them decide whether to invest or continue to invest in an entity. It should provide a narrative explanation, through the eyes of management, of how an entity has performed in the past, its financial condition, and its future prospects.

Management is better positioned than outsiders to provide information about an entity to capital markets. The MD&A can be a powerful tool for management to communicate how the entity has created value and how it plans to continue doing so. The MD&A, in combination with the financial statements, provides the opportunity for an entity to communicate the effectiveness of its stewardship of resources, and, further, progress towards its stated strategic objectives. The MD&A can be used to integrate and accumulate in one location material information about the entity that investors need to know.

The purpose of this guidance is to enable management and boards of directors of all entities to prepare and present an MD&A in a way that maximizes its usefulness for investors.

This publication provides principles and a framework to help preparers identify and organize information for their MD&A disclosures, emphasizing aspects of existing regulation, and, in places, adding dimensions that go beyond existing regulation.

Additional material to help MD&A preparers is available at the CICA's Performance Reporting Resource Centre at www.cica.ca/cpr

Principles for MD&A

The six principles in the guidance are consistent with Canadian Securities Administrators' views about MD&A. MD&As should:

- enable readers to view the entity through management's eyes;
- supplement and complement the information in the financial statements;
- be complete, fair and balanced, and provide information that is material to the decision-making needs of users;
- have a forward-looking orientation;
- focus on management's strategy for generating value over time; and
- be understandable, relevant, and comparable.

Disclosure Framework

The disclosure framework is presented in five parts:

1. *Core businesses and strategy*

Investors need an understanding of what an entity does, its core businesses and segments, and strategies for growth and value creation. They also need management's assessment of the significant factors, trends, opportunities and threats, external and internal, that shape the key strategies.

2. *Key performance drivers*

Investors need to understand the external and internal performance drivers that are critical to successful implementation of an entity's strategy and achievement of its goals. As well, they need to understand the key performance indicators (KPIs) that management uses to monitor progress on drivers. KPIs may be items reported in the financial statements, or they may be non-GAAP financial indicators, or non-financial indicators.

3. *Capability to deliver results*

This section of the disclosure framework addresses all the resources needed to deliver on an entity's strategy and achieve planned results. This includes tangible and intangible capital assets, working capital and other aspects of liquidity, capital resources, leadership, general labour force, and systems and processes. This discussion should include the nature, magnitude and reliability of any extended entity relationships. As well, it should communicate how the metrics for executive compensation support the entity's strategy and performance drivers, and how they relate to the entity's key performance indicators.

4. *Results and outlook*

The MD&A needs to provide an insightful explanation of an entity's performance against its strategy and goals, and management's effectiveness in using resources at its disposal. The results analysis should review trends in KPIs, and discuss reasons for changes in trends, including the impact of seasonal or cyclical fluctuations on trends. Any non-GAAP financial measures should follow CICA's guidance, *Improved Communication with Non-GAAP Financial Measures*.

An analysis of past results alone, however, could be misleading without a discussion of the extent to which they are indicative of future prospects. Accordingly, the guidance advocates an outlook

discussion that reviews significant goals, objectives, and targets, recognizing that the nature, specificity and timeframes of such disclosures will vary depending on industry, entity, and circumstances.

This section of the guidance also addresses considerations when disclosing forward-looking information.

5. *Risk*

The risk section of the disclosure framework recommends disclosure of the principal risks for the entity as a whole and each of the core businesses. The guidance also recommends discussing the strategies employed for managing these risks, including the relationship of executive compensation arrangements to risk mitigation, and the potential impact of these risks on results and capabilities.

Continuous Disclosure

As a cornerstone of continuous disclosure, the MD&A should incorporate information needed by investors that appears elsewhere. Interim MD&As should update previous disclosures about business strategy, key performance drivers, capabilities, risks and outlook, but should avoid duplicating disclosure that has already been provided in the annual MD&A.

Overseeing the Reliability and Timeliness of Disclosure

Managements and boards of directors need to ensure that they have the systems, controls and processes in place to assess whether all information for the MD&A is collected, summarized, and communicated. This is particularly important in an environment where responsibility for secondary market disclosures is recognized in secondary market civil liability legislation and where CEOs and CFOs must certify that financial information in filings with securities regulators is fairly stated and contains no material misrepresentations. Accordingly, the MD&A guidance recommends disclosures regarding internal systems and processes that address their ability to provide reliable financial reporting information, including any limitations in the scope of the design of such systems and processes and changes which are reasonably likely to affect them. As well, the guidance advocates disclosure of the responsibilities of each of management, the audit committee, and the board in producing MD&A.

PART 1

INTRODUCTION

1.1 PURPOSE OF MD&A

The purpose of the MD&A is, as the Canadian Securities Administrators (CSA) have determined, to provide a narrative explanation, through the eyes of management, of how an entity has performed in the past, its financial condition, and its future prospects. In so doing, the MD&A provides investors with information to help them decide whether to invest or continue to invest in an entity.

The MD&A and the financial statements together form the foundation for business reporting. In order to maintain the continuity and completeness of the historical and prospective analyses of an entity's business, financial condition, results, and cash flow, entities should integrate relevant disclosure information into the MD&A.

The MD&A should be written primarily for current and prospective investors, recognizing that others may use it, including bond rating agencies, lenders, customers, competitors, employees, suppliers, and government authorities. Entities should provide sufficient information to meet the needs of reasonable investors, organized and presented in language and formats likely to be understandable by them.

1.2 BENEFITS OF MD&A DISCLOSURES

Management is better positioned than outsiders to provide meaningful information about an entity to capital markets. The MD&A can be a powerful tool for management to communicate how the entity has created value and how it plans to continue doing so. The better an entity communicates with investors, the better those investors will understand underlying potential and prospects. Research tells a consistent and compelling story that improved disclosure leads to a lower cost of capital and a more appropriate risk premium. In today's global market place, it is critical that sufficient useful information be disclosed to permit users to assess investment opportunities.

The MD&A, in combination with the financial statements, provides the opportunity for an entity to communicate the effectiveness of its stewardship of resources, and, further, progress towards its stated strategic objectives.

The MD&A can be used to integrate and accumulate in one location important information about the entity that investors need to know. In addition to providing information for investors, many entities use the MD&A to help orient new directors and others interested in knowing about an entity's performance and prospects.

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The internal processes, systems and discipline required to prepare an effective MD&A can deliver significant benefits to entities by sharpening organizational focus, providing new insights into key performance drivers, promoting accountability and control, and facilitating benchmarking of performance.

1.3 CICA GUIDANCE ON MD&A

The purpose of this guidance is to enable management and boards of directors of all entities to prepare and present MD&As in a way that maximizes usefulness for investors.

This publication provides principles and a framework to help preparers identify and organize information for their MD&A disclosures, emphasizing aspects of existing regulation, and, in places, adding dimensions that go beyond existing regulation. The framework provides a structure for preparing a fact-based disclosure document that gives a reader the ability to look at the issuer “through the eyes of management”.

