

## Proposed Changes to Companion Policy 52-109CP

The following are proposed changes to Companion Policy 52-109CP to National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*

### 1. Proposed changes to section 1.3

- 1.3 **Application to ~~venture~~senior unlisted issuers** – ~~Venture~~Senior unlisted issuers should note that the guidance provided in Parts 5 through 14 of this Policy is intended for issuers filing Form 52-109F1 and Form 52-109F2. Under Parts 4 and 5 of the Instrument ~~venture~~senior unlisted issuers are not required, but may elect, to use those Forms.

### 2. Proposed changes to section 6.5

- 6.5 **Delegation permitted in certain cases** – Section 3.1 of the Instrument requires a ~~non-venture~~senior listed issuer to establish and maintain DC&P and ICFR. Employees or third parties, supervised by the certifying officers, may conduct the design of the issuer's DC&P and ICFR. Such employees should individually and collectively have the necessary knowledge, skills, information and authority to design the DC&P and ICFR for which they have been assigned responsibilities. Nevertheless, certifying officers of the issuer must retain overall responsibility for the design and resulting MD&A disclosure concerning the issuer's DC&P and ICFR.

### 3. Proposed changes to section 15.1

## PART 15 – ~~VENTURE~~SENIOR UNLISTED ISSUER BASIC CERTIFICATES

- 15.1 **~~Venture~~Senior unlisted issuer basic certificates** – Many ~~venture~~senior unlisted issuers have few employees and limited financial resources which make it difficult for them to address the challenges described in section 6.11 of the Policy. As a result, many ~~venture~~senior unlisted issuers are unable to design DC&P and ICFR without (i) incurring significant additional costs, (ii) hiring additional employees, or (iii) restructuring the board of directors and audit committee. Since these inherent limitations exist for many ~~venture~~senior unlisted issuers, the required forms of certificate for ~~venture~~senior unlisted issuers are Forms 52-109FV102SU1 and 52-109FV102SU2. These forms do not include representations relating to the establishment and maintenance of DC&P and ICFR.

Although Forms 52-109FV102SU1 and 52-109FV102SU2 are the required forms for ~~venture~~senior unlisted issuers, a ~~venture~~senior unlisted issuer may elect to file Forms 52-109F1 or 52-109F2, which include representations regarding the establishment and maintenance of DC&P and ICFR.

Certifying officers of a ~~non-venture~~**senior listed** issuer are not permitted to use Forms 52-109FV~~102SU~~**1** and 52-109FV~~102SU~~**2**. Although a ~~non-venture~~**senior listed** issuer may face similar challenges in designing its ICFR, such as those described in section 6.11 of the Policy, the issuer is still required to file Forms 52-109F1 and 52-109F2 and disclose in the MD&A a description of each material weakness existing at the end of the financial period.

**4. Proposed changes to section 15.2**

- 15.2 **Note to reader included in ~~venture~~**senior unlisted** issuer basic certificates** – Forms 52-109FV~~102SU~~**1** and 52-109FV~~102SU~~**2** include a note to reader that clarifies the responsibility of certifying officers and discloses that inherent limitations on the ability of certifying officers of a ~~venture~~**senior unlisted** issuer to design and implement on a cost effective basis DC&P and ICFR may result in additional risks to the quality, reliability, transparency and timeliness of interim and annual filings and other reports provided under securities legislation.

**5. Proposed changes to section 15.3**

- 15.3 **Voluntary disclosure regarding DC&P and ICFR** – If a ~~venture~~**senior unlisted** issuer files Form 52-109FV~~102SU~~**1** or 52-109FV~~102SU~~**2**, it is not required to discuss in its annual or interim MD&A the design or operating effectiveness of DC&P or ICFR. If a ~~venture~~**senior unlisted** issuer files Form 52-109FV~~102SU~~**1** or 52-109FV~~102SU~~**2** and chooses to discuss in its annual or interim MD&A or other regulatory filings the design or operation of one or more components of its DC&P or ICFR, it should also consider disclosing in the same document that:

- (a) the ~~venture~~**senior unlisted** issuer is not required to certify the design and evaluation of the issuer's DC&P and ICFR and has not completed such an evaluation; and
- (b) inherent limitations on the ability of the certifying officers to design and implement on a cost effective basis DC&P and ICFR for the issuer may result in additional risks to the quality, reliability, transparency and timeliness of interim and annual filings and other reports provided under securities legislation.

A selective discussion in a ~~venture~~**senior unlisted** issuer's MD&A about one or more components of a ~~venture~~**senior unlisted** issuer's DC&P or ICFR without these accompanying statements will not provide transparent disclosure of the state of the ~~venture~~**senior unlisted** issuer's DC&P or ICFR.

6. Proposed changes to section 16.1

**PART 16 – CERTIFICATION REQUIREMENTS FOR A NEW REPORTING ISSUER AND AN ISSUER THAT BECOMES A ~~NON-VENTURE~~SENIOR LISTED ISSUER**

- 16.1 **Certification requirements after becoming a ~~non-venture~~senior listed issuer –** Sections 4.5 and 5.5 of the Instrument permit an issuer that becomes a ~~non-venture~~senior listed issuer to file Forms 52-109F1 – IPO/RTO and 52-109F2 – IPO/RTO for the first certificate that the issuer is required to file under this Instrument, for a financial period that ends after the issuer becomes a ~~non-venture~~senior listed issuer. If, subsequent to becoming a ~~non-venture~~senior listed issuer, the issuer is required to file an annual or interim certificate for a period that ended while it was a ~~venture~~senior unlisted issuer, the required form of certificate for that annual or interim filing is Form 52-109FV~~102SU~~102SU1 or 52-109FV~~102SU~~102SU2.