CSA provide reminders about non-GAAP and other financial measures disclosure

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The Canadian Securities Administrators (the CSA) highlighted deficiencies with respect to the disclosure of non-GAAP and other financial measures in its continuous disclosure review for fiscal 2022, as reported in CSA Staff Notice 51-364 *Continuous Disclosure Review Program Activities for the fiscal years ended March 31, 2022 and March 31, 2021* (November 3, 2022). The CSA's focus on non-GAAP disclosure during fiscal 2022 is unsurprising given the recent adoption and coming into force of National Instrument 52-112 *Non-GAAP and Other Financial Measures Disclosure* (NI 52-112) in 2021 which aimed to standardize disclosure, reduce uncertainty, and provide transparency for investors. As we previously discussed, NI 52-112 replaced prior guidance found in CSA Staff Notice 52-306 (Revised) – *Non-GAAP Financial Measures* (SN 52-306) and set out new rules for the disclosure of non-GAAP financial measures, non-GAAP ratios and other financial measures that issuers commonly use in their public disclosure.

In fiscal 2022, the CSA reviewed the annual MD&As, related earnings releases, and investor presentations of approximately 85 issuers with financial years ended on or after Oct. 15, 2021, with a focus on disclosures that were "new or different" compared to the guidance previously provided in SN 52-306. Based on this review, issuers are reminded of the following requirements of NI 52-112:

- **Earnings releases that include certain non-GAAP measures must include a quantitative reconciliation.** In many instances where a quantitative reconciliation is required by NI 52-112, issuers are permitted to cross-reference a reconciliation disclosed in a previously filed MD&A rather than include the reconciliation directly in their disclosure. However, this is not the case for earnings releases. If an earnings release discloses a non-GAAP financial measure (historical or forward-looking), a total of segments measure, or a capital management measure (each as defined in NI 52-112), the quantitative reconciliation must be included in the earnings release.
- **Prominence must be given to the closest GAAP measure.** Non-GAAP financial measures should not be presented with more prominence than the most directly comparable financial measure disclosed in an issuer's financial statements. While determining prominence is an art and not a science, the CSA provides guidance in the Companion Policy to NI 52-112 that will help issuers in determining whether their disclosure complies with the rule and, at the very least,

disclosure of a non-GAAP measure should always be accompanied by a comparable GAAP measure.

- **Differences between forward-looking and historical measures should be described.** While disclosure of material factors and assumptions used to develop the forward-looking measure will compliment disclosure, such factors and assumptions will not always satisfy NI 52-112, which requires that significant differences between the measures be described. Issuers are permitted to include this disclosure in a schedule to the document.
- **Total of segments measures should be properly identified.** A total of segments measure is a financial measure that is a subtotal or total of two or more reportable segments of an entity, is not a component of a line item disclosed in the primary financial statements, is disclosed in the notes to the financial statements and is not disclosed in the primary financial statements. Given its disclosure in the notes to the financial statements, a total of segments measure is a financial measure that is disclosed in accordance with an issuer's GAAP. However, the CSA disclosure requirements in NI 52-112 related to a total of segments measure, including a quantitative reconciliation, must be satisfied wherever the measure is disclosed outside of the issuer's financial statements.
- **Supplementary financial measures must be labeled in a manner that describes the measure.** The label given to a supplementary financial measure should reflect the measure's composition. To the extent that a well-established term is used to describe the supplementary financial measure, the composition of the measure should match the term. Where adjustments have been made to the measure, issuers should consider using the term "adjusted" in the measure's label.
- **Information incorporated by reference in an investor presentation should be publicly filed.** In order to properly incorporate requisite disclosure from an MD&A in an investor presentation, the referenced MD&A must already be filed so that investors can examine the referenced information. In addition, the MD&A should actually include information about the specific financial measure disclosed in the presentation and issuer's must specify the location of the information in the applicable MD&A with a hyperlink or a specific section or page reference. General statements that the information can be found in an MD&A will be considered non-compliant with NI 52-112.

As a result of its review, the CSA made a number of requests for prospective disclosure and retroactive restatements. As the CSA continues to monitor non-GAAP and other financial measures disclosure going forward, the deficiencies outlined above will remain at risk of attracting regulatory comment and issuers should consider whether enhancements to their disclosure is necessary.

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