The review and approval of the MD&A by the audit committee and board of directors are important aspects of corporate governance. The guidance recognizes the importance of this responsibility and advocates disclosure in the MD&A of the role of the audit committee and the board of directors with respect to the approval of the MD&A.

The MD&A disclosure framework recognizes that different entities have different specific disclosure needs. Differences may arise, for example, because of industry-specific disclosure, or complexity or diversity of operations. Thus, this publication does not provide a standard checklist or template for preparation of MD&A disclosures.

This guidance document is written primarily to help entities subject to Canadian securities regulations improve disclosure. It is designed as a complement to, not a substitute for, existing Canadian regulatory requirements for MD&A disclosure.

Many parts of this document can be adapted and applied by public and not-for-profit organizations for effective communication about past and prospective performance.

Additional material to help MD&A preparers is available at the CICA's Performance Reporting Resource Centre at www.cica.ca/cpr

1.4 STRUCTURE OF THIS PUBLICATION

The remainder of this publication is structured as follows: Part 2 presents general disclosure principles. Part 3 outlines a framework for organizing, preparing and communicating the information to be disclosed. Part 4 discusses MD&A reporting within the context of continuous disclosure. Part 5 provides guidance about ensuring the reliability and timeliness of MD&A disclosures. The third, fourth and fifth parts include recommended practices.

PART 2

GENERAL DISCLOSURE PRINCIPLES

2.1 PRINCIPLE 1: THROUGH THE EYES OF MANAGEMENT

An entity should disclose information in the MD&A that enables readers to view it through the eyes of management.

This principle is consistent with Canadian securities regulations that state that the “MD&A is a narrative explanation, through the eyes of management, of how your company performed during the period covered by the financial statements, and of your company’s financial condition and future prospects.” This intent is also reflected in SEC releases about the objectives of MD&As. “Through The Eyes of Management” is therefore fundamental to MD&A reporting.

This principle requires disclosure of appropriate elements of the information used by management for internal purposes and recognizes the need to align internal and external reporting. The information that is relied on in managing the entity, including that which forms the basis of presentations to the board of directors, is precisely the information investors need to view the entity through the eyes of management.

In determining the nature and extent of internal information to be reported, entities need to balance the benefit of disclosure against competing demands, while recognizing that they have disclosure obligations under CSA rules¹. On the one hand, as noted, the better the disclosure, the better investors will understand potential and prospects. As well, public disclosure reduces the risk of selective disclosure by providing the information to all current and potential investors and minimizes the risk of inappropriate use of undisclosed material information. On the other hand, entities are reluctant to report confidential information that could be useful for competitors, or that could offend customers, or hinder discussions with government agencies. While there are certainly some circumstances where disclosure of confidential information would jeopardize an entity’s advantage in the marketplace, management should carefully consider who already has access to the information. It is unlikely to be confidential when groups such as the workforce, customers, suppliers, or competitors are already aware of it.

¹ National Instrument 51-102 Form 1.

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While this principle calls for disclosures to reflect management’s perspective, MD&As, for all reporting issuers, are subjected to review by the board of directors and/or audit committee to ensure completeness and balance.

2.2 PRINCIPLE 2: INTEGRATION WITH FINANCIAL STATEMENTS

MD&As should complement as well as supplement financial statements.

The MD&A and the financial statements are key to understanding an entity’s financial performance. This principle reinforces securities regulations, namely, that the MD&A “complements and supplements your financial statements, but does not form part of your financial statements.” The MD&A supplements financial statements by providing analysis of historical performance data. It complements financial statements by presenting contextual and prospective information that financial statements do not provide.

In supplementing financial statements, disclosure in the MD&A should (1) explain the conditions and events that shaped the results reflected in the financial statements and (2) help in understanding how past conditions and events may give rise to future financial consequences.

In complementing financial statements, the MD&A should provide useful qualitative and quantitative information about the business and its performance that is not reported in financial statements, but which is relevant to the evaluation of past results and assessment of future prospects. As well, it should be noted that securities regulators’ CEO and CFO certifications require a statement that the filings “fairly present”, in all material respects the financial condition, results of operations and cash flows, without reference to GAAP. The MD&A may need to provide additional disclosure to enable the CEO and CFO to make that statement.

2.3 PRINCIPLE 3: COMPLETENESS AND MATERIALITY

MD&As should be complete, fair and balanced, and provide information that is material to the decision-making needs of users.

An MD&A should present faithfully the substance of what it purports to represent. It needs to be fair, avoiding promotional language and exaggeration. It is critical for management credibility that the MD&A be balanced in its disclosures, being free from deliberate or systemic bias, and openly reporting bad news as well as good news, thus avoiding the creation of overly optimistic or pessimistic expectations. The MD&A should be transparent and discuss the complete range of possibilities and possible outcomes.

Completeness calls for management to identify, address, and communicate the qualitative and quantitative information necessary for users to understand and evaluate the entity's strategy, business, results, financial condition, risks and prospects. This would include information about off-balance sheet arrangements.

To enable readers to see the entity through the eyes of management, all appropriate information should be disclosed within the MD&A. The MD&A should organize and present key information needed by investors, including that which may also be disclosed elsewhere (via websites, press releases, or other regulatory filings such as the annual information form, material change reports, business acquisition reports, information circular or statement of executive compensation). Entities may decide to report important information required for the annual information form in the MD&A and cross-reference the annual information form to the MD&A.

The MD&A should be free from material error and omission. Information is material if its omission or misstatement would be likely to influence or change the decision of a reasonable investor to invest or continue to invest in the entity. Management's determination of materiality applies not only to financial statement disclosures but also to all information, qualitative as well as quantitative, prospective as well as historical, disclosed in the MD&A. Individual qualitative or quantitative items that in themselves may not be material may become so when considered as elements in the larger picture, or when considered from the perspective of the entity's future prospects. Management should resolve any doubt about materiality in

favour of disclosure, but avoid obscuring material disclosures with unnecessary disclosures of immaterial information.

If there is a time lapse between the date of the MD&A and its release, management should ensure that the information it contains is still materially complete, fair and balanced at the date of release.

2.4 PRINCIPLE 4: FORWARD-LOOKING ORIENTATION

A forward-looking orientation is fundamental to useful MD&A reporting.

This principle is consistent with existing CSA regulations. A forward-looking orientation calls for the MD&A to explain past events, decisions, circumstances and performance in the context of whether they are reasonably likely to be indicative of, and have a material impact on, future prospects. It also calls for an MD&A to describe management's strategy and future events, decisions, circumstances, opportunities and risks that management considers likely to materially impact future prospects.

