

October 30, 2003

BY E-MAIL

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Mr. Peter William Skinner MEP
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Dear Sir,

Re: CESR's Consultation Paper on the Prospectus Directive – July 2003

The Province of Newfoundland and Labrador has occasionally offered its debt issues for sale in Europe. Therefore, we are writing in response to the Committee of European Securities Regulators ("CESR") Consultation Paper dated July 2003 (the "Consultation Paper") relating to CESR's Advice on Level 2 Implementing Measures for the Prospectus Directive (the "Prospectus Directive").

Our responses to the questions you have raised in the above noted Consultation Paper are limited to those paragraphs that are intended to apply to states and their regional and local authorities, being paragraphs 23-42. We have assumed that we are correct in concluding that the other paragraphs of the Paper do not apply to states or their regional and local authorities, nor to agents of the province or entities guaranteed by them, and therefore have not addressed them. In particular, it is our understanding that there will not be a requirement for a state or

its regional or local authorities, or their agents or entities guaranteed by them, to prepare or file financial statements prepared in accordance with internationally accepted accounting standards (“IAS”) or audited in accordance with international standards on auditing (“ISA”). If any of our assumptions or understandings are incorrect please advise us. In any case, we suggest that you clarify this point in the Level 2 Implementing Measures themselves.

Before addressing your questions, we believe a brief description of Canada would be useful. Canada is a federal state in which legislative authority is constitutionally divided among one national and thirteen local jurisdictions (ten provinces and three territories). The constitutional division of powers in Canada is complex, but as a general rule the Federal Parliament has jurisdiction over matters of national and international importance while the provincial legislatures have jurisdiction over matters of local importance. For example, the Federal Parliament has authority over trade and commerce, criminal law, and intellectual property, while the provinces have authority over the property law and, generally speaking, over the law of contract. For purposes of the Prospectus Directive, Canada and each of its provinces must be viewed as a “state”.

We believe that all debt issues that effectively represent the credit of a state or one of its regional or local authorities should be treated as being the same. For example, in Canada there have been entities owned and controlled by Canada or a province that issue debt. In some cases, the entity is an agent of the relevant state and, consequently, the debts incurred by it are incurred on behalf of the State and are payable out of the consolidated revenue fund of the state. In other cases, where the entity is not an agent, the state guarantees the payment of the principal and interest on the debt. We believe that the Prospectus Directive should be applied so that all debt securities of or guaranteed by a state, or any of its local or regional authorities should be treated the same, with the disclosure being focused primarily on the province in each case, and abbreviated disclosure (but, in particular, no IAS/ISA financial statement requirement) for the agents or guaranteed issuers themselves.

As an issuer of debt securities that have been offered to the public in Europe we applaud the efforts that are being made by CESR to ensure that the Prospectus Directive’s key objectives, to “encourage and build an efficient, cost-effective and competitive pan-European capital market on the one hand, and to provide the necessary levels of investor protection on the other”, are achieved. Therefore, in giving you our replies to the questions raised, we are particularly mindful of those objectives.

At present, this Province has \$282 principal amount of debt issues listed on the Luxembourg Stock Exchange. Payments of principal and interest on such debt securities constitute a charge on and are payable out of the Consolidated Revenue Fund of the Province. The Consolidated Revenue Fund is the aggregate of all moneys on deposit to the credit of the Province.

There are some specific concerns we wish to raise in relation to paragraphs 23–42 of the Consultation Paper.

Question 30

Do you agree with the approach described in paragraphs 23 - 29? If not, please give your reasons.

We agree with the concept of applying the same requirements in respect of debt securities of or guaranteed by Non-EU States or their regional or local authorities as are applied in respect of the debt securities of or guaranteed by Member States.

A state is not a business enterprise. It does not rely on its ability to produce revenues from the capital it has invested in its business. Investors purchasing debt securities issued by a state, whether a Member State or not, are concerned generally about the economic and political stability of the state in question and possibly the strength of its currency. Generally, investors will want to know if the securities they purchase will give rise to a claim against the consolidated revenue fund of that state and thus carry the full faith and credit of the state or if the securities represent a claim against a sub-division of the state or local authority alone.

Question 32

Do you agree with this list as more fully described in Annex D?

We are generally in agreement with the disclosure requirements described in Annex D. However, we have some questions and concerns regarding the specific wording of some portions of Annex D.

Persons Responsible:

It is not practical for the numerous individuals who compile the information regarding the Province for inclusion in a prospectus to take personal responsibility for that information. It has been our practice that senior officials of the Province, such as the Deputy Minister of Finance and the Comptroller General, take responsibility for the information.

