

**THE MANITOBA SECURITIES COMMISSION**  
**MSC RULE 2004-2**  
(Section 149.1, The Securities Act)

**NATIONAL INSTRUMENT 52-108**  
**AUDITOR OVERSIGHT**

PART 1 – DEFINITIONS AND APPLICATION

**Definitions**

**1.1** In this Instrument

“**CPAB**” means the Canadian Public Accountability Board/Conseil canadien sur la reddition de comptes, incorporated as a corporation without share capital under the *Canada Corporations Act* by Letters Patent dated April 15, 2003, and any of its successors;

“**participation agreement**” means a written agreement between the CPAB and a public accounting firm in connection with the CPAB’s program of practice inspections and the establishment of practice requirements;

“**participating audit firm**” means a public accounting firm that has entered into a participation agreement and that has not had its participant status terminated, or, if its participant status was terminated, has been reinstated in accordance with CPAB by-laws; and

“**public accounting firm**” means a sole proprietorship, partnership, corporation or other legal entity engaged in the business of providing services as public accountants.

**Application and transition**

**1.2(1)** This Instrument applies to reporting issuers and public accounting firms.

**1.2(2)** Section 2.1 and Part 3 do not apply in Alberta, British Columbia and Manitoba.

**1.2(3)** Part 2 does not apply unless

(a) the CPAB’s prescribed time period for the public accounting firm to submit a participation agreement has expired, and

(b) the auditor’s report prepared by the public accounting firm is dated on or after March 30, 2004.

## PART 2 – AUDITOR OVERSIGHT

### **Public accounting firms**

**2.1** A public accounting firm that prepares an auditor’s report with respect to the financial statements of a reporting issuer must be, as of the date of its auditor’s report,

- (a) a participating audit firm, and
- (b) in compliance with any restrictions or sanctions imposed by the CPAB.

### **Reporting issuers**

**2.2** A reporting issuer that files its financial statements accompanied by an auditor’s report must have the auditor’s report prepared by a public accounting firm that is, as of the date of the auditor’s report,

- (a) a participating audit firm, and
- (b) in compliance with any restrictions or sanctions imposed by the CPAB.

## PART 3 – NOTICE

### **Notice of restrictions**

**3.1(1)** A participating audit firm that is appointed to prepare an auditor’s report with respect to the financial statements of a reporting issuer must, if the CPAB imposes restrictions on the participating audit firm intended to address defects in its quality control systems, provide notice to the regulator.

**3.1(2)** The notice required under subsection (1) must be in writing and include a complete description of

- (a) the defects in the quality control systems identified by the CPAB, and
- (b) the restrictions imposed by the CPAB, including the date the restrictions were imposed and the time period within which the participating audit firm agreed to address the defects.

**3.1(3)** The notice required under subsection (1) must be delivered within 2 business days of the restrictions being imposed.

### **Idem**

**3.2(1)** A participating audit firm that is subject to CPAB restrictions intended to address defects in its quality control systems and that is informed by the CPAB that it failed to address defects in its quality control systems, to the satisfaction of the CPAB, within the agreed upon time period, must provide notice to

(a) the audit committee of each reporting issuer for which it is appointed to prepare an auditor's report, or, if a reporting issuer does not have an audit committee, the board of directors or the person or persons responsible for reviewing and approving the reporting issuer's financial statements before they are filed, and

(b) the regulator, if the participating audit firm is appointed to prepare an auditor's report with respect to the financial statements of a reporting issuer.

**3.2(2)** The notice required under subsection (1) must be in writing and include a complete description of

(a) the defects in the quality control systems identified by the CPAB,

(b) the restrictions imposed by the CPAB that were intended to address defects in its quality control systems, including the date the restrictions were imposed and the time period within which the participating audit firm agreed to address the defects, and

(c) the reasons it was unable to address the defects to the satisfaction of the CPAB.

**3.2(3)** The notice required under subsection (1) must be delivered within 10 business days of the participating audit firm being informed by the CPAB that it has failed to address the defects in its quality control systems.

#### **Notice of sanctions**

**3.3(1)** A participating audit firm that is subject to sanctions imposed by the CPAB must provide notice to

(a) the audit committee of each reporting issuer for which it is appointed to prepare an auditor's report, or, if a reporting issuer does not have an audit committee, the board of directors or the person or persons responsible for reviewing and approving the reporting issuer's financial statements before they are filed, and

(b) the regulator, if the participating audit firm is appointed to prepare an auditor's report with respect to the financial statements of a reporting issuer.

**3.3(2)** The notice required under subsection (1) must be in writing and include a complete description of the sanctions imposed by the CPAB, including the date the sanctions were imposed.

**3.3(2)** The notice required under subsection (1) must be delivered within 10 business days of the sanctions being imposed.

## **Notice of restrictions and sanctions prior to appointment**

**3.4(1)** Prior to accepting an appointment to prepare an auditor's report with respect to the financial statements of a reporting issuer, a participating audit firm must provide notice in accordance with

(a) subsections 3.2(1) and 3.2(2), if the CPAB informed the participating audit firm within the 12-month period immediately preceding the expected date of appointment that it failed to address defects in its quality control systems to the satisfaction of the CPAB, and

(b) subsections 3.3(1) and 3.3(2), if the CPAB imposed sanctions on the participating audit firm within the 12-month period immediately preceding the expected date of appointment.

**3.4(2)** For the purposes of subsection (1), the references to "is appointed" contained in subsections 3.2(1) and 3.3(1) shall mean "is expected to be appointed."

**3.4(3)** A participating audit firm is not required to provide notice under subsection (1) if, pursuant to a notice provided under sections 3.2 or 3.3, the reporting issuer and regulator have been provided notice of the participating audit firm's failure to address the defects in its quality control systems to the satisfaction of the CPAB and of the sanctions imposed by the CPAB.

## **PART 4 – EXEMPTION**

### **Exemption**

**4.1(1)** The regulator or the securities regulatory authority may grant an exemption from this Instrument, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.

**4.1(2)** Despite subsection (1), in Ontario, only the regulator may grant such an exemption.

## **PART 5 – EFFECTIVE DATE AND CITATION**

### **Effective date**

**5.1** This Instrument comes into force on March 30, 2004.

### **Citation**

**5.2** This National Instrument may be cited as MSC Rule 2004-2.