Forward-looking information is an important element of the forward-looking orientation that is the foundation of a good MD&A. Forward-looking information is broadly defined by securities regulators — “disclosure regarding possible events, conditions or results of operations that is based on assumptions about future economic conditions and courses of action and includes future-oriented financial information with respect to prospective results of operations, financial position or cash flows that is presented either as a forecast or a projection”. Accordingly, it may be reported in all aspects of the disclosure framework advocated by this guidance.

To be useful, there needs to be a reasonable basis for forward-looking information. When this is quantified financial information, it should be limited to a period that can be reasonably estimated and should be based on assumptions that are reasonable in the circumstances. Quantified financial information should also be expressed in terms of the accounting policies expected to be used in reporting the historical financial statements for the future period².

² National Instrument 51-102, Part 4A and 4B.

Part 2: General Disclosure Principles

In assessing reasonableness, preparers should consider the assumptions made, including, for example, their source, how the assumptions relate to actual past experience in the entity and/or the industry, and the changes needed in the business for the assumptions to translate to actual experience. Clearly, it will be easier to determine reasonableness when the forward-looking information relates to an entity's continuing activities as opposed to a new venture, for example sales of a new product line. CICA Handbook Section 4250, *Future-Oriented Financial Information* provides additional insights about reasonableness of assumptions and may be useful in assessing the reasonableness of forward-looking information generally.

The diligence process followed with respect to the release of forward-looking information should also be considered. This would include, for example, the senior management members who are consulted about assumptions and risk factors, the controls around the completeness and accuracy of the gathering and computation of the information, and the approval process for disclosure.

2.5 PRINCIPLE 5: STRATEGIC PERSPECTIVE

The focus in MD&As should be on management's strategy for generating value for investors over time.

MD&A disclosure should provide the information that a reasonable investor would want to know in making an investment decision with a view to value accruing over time. This will involve integrating quantitative and qualitative information in a way that communicates the business model and strategy for generating value for investors over time. MD&As should discuss performance against milestones that show progress towards achievement of longer-term goals.

The nature of the industry will affect management's determination of an appropriate long-term perspective for MD&A reporting. For example, in some industries, the time period required for an investment to be developed and put into operation may lead to a definition of long-term to be as much as 10 years; in others, only one year. In determining the time period that needs to be discussed, consideration will also need to be given to the time horizons of the entity's longer term investors.

2.6 PRINCIPLE 6: USEFULNESS

To be useful, MD&As should be understandable, relevant, and comparable.

To be understandable, MD&As should be written in plain language, with candour and without promotional language or exaggeration. Entities should consider using graphics and tables with explanatory narratives where these would enhance understanding.

The MD&A should present relevant information that readers would want to know in making a decision to invest or continue to invest in the entity. Information most important to MD&A readers should receive appropriate prominence. The MD&A should not be a list of every issue facing an entity. It should focus on those matters that management perceives to be the most important, together with its approach to those matters.

Information is comparable when sufficient commentary and disclosure have been provided so that similarities and differences among entities can be discerned and evaluated, including disclosures about accounting policies and changes therein. Comparability facilitates benchmarking among entities and business segments.

Comparability includes consistent reporting over successive reporting periods and enables meaningful trend identification and analysis. Any changes in matters being reported or in their computation, should be explained unless irrelevant or immaterial. If the information is no longer relevant or material, why this is so should be explained. Entities should not avoid discussion and update of a previously-raised issue by simply omitting it from a subsequent MD&A report.

PART 3

THE DISCLOSURE FRAMEWORK

3.1 INTRODUCTION

This publication advocates that entities structure and integrate their MD&A disclosures within a broad reporting and disclosure framework. This approach is not a feature of regulatory requirements. While most of the information called for under this approach will usually be available within an entity, it needs to be presented in a single, succinct disclosure document.

The framework is presented as an integrative reporting tool, not a template. Management should determine the best way to use the framework to organize its MD&A disclosures and place information in a meaningful context. To assist readers, management may wish to provide a content map that shows how the various aspects of the framework have been addressed in the MD&A. Consideration should also be given to providing a table of contents for readers of the MD&A.

RECOMMENDED PRACTICE

The MD&A should communicate information that helps users understand past performance and future prospects. Five key elements of the disclosure framework to achieve this are:

- core businesses and strategy;
- key performance drivers;
- capability to deliver results;
- results and outlook; and
- risk.

Information should be presented as an integrated continuum with emphasis given to linking relevant past performance to future prospects.

Consideration should be given to prefacing the MD&A with an executive summary that highlights key matters from the above-noted five key elements and helps frame and focus the MD&A. An effective executive summary provides an overview of the entity and its core businesses, and discusses how it is unique and distinct from its competition. As well, it would identify key segments and summarise key performance indicators and risks. The executive summary would cross-reference the more detailed discussion in the main MD&A.

An MD&A that presents and analyzes historical information completely may be misleading if it fails to discuss known matters about future prospects that will affect results. Therefore, the recommended disclosure framework emphasizes a forward-looking view, even in the

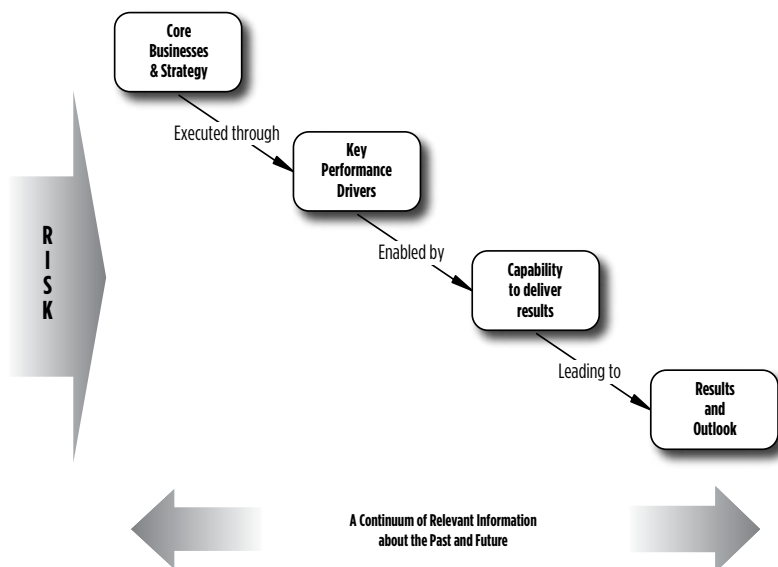
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analysis of past performance. In particular, such analysis should focus on management’s insights of the extent to which past performance is a predictor of future prospects. The MD&A should also provide a prospective outlook, which together with the historical analysis, forms a continuum of information, rather than stand-alone disclosures of distinct and unconnected data. Such a continuum explains the “why” behind both past performance and future prospects.

Forward-looking information is valued by investors. While it is less certain than historical information, forward-looking information can be more relevant than historical information. Accordingly, forward-looking information disclosures are encouraged provided they add useful information about an entity’s prospects and provided they are accompanied by appropriate caveats, including disclosure of assumptions and risks. While this guidance addresses forward-looking disclosure considerations in the outlook section of the disclosure framework, they apply in any area of the MD&A that contains forward-looking information.