Risk Factors

While we do not object to a requirement to disclose relevant risk factors, in the context of an issue of debt securities of the Province the only risk factor that is likely to arise would be currency risk.

Information About The Issuer

Items 3.1, 3.2 and 3.5 will rarely change (except for occasional changes in the governing political party) and can easily be summarized in a prospectus. Items 3.3 and 3.4 by their nature are evolving and are generally covered in official documents such as the annual budget and public accounts (financial statements). The information can also be summarized in a prospectus.

Public Finance and Trade

The information described in the enumerated items is relevant in the case of the Province and can be summarized in each prospectus.

That being said, this item still requires clarification. The Consultation Paper seems to suggest that this item is essentially selected financial information from the Province's audited accounts and budget. However, item (a) appears to require a narrative as it refers to "systems". Moreover, it is hard to see why it is necessary to describe other than the tax system or budgetary system currently applicable as opposed to those "for the two fiscal years prior to the date of the registration document".

As for item (b), is there a requirement to describe each outstanding debt issue or just aggregate debt?

As for item (c), as noted above, this may not be relevant for other than the national government (i.e. Canada itself).

What is item (e) meant to elicit exactly? Surplus and deficit? What are "resources"?

As noted in the second paragraph of this letter above, it should be made clear somewhere in this Annex D that the financial information is not required to be extracted from statements prepared in accordance with IAS/ISA. This item would appear to be an appropriate place to insert such a clarification.

Significant Change

We suggest that this requirement for updated disclosure in a prospectus should cover only changes not previously disclosed in filings made under, for example, the Transparency Obligations Directive and the Market Abuse Directive.

Statement by Experts and Declarations of any Interest

It is not clear to whom you are referring as an expert. The obvious experts are the auditor and law firms that provide opinions as to matters, such as taxation. If those are the experts in question, in principle, we do not object to such a requirement. However, if it is intended that every economic report or statistical survey we may refer to in our information document must be expertised, we believe that such a requirement could not be complied with. Some clarification is required.

Documents on Display

We suggest that, in addition, the core documents that create or govern a particular issue of debt securities be required to be on display; i.e. the legislative authority for borrowing by the issuer in effect at the time of the issue, the form of debt security or the pricing supplement relating to the debt security if it is issued under a debt issuance programme, any trust indenture or fiscal agency agreement governing the rights of holders of those debt securities and any underwriting, subscription or similar agreement relating to the initial sale and distribution of those debt securities. The on-going disclosure of information regarding an issuer or the state on behalf of which an issue is made, should be governed by the Transparency Obligation Directive and the Market Abuse Directive. We believe strongly that the Prospectus Directive needs to be implemented so as to establish disclosure at the time of an issue of the securities to which it relates and that a particular prospectus should only be required to be supplemented during the period that the distribution of the specific securities to which

it relates is being completed, or in the case of a programme for debt issuances, during the period between the date of filing the prospectus and the date on which it is required to be updated. Once a distribution has been completed such prospectus is no longer relevant as investors will then rely on the information required to be filed annually or pursuant to the Transparency Obligations Directive or the Market Abuse Directive. Otherwise the three directives will overlap and create confusion for both issuers and investors.

Question 33

Is there any other information which you consider relevant for States and their regional or local authorities and should be included in the Annex?

No.

Question 40

Do you deem that Investments and development plans should be included in the Annex for Member States and regional and local authorities? If so, please give your reasons.

We cannot envisage circumstances where the disclosure of the business and development plans of a local authority, e.g. a municipality, would be appropriate given the expenditures involved and the size of its revenue or taxation base.

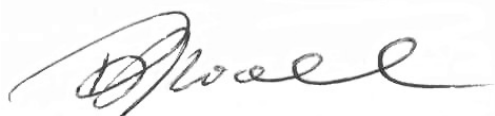
Question 42

Do you consider that potential conflicts of interest should be disclosed? If so, do you consider that the wording used will be sufficient to capture such conflicts?

As mentioned above, it is not clear to whom you are referring to as an expert in this context. In any event we have difficulty identifying circumstances that would give rise to a conflict of interest for any expert used by the Province. Also, we do not believe conflicts regarding the audit of our financial statements are likely as the Province's auditor is the Auditor General, an officer appointed by our Legislature, who is independent of the government of the Province and is accountable to the Provincial Legislature.

We are also reviewing the Transparency Obligations Directive and related consultation paper, and the Market Abuse Directive and its related consultation papers. We are concerned that at present it is not clear how these directives inter-relate. We urge you to implement them together in a manner that is seamless and will facilitate your overall objectives as stated above.

Yours truly,

A handwritten signature in black ink, appearing to read 'Philip J. Wall', written in a cursive style.

Philip J. Wall
Deputy Minister