Schematically the elements of the disclosure framework are seen as follows:



3.2 CORE BUSINESSES AND STRATEGY

Readers of MD&As need a clear understanding of what the entity does, its core businesses and segments, where it operates, and its strategies for growth and shareholder value creation. Readers also need an overview of management's assessment of the significant factors, trends, opportunities and threats—in the external environment and within the organization—that shape the key strategies.

RECOMMENDED PRACTICE

The MD&A should disclose the entity's core businesses, including all significant segments, and key features of its business strategy.

An entity should disclose the appropriate level of strategic information to enable an investor to make an informed investment decision. This should include information for the entity as a whole and for each of its core businesses and significant segments. An understanding of what the entity was trying to do in the past and what it wants to achieve in the future is essential to understanding results. Accordingly, the strategy section should be linked to other sections of the MD&A.

Disclosures would typically include at least the following:

- a description of each core business in which the entity operates, including the total size of the business, its growth, and other relevant features;
- a description of those aspects of each core business that are distinctive to the entity, including the principal products produced and/or services rendered, the principal markets served and the methods of distribution, market share, major competitors and their market share, and appropriate business segment information;
- an overview of management's strategy for each core business, including each significant segment, and for the entity as a whole, including:
 - significant long term business objectives, goals or targets and shorter term priorities, as appropriate;
 - attitude to and tolerance for risk;
 - extent to which each core business is managed at the local level or through central oversight;
 - strategy for developing, maintaining or reducing productive capacity;

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- financing strategy, including considerations in determining the optimal capital structure, targeted debt to equity ratios, and any hedging strategies;
- the strategic direction and financing implications behind acquisitions and dispositions;
- outsourcing practices, strategic business relationships and related finance implications;
- the entity's focus regarding research and new product development; and
- marketing, distribution, pricing and customer credit arrangements.

RECOMMENDED PRACTICE

MD&As should disclose the underlying rationale, context and factors considered by management in developing strategy. This rationale would relate to both internal and external factors, and to opportunities and risks. Disclosures of key assumptions upon which the strategy depends should indicate in appropriate detail how changes in them could impact the implementation of strategy.

Readers of MD&As need to understand not only the “what” but also the “why” and the “how” of the strategy. The “why” and the “how” would address the underlying rationale supporting the strategy, highlighting the key assumptions upon which implementation of the strategy depends.

It is important to link information so that MD&A readers understand how internal and external events and/or activities may affect the entity's performance in achieving its strategies and goals. For example, internally, a change in compensation philosophy may be designed to affect performance. Equally as well, an external event such as climate change may impact business strategy and necessitate discussion of goals for greenhouse gas emission reductions. Disclosure of issues that may affect performance often benefit from the inclusion of sensitivity analyses regarding the potential impacts of variations in the assumptions on which successful implementation of the strategy depends.

Information provided in the MD&A about strategy should be consistent with that which is reviewed and approved by the board of directors in discharging its oversight and governance responsibilities.

3.3 KEY PERFORMANCE DRIVERS

Readers of MD&As need to understand the performance drivers that are critical to successful implementation of the entity's strategy and achievement of its goals. They also need to know the key performance indicators used by management to monitor progress on these key performance drivers.

RECOMMENDED PRACTICE

The MD&A should: (a) identify the key performance drivers for the entity, and each core business, including each significant segment; (b) explain their significance to strategies and results; and (c) define and discuss the related key performance indicators.

Key performance drivers may be external to the organization and largely outside management's direct control, or they may be internal. Internal performance drivers are those activities, competencies and qualities for which superior performance and favourable results are essential to enable the entity, core business, or segment to achieve its strategic goals. Key performance drivers may differ among entities, core businesses and segments.

Examples of external performance drivers include raw material prices, foreign exchange rates, and interest rates.

Examples of internal performance drivers in which performance is measured, include:

- market share;
- sales pricing;
- overheads;
- working capital;
- research and development and new product development;
- supply chain management;
- cost containment and operating efficiency;
- workforce;
- customer satisfaction;
- leadership and governance;
- capacity and utilization;
- innovation;
- technology;
- reputation and brand equity;
- financing;

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- safety; and
- environmental responsibility, including greenhouse gas emissions.

There are a number of models for identifying and linking key performance drivers with strategic objectives, capabilities, results and risk. A good MD&A will identify an organization's key performance drivers and disclose the related key performance indicators. As well, the MD&A should discuss how executive compensation arrangements support the key performance drivers.

Financial statements are the cornerstone of financial reporting. In today's complex financial reporting environment, however, investors commonly focus on key performance indicators when assessing performance and an entity's future prospects. Key performance indicators may be items reported in the financial statements, other non-GAAP financial indicators, or non-financial indicators.

Some key performance indicators may be quantitative disclosures such as production volumes, capital expenditures, debt/equity ratio, income tax rate, unit sales, revenues, gross margin, net income, free cash flow, or earnings per share, or return on equity by business line. In other cases, the indicator may be more subjective. For example, where a motivated and productive workforce is identified as a performance driver, production rates and quality control data may be the best indicators.

Discussion about non-GAAP key performance indicators should include their relevance, definitions, calculation methods, and underlying assumptions. Any change in the basis of the calculation of key performance indicators from one year to another should be disclosed, with restatement of comparative amounts, as appropriate. When a key performance indicator is a non-GAAP financial measure, consideration should be given to CICA's guidance and securities regulatory requirements regarding disclosure of non-GAAP financial measures.

3.4 CAPABILITY TO DELIVER RESULTS

Readers of MD&As need to understand how well the entity is equipped to execute strategy and achieve planned results. Capability refers to all the significant resources needed to deliver results. They may include tangible and intangible capital assets, working capital and other aspects of liquidity, capital resources, leadership, general labour force, and systems and processes. According to securities reg-

ulators, capital resources are “financing resources available to your company and include debt, equity, and any other financing arrangements that you reasonably consider will provide financial resources to your company.”

RECOMMENDED PRACTICE

The MD&A should describe the capability of the entity as a whole and of each core business, including each significant segment, to execute its strategy, manage its key performance drivers, and deliver results.

Disclosures about tangible and intangible capital assets may need to explain their relationship to the entity’s productive capacity³ management strategy, focusing on changes in the period. For example, changes in property, plant and equipment, technologies, permits and patents, and systems and processes may need to be discussed in terms of their contribution to decreasing, maintaining or growing the entity’s productive capacity. This discussion should also address how plans for the future are expected to affect productive capacity.

Another example of capabilities that the MD&A may need to discuss is an entity’s leadership. Investors often want to know the qualities of an entity’s leadership that distinguish it from its competitors. This information takes on particular importance in smaller organizations where an entity’s leadership and talent likely resides with a few individuals, rather than in systems and processes and a deep management structure. As well, the MD&A should communicate how the metrics for executive compensation support the entity’s strategy and performance drivers, and how they relate to the entity’s key performance indicators.

The MD&A may need to review the adequacy of the entity’s general labour force. This could include the impact of significant changes in the number of employees, union contracts, and training needs, and any constraints on the availability of skilled workers. Known changes that will affect the foreseeable future should also be discussed as should the status of any in-process changes, to the extent

³ Productive capacity can be considered as an entity’s accumulated capital investment, and periodic changes therein, expressed, not in monetary terms, but in terms of the entity’s ability to convert inputs into outputs of goods and services that can be sold. For a discussion of productive capacity, see the July 2007 CPRB publication *Standardized Distributable Cash In Income Trusts And Other Flow-Through Entities*.

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practicable. The review of labour force capability should also discuss how the compensation system is designed to align with the entity's strategy.

The need for other resources should be discussed to the extent that they have a material effect on the entity's ability to deliver results. Matters to address in this discussion would include the nature of the resource, plans to maintain any unusual strengths, and plans to address any significant deficiencies. Other resources could include matters such as research and development activities, and management systems and processes.

Adequate liquidity is essential to an entity's ability to deliver results. The MD&A should analyse changes in the period, including the reasons for changes in working capital and how seasonal, cyclical, and volume changes affect working capital requirements and cash flows from operating activities. The impact of non-operating items on liquidity should also be discussed. This may include the source of funding for debt repayments, capital expenditures, dividends and other distributions, and share repurchases. The liquidity analysis should also discuss the terms of and changes in credit facilities, debt covenants, and debt repayments. In particular, the discussion should review the entity's compliance or non-compliance with the terms of its debt covenants and the effects of any non-compliance.

The historical discussion of liquidity needs to be supplemented with an analysis of the entity's capital resources, focusing on their ability to provide sufficient liquidity for the foreseeable future. This analysis should address matters such as the timing for debt maturities, timing for the renegotiation of credit facilities, commitments for capital expenditures, other expenditures planned to maintain or grow capacity, and restrictions in accessing subsidiaries' liquidity pools. This part of the MD&A should also discuss unused sources of finance, and how debt maturities and capital commitments are expected to be financed, together with terms of any new debt.

Capabilities are often provided through supply chain relationships, outsourcing, strategic alliances, joint ventures and other types of business partnering. Entities also establish financing strategies that involve variable interest entities to finance their operations. The combined effect of all these relationships is often referred to as the extended entity. When these relationships significantly impact the

capabilities of the entity, then MD&A disclosures regarding extended enterprise issues would address matters such as:

- nature, magnitude and reliability of the extended entity relationships, including strategic, operational, and financing relationships;
- degree of management or board of director involvement in these relationships;
- those relationships also considered to be “related parties”; and
- extent of economic dependency of the entity on such relationships.

3.5 RESULTS AND OUTLOOK (INCLUDING FORWARD-LOOKING INFORMATION)

Readers of MD&As need an analysis of past results to understand how management has performed with the resources at its disposal. An analysis of past results alone, however, may be misleading. In addition, readers need to understand the extent to which these results are indicative of future prospects and management’s assessment of those prospects. Accordingly, this guidance document also calls for an outlook for the entity.

Results

RECOMMENDED PRACTICE

The MD&A should discuss for the entity as a whole, as well as for each core business, including each significant segment, an analysis of past results. This analysis, together with other information, should provide an indication of the extent to which past results will likely impact future prospects.

The analysis of past results should be an insightful explanation of the entity’s performance against its strategy and goals, and management’s effectiveness in using the resources at its disposal. It should not be a boilerplate or line-by-line repetition of information that is contained in, or readily derived from, the accompanying financial statements. The analysis may need to decompose some income statement line items to provide the necessary insight.

The analysis of past results should focus on explaining changes in financial and non-financial key performance indicators and their implications for the entity’s future prospects. Such an analysis should review trends in key performance indicators, discussing reasons for

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and changes in trends, including the impact of seasonal or cyclical fluctuations on trends. The analysis should also be supplemented with information about known factors that, in management’s opinion, will likely impact future prospects—factors such as significant conditions, demands, commitments, events, contingencies, and risks or uncertainties.

Judgement should be used to determine how far into the past the analysis of past performance should extend. In some cases, it will be sufficient to present the analysis of past performance for the minimum periods outlined in securities regulations. In other cases, it may be necessary due to circumstances, such as the industry cycle, non-recurring events, or risks, for the analysis to cover additional comparative periods in order to convey useful information “through the eyes of management”. Often a discussion of trends in key performance indicators will necessitate considering the development of the trend over several past periods.

RECOMMENDED PRACTICE

The MD&A should report non-GAAP financial measures when management determines that they will be useful for investors, accompanied by appropriate reconciliations, explanations, and contextual disclosures.

Non-GAAP financial measures are widely used by management and investors and are an important part of the financial reporting process. They provide additional analytical insight into an entity’s performance and financial condition, expand on information provided by GAAP financial statements, and are useful in communicating information that complements and supplements the financial statements.

There are few rules governing the construction and disclosure of non-GAAP financial measures and this leads to a wide variety of practices in reporting them. To improve comparability in their reporting, and enhance their information value, CICA has provided guidance when reporting Distributable Cash, Earnings Before Interest, Taxes, Depreciation and Amortization (EBITDA), and Free Cash Flow⁴. This guidance should be followed when reporting these and any other non-GAAP financial measure.

⁴ See CICA guidance *Standardized Distributable Cash in Income Trusts and Other Flow-Through Entities*, and *Improved Communication with Non-GAAP Financial Measures*.

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The CICA guidance *Improved Communication with Non-GAAP Financial Measures* identifies four characteristics of most non-GAAP financial measures:

- they rely on historical information in their construction;
- they are drawn from items reported in the financial statements;
- they involve subjective judgement and estimates; and
- they are selective in the information that they utilize.

Measures with these characteristics have both strengths and weaknesses. Accordingly, non-GAAP financial measures should be accompanied by appropriate disclosure.

The CICA guidance provides for standardized measures that are reconciled to a specified GAAP measure. In addition, recognizing that these non-GAAP financial measures use selective information from the financial statements, the CICA guidance advocates specific disclosures to supplement the standardized measure and put it in context. For example, the guidance around Free Cash Flow advocates disclosure of the entity's other financing and investing activities to provide an understanding of how they compete with or complement Free Cash Flow.

While investors want more standardization in reporting non-GAAP financial measures, management needs to be able to communicate entity-specific information in them. Accordingly, the CICA guidance recognizes the need for entity-specific measures and recommends disclosures to accompany them. The purpose for each entity-specific adjustment should be explained. As well, to facilitate an understanding of the differences between the entity-specific and standardized measures, the entity-specific measure should be reconciled to the standardized measure. Finally, an entity specific adjustment should be related to the relevant item in the financial statements, so that the reader is able to identify the amount of the item included in the financial statements and the financial statement caption in which that item is presented.

Securities regulations require non-GAAP financial measures to be accompanied by various disclosures. Provided the measures are relevant and clearly defined, following CICA's guidance should meet these requirements.

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RECOMMENDED PRACTICE

The analysis of results should focus on continuing operations, reconciling differences between results of continuing operations and reported financial results. An entity should distinguish and explain non-recurring items, and provide appropriate rationale for such classifications.

Readers need to understand the effect of non-recurring items, such as one-time restructuring costs, on continuing operations. If items that have been classified as non-recurring continue to appear annually, their classification as non-recurring will be suspect. Therefore, it is important to disclose the basis on which items are treated as non-recurring. As well, the criteria for being non-recurring should be applied consistently across segments, to both expenses and revenues.

RECOMMENDED PRACTICE

The MD&A should highlight accounting policies and estimates that are particularly important to understanding reported results and should explain how these policies and estimates impact reported results. In addition, the MD&A should address any changes in accounting policies and estimates, including those expected to be adopted after the period end.

When different accounting policies are used within an industry, the MD&A should highlight the policy adopted and the rationale for its selection. In addition, critical accounting estimates should be described, as should the methodology and range for assumptions used to determine the estimates.⁵

Outlook

All elements of the MD&A disclosure framework contribute to historical and prospective analysis. The historical analysis serves to explain the past results in the context of the entity's strategy, key performance drivers, capabilities and risk management. Similarly, the outlook provides management's forward-looking assessments and judgements about future outcomes of strategy, key performance drivers, capabilities and risk, taking into account historical performance. This section of the guidance document reviews outlook disclosures

⁵ Securities regulators prescribe various disclosures for critical accounting estimates at NI 51-102 F1, item 1.12

Part 3: The Disclosure Framework

generally, as well as specific disclosures that need to accompany forward-looking information. Principle 4 *Forward-looking Orientation* discusses criteria for forward-looking information.

The recommended practices in Part 5, *Overseeing the Reliability and Timeliness of Disclosure*, are particularly important in relation to disclosures of the outlook.

RECOMMENDED PRACTICE

The MD&A should provide an outlook for the entity as a whole, as well as for each core business, including each significant segment. The outlook entails disclosure and discussion of significant business goals and objectives, and may also include targets. The nature, specificity and time frames of such disclosure will vary depending on the industry, entity, and circumstances.

Discussion of the entity's outlook should be realistic and reflect outcomes considered reasonably likely by management. Goals, objectives and targets should reflect management's realistic assessment of the planned end result of executing strategy, utilizing resources and managing risk. Disclosures about an entity's outlook are produced through a fact-based analysis of the business and its environment, and should be consistent with plans and reports presented to the board of directors.

The extent to which an entity's outlook reports quantitative, as opposed to qualitative information, will depend on the nature of the business, the reliability of the information and its susceptibility to revision, and the general economic environment. General discussions of goals, objectives, and targets, even though they do not include any quantification, may nevertheless constitute forward-looking information.

Disclosure of significant goals, objectives and targets is not specified in existing regulatory requirements but is important to help readers see the entity through the eyes of management. The significant goals, objectives, and targets disclosed in MD&As may relate to operational issues and/or financial performance issues.

In disclosing significant goals, objectives, and targets, any quantified information should have a reasonable basis and reflect realistic analysis and the best available information. Such disclosures should be accompanied by discussion of their potential for variability. Enti-

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ties may find it useful to present quantified information in the form of ranges, which communicate the risk and elasticity of the numbers. Articulation of ranges may also be beneficial in reducing the need for communication with the market between MD&A reporting periods when actual results fall within previously disclosed target ranges.

If entities choose to provide the market place with information about goals, objectives, and targets through media other than the MD&A, this information should also be disclosed and discussed in the MD&A. Such goals, objectives, and targets should be discussed within the long-term strategic time frame, and provide a meaningful context for evaluating them.

RECOMMENDED PRACTICE

In addition to the disclosure of goals, objectives and targets, the MD&A should disclose other information that is considered by management to be relevant to assessing future prospects. Such other information should be based on management's assessment of known and reasonably likely future events, conditions and circumstances.

Securities regulations require disclosure of information about the potential variability of earnings and cash flows and known trends, commitments, events, risks or uncertainties that are reasonably likely to affect the entity's business and future performance. However, the above recommended practice goes beyond regulatory requirements. The MD&A report should disclose goals, objectives and targets and also other information that is relevant to assessing future prospects. Such information would relate to matters whose future condition or occurrence may be uncertain, but which, in management's view, are reasonably likely and necessary to enable readers to view the entity's future prospects through the eyes of management.

Forward-looking information

Forward-looking information is valued by investors. However, forward-looking information can be less reliable than historical information and investors need to understand its limitations. Accordingly, forward-looking information needs to be identified as forward-looking and accompanied by disclosure that enables the investor to understand its context.

Part 3: The Disclosure Framework

The below-noted recommendations summarize the disclosure aspects of current Canadian securities regulations^{6,7}. Under provincial civil liability legislation for secondary market disclosures, issuers and their officers and directors, among others, can be liable for misrepresentations in oral or written disclosures, including failure to make timely disclosure. This legislation contains “safe harbour” provisions for forward-looking information. To meet the “safe harbour” test of civil liability legislation, the cautionary language and disclosure of material factors and assumptions discussed below must be “proximate” to the forward-looking information.

RECOMMENDED PRACTICE

When reporting any material forward-looking information, disclosure should include:

- a statement that the information is forward-looking;
- a caution that actual results may vary from the forward-looking information;
- the material factors or assumptions used to develop the information; and
- the material risk factors that could cause actual results to differ materially from the forward-looking information.

When forward-looking information about prospective results of operations, financial position or cash flows is provided, additional disclosures should include:

- the purpose for the forward-looking information, for example providing information to investors;
- the potential impact of significant changes to material factors or assumptions, or material risk factors; and
- a caution that the information may not be appropriate for other purposes.

Investors want to know when previously reported forward-looking information is unlikely to be reflective of actual performance. As well, they want to understand the reasons for variances between actual results and forward-looking information.

When an entity withdraws previously disclosed forward-looking information, it should discuss the events that led to this decision and the underlying assumptions that are no longer valid.

⁶ National Instrument 51-102, Part 4A, 4B, and Part 5, Section 5.8.

⁷ Also see CICA’s May 2008 CFO Beyond GAAP Briefing *Forward-Looking Information*.

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RECOMMENDED PRACTICE

The MD&A should discuss events and circumstances that are reasonably likely to cause actual results to vary from previously disclosed forward-looking information. As well, the MD&A should discuss material differences between actual results and previously disclosed forward-looking information.

When goals, objectives, or targets are revised, the discussion of actual results should be compared to the original disclosures as well as the revisions to provide a complete record for comparing the entity's planned to actual performance.

3.6 RISK

Risk and risk-taking pervade all elements of business activity and hence all elements of the MD&A disclosure framework. Risk encompasses exposure to negative consequences ("downside") and the possibility that positive consequences ("opportunities") will be missed. There is uncertainty about both the likelihood of maturity and the consequences of a risk that materializes. Risk disclosures are essential to enable readers to see the entity through the eyes of management.

RECOMMENDED PRACTICE

An entity should disclose its principal risks and its related risk management strategies to enable MD&A report readers to understand and evaluate the entity's risks and its decisions regarding the management of such risks. Such disclosure should include:

- the principal risks and uncertainties facing the entity and its core businesses, including significant segments, as appropriate;
- the strategies employed for managing these risks, including the relationship of executive compensation arrangements to risk mitigation; and
- the potential specific impact of these risks on results and capabilities, including capital resources and liquidity.

Readers of the MD&A need to be able to understand the business and appreciate how risk impacts the various elements of the disclosure framework and can affect future prospects. Accordingly, management disclosures about risks and risk management should be included within the MD&A, even if required to be disclosed elsewhere pursuant to corporate governance disclosure and annual information form requirements. The risk disclosures in the MD&A should be con-

Part 3: The Disclosure Framework

sistent with the risks and risk management strategies identified and dealt with by the board of directors.

Specific disclosures about risks present a challenge to most entities. While different industries and entities use different risk models or approaches for identifying, managing and discussing risk, all entities face and should disclose both strategic, operational, and financial risks.

Entities that implement strategy through outsourcing relationships need to discuss risks related to those relationships. For example, an entity may need to disclose circumstances in which off-balance sheet financing arrangements could result in funding requirements for the entity and other risks involved in off-balance sheet financing relationships, as well as actions to manage or mitigate the risks.

Whatever the model or approach used, risk disclosures should be as specific as possible. It is important to provide investors with an explanation of each major risk, the likelihood that it will materialize, and an indication of how its materialization could affect the entity's business, financial condition, cash flows and results of operations. For example, for risks arising from climate change issues, disclosures could include information about the physical risks of climate change, the impact of proposed climate change legislation and regulation, loss of reputation due to failure to address climate change issues, and possibilities for legal actions for non-compliance with climate change legislation or regulation. In many cases the disclosure needs to match the opportunity with the related risk. For example, in a communications company, the expansion of broadband results in increased volume, but at the same time may result in increased competition and lower selling prices.

Risks should be summarized in a separate risk section of the MD&A and also discussed in other appropriate elements of the disclosure framework—that is, strategy, key performance drivers, capability (resources, systems and extended enterprise arrangements), and/or performance results. In attempting to manage certain risks, entities may use innovative strategies that can, in turn, give rise to new risks that should be clearly outlined and evaluated for MD&A readers. Therefore, risk disclosure encompasses significantly more than presenting a boilerplate listing of all risks.

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Quantitative information on significant risks and their potential impacts on future prospects of the business should be presented, along with qualitative information. In particular, it is useful to provide specific quantitative information about the potential variability of results depending on the outcome of the disclosed risks.

RECOMMENDED PRACTICE

There should be continuity and consistency from one period to another regarding risk disclosures and how the risks impact results.

An entity should regularly review its risk disclosures to ensure that they are always focused on matters that are currently important, taking into account changes in strategy, risk tolerance, and realized risks etc. When risks change significantly from one period to another, the MD&A should explain the removal or addition of specific risk disclosures.

PART 4

CONTINUOUS DISCLOSURE AND MD&A REPORTING

Part 4: Continuous Disclosure and MD&A Reporting

4.1 ROLE OF MD&A IN CONTINUOUS DISCLOSURE

As a cornerstone of continuous disclosure, the MD&A should incorporate key information needed by investors, including that which has been disclosed in other regulatory filings. Disclosing relevant investor information in the MD&A ensures that the information is distributed to investors and is subjected to appropriate audit committee and board of director oversight.

RECOMMENDED PRACTICE

An entity should use MD&A reporting, annual and interim, to gather, integrate and present information significant to investors, including key information that has previously been communicated through other channels. In addition, entities should update, as necessary, previous disclosures about strategy, key performance drivers, capabilities, risks and results. In this way, all significant information is disclosed and kept current through the MD&A.

Currently, information is distributed to the capital markets via a number of channels, including regulatory filings, press releases, websites, etc. Annual and interim MD&As together offer the means to provide continuity of disclosure on a cumulative basis and integrate the separate information disclosures into one document.

Websites are increasingly being used as a vehicle to communicate information and investors may expect to find financial reporting information on an entity's website. Accordingly, MD&As should be placed on the investor relations section of an entity's website at the time of its filing with securities regulators. This communication medium offers opportunities for entities to experiment with different electronic formats and electronic links to facilitate navigating within the document.

Many entities announce their financial results to the capital markets through press releases prior to publication of their MD&As. This delay in issuance of MD&As means that investors may make decisions without timely access to the more extensive disclosures provided in MD&As. It is recognized that this delay is due in large part to the timing of entities' annual general meetings. To the extent possible, however, MD&As should be made available at the same time as the release of an entity's earnings or at the earliest opportunity thereafter.

4.2 INTERIM MD&A REPORTS

Investors want information about an entity's performance more often than once a year. While the time period for financial reports and the extent of information reported varies significantly around the world, the accepted period for reporting in North America is quarterly, and this is reflected in securities regulations.

RECOMMENDED PRACTICE

An entity should use its interim MD&A to present its analysis of results and cash flow for the reporting period and year to date and financial condition at the end of the period. In addition, it should update, as necessary, previous disclosures about business strategy, key performance drivers, capabilities, risks, outlook, and any related supporting rationale.

It is not necessary to duplicate in the interim MD&A disclosure provided in the annual MD&A. Unless otherwise updated, information disclosed in the annual MD&A is assumed to still apply. The disclosure framework may be used to assist in determining the content of interim MD&As.

Although the annual and interim MD&As together provide a continuous disclosure package, the emphasis of the interim MD&A differs from that of the annual MD&A. In its annual MD&A, an entity presents its integrated analysis of past performance linked to its view going forward. In its interim MD&A, an entity presents its analysis of results and cash flow for the reporting period in question and year to date. It also discusses its financial condition at the end of the period and in comparison to the previous year-end. In addition, it discusses any significant changes in the outlook presented in the annual MD&A or previous interim MD&A, as appropriate.

Entities report important information that occurs between MD&A filing dates in press releases and material change reports. The information in these communications should be reflected in the next MD&A to provide continuity of disclosure and integrate the information in one report.

Regulators do not require a separate fourth quarter MD&A (or related interim financial statements) and most entities do not file such a document because of the cost and time to prepare it. Rather they publish a press release with highlights of the quarter. Since complete information about fourth quarter activity is only available when an-

Part 4: Continuous Disclosure and MD&A Reporting

nual information is published, entities should strive to minimize the time period between the announcement of fourth quarter earnings and the release of annual reporting information.

RECOMMENDED PRACTICE

The analysis of actual results in an interim MD&A should include a discussion of progress against previously disclosed goals, objectives or targets.

The discussion and analysis of actual results should be within the longer-term strategic timeframe and relate to goals, objectives and targets disclosed in the annual MD&A. However, if shorter-term goals, objectives or targets have been disclosed previously by management, actual results against these should also be disclosed but their significance should be explained within the longer-term strategic context.

PART 5

OVERSEEING THE RELIABILITY AND TIMELINESS OF DISCLOSURE

Part 5: Overseeing the Reliability and Timeliness of Disclosure

5.1 INTRODUCTION

Concern for the reliability and timeliness of corporate disclosures applies as much to MD&As as to other disclosures, including financial statements. Managements and boards of directors need to ensure that they have systems, controls and processes in place to ensure that all information needed for the MD&A is collected, summarized, and communicated on an accurate and timely basis.

Responsibility for disclosure in the secondary markets is recognized in secondary market civil liability legislation. Issuers and their officers and directors may be liable for misrepresentations in oral or written disclosures, including failure to make timely disclosure. Under secondary market civil liability legislation, for core documents such as the MD&A, there is no need for a plaintiff to prove reliance on the misrepresentation.

In addition to civil liability legislation, securities regulators require CEOs and CFOs to certify that financial statements and other financial information in filings are fairly stated and contain no material misrepresentations. As well, such officers in certain entities are required to certify about the design and effectiveness of the entity's disclosure controls and procedures and internal control over financial reporting.

5.2 RESPONSIBILITIES OF MANAGEMENT

RECOMMENDED PRACTICE

Management should provide a statement about its responsibility for the reliability and timeliness of information disclosed in an MD&A.

A dimension of risk is that information used internally by management and boards of directors or information disclosed externally may be in error. Either occurrence can have adverse consequences to the entity and its shareholders. This risk applies to MD&As, as well as other disclosures, and accordingly MD&A readers need assurance that appropriate risk management steps have been taken.

Management is responsible for the existence and effectiveness of systems, controls and procedures to ensure that information used internally by management and disclosed externally is reliable and timely.

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RECOMMENDED PRACTICE

Management should provide a statement about its responsibility for effective systems, controls and processes, and should report in the MD&A the conclusions from its periodic evaluation of systems controls and procedures.

Management is responsible for implementing systems, controls and procedures so that on a continuous, systematic and timely basis, information is collected, summarized and brought to management's attention for assessment as to whether disclosure is needed. These systems, controls and procedures are important in ensuring that all necessary disclosures are made on a timely basis. They also enable management to satisfy regulatory certification requirements respecting such disclosure.

Systems, controls and procedures apply equally as well to prospective as to historical information. As one focus of MD&As is to consider an entity's prospects for the future, prospective information should reflect the judgements applied by management in evaluating that information and its implications for the future. The uncertainty inherent in the assessment of future prospects makes it important that MD&A readers know that the judgements exercised by management have been based on effective systems, controls and procedures, including rigorous analysis of information.

Disclosures regarding internal systems and processes should address their ability to provide reliable financial reporting information, including any limitations in the scope of the design of such systems and processes and changes which are reasonably likely to affect them. The MD&A should present management's conclusions from its periodic evaluations of the effectiveness of the systems, controls and procedures. This disclosure should include the basis on which management reached these conclusions, the impact of any material weaknesses on financial reporting and systems, controls and procedures, and plans and actions taken to address any material weaknesses identified in management's periodic evaluations.

Management's statement of responsibility should include reference to any certifications filed about reported information and related systems, controls and procedures.

Part 5: Overseeing the Reliability and Timeliness of Disclosure

A disclosure committee is an essential element of an entity's systems, controls and procedures for all aspects of an entity's external financial reporting.

RECOMMENDED PRACTICE

The mandate of an entity's disclosure committee should include MD&A reporting that should be addressed as an integral component of the entity's continuous disclosure policies and practices.

Entities should have a written mandate for the disclosure committee that includes a description of the role of MD&A reporting, recognizing that it is a cornerstone of continuous disclosure, reporting key information needed by investors, regardless of whether that information has been reported in other regulatory filings.

The entity's disclosure committee and culture are integral to the effectiveness of the entity's systems, controls and procedures implemented by management to ensure the completeness, reliability and timeliness of MD&A disclosures.

The composition of the disclosure committee will depend on the nature and complexity of the entity and its financial reporting. In some small single-business entities, the CFO and legal counsel may be the committee, while in larger more complex entities there may need to be a multi-functional, senior-executive-driven team, including representation from finance, the legal department, investor relations, internal audit, and operating divisions.

External financial reports need to be filed with securities regulators shortly after the period end. Accordingly, the timetable for the financial reporting process needs to be carefully considered to ensure there is sufficient time for the disclosure committee, audit committee, and, when appropriate, the board of directors to review the MD&A and provide feedback⁸. When making changes to the format for the MD&A, it will be important to seek disclosure committee and audit committee support at an early stage in the process.

⁸ See CICA guidance *Building a Better MD&A—A Guide for Smaller Issues*.

5.3 RESPONSIBILITIES OF BOARDS OF DIRECTORS

RECOMMENDED PRACTICE

Entities should provide a statement about the oversight role of the audit committee in reviewing the MD&A and the role of the board of directors in approving the MD&A.

Securities regulations require that the board of directors approve the annual MD&A, an activity that can be delegated to the audit committee for the interim MD&A. This activity is an important element of the due diligence process to ensure that the MD&A contains no misrepresentations.

Management naturally has a bias that the audit committee and board need to bear in mind. While the MD&A should provide the view through management's eyes, it should be an objective analysis and provide a proper sense of events taking place in the entity. Accordingly, the audit committee and board need to assess whether the MD&A is consistent with information they have received from management. They should pay particular attention to any information that has been omitted from the MD&A because of issues such as confidentiality.

The oversight role played by the audit committee and board of directors regarding annual and interim MD&As should be disclosed. Audit committees and boards of directors need to ascertain whether, in preparing the MD&A, management has applied the general disclosure principles outlined in Part 2 of this document and has disclosed all significant information to the capital markets. In addition, to be able to discharge their responsibilities, they need to satisfy themselves that management has implemented the necessary systems, procedures and controls required to ensure the reliability and timeliness of MD&A disclosures⁹.

These disclosures may be incorporated into a statement of oversight responsibilities for reported information, as well as in any other disclosures about corporate governance and the roles of audit committees and boards.

⁹ Audit committees and boards of directors may wish to consult CICA's guidance 20 Questions Directors Should Ask about Management's Discussion and Analysis.

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