

Canadian Coalition for
GOOD GOVERNANCE

THE VOICE OF THE SHAREHOLDER

October 11, 2006

Mr. Chris Hicks,
Canadian Performance Reporting Board
The Canadian Institute of Chartered Accountants
277 Wellington Street West
Toronto, Ontario M5V 3H2

Sent via e-mail

Dear Mr. Hicks,

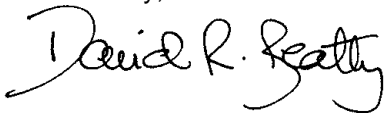
Thank you for the opportunity to comment on the Draft Interpretive Release – Distributable Cash. We have surveyed our members and provide their comments below. Generally, members felt the document was comprehensive and well thought out.

- Unitholders will benefit from putting the disclosures into the MD&A as it provides a basis for CEO/CFO certification and thus some basis for unitholder action under Bill 198.
- There needs to be one definition of distributable cash. We understand that that CAIF is also working on a definition for distributable cash and understand that they have different definitions for each form of trust (REIT, royalty and business). Multiple definitions could lead to confusion and an inability to adequately compare distributable cash across income trusts.
- Distributable cash should take into account the minimum working capital required for operations.
- The release recommends that compliance with this guidance ought to be disclosed. In addition, funds that are not compliant with the guidance should also disclose they are not compliant and the reasons why they the chose not to follow the guidance.
- There should be a statement about how to classify reserve funds – that is, a pool of cash that is held “in reserve” to fund distributions in case operating cash flow is insufficient to fund distributions. There should be commentary on how this fund is maintained, how it is funded (from operations, financing activities, asset sales, etc.) and whether there has been any usage of the fund in the past. Some trusts are stable annually but highly seasonal and/or can have large swings in working capital requirements.
- There should be a discussion on subordination provisions, if any. For example, the majority owner or manager of a trust will sometimes subordinate their distributions in favor of public unitholders for a period of 2 years after a public offering. This will impact who gets first claim on Distributable Cash.
- There should be a comment in the MD&A on gains/losses from hedging activities (currency, fuel, raw materials, etc.) and disclose whether this is accounted for as “operating” or not. We know of at least one trust that put currency hedge gains in distributable earnings and convinced the market to give them a big multiple for it.

- Include a table that simply and obviously sets out which, if any, distributions that were “return on capital” and which were “return of capital”.
- The release recommends disclosure of covenants and extent of compliance with these covenants under the section titled "Disclosure of Terms and Conditions of Financial Obligations". Given that this document provides guidance only and is not required disclosure, the issues surrounding disclosure of covenants and compliance with them ought to be required and therefore GAAP. Debt instruments play a significant role in trust structures and unitholders ought to be adequately informed in the cases of breach, or near breach, of covenant clauses. Disclosure of covenant breaches cannot be left to management or trustee discretion.
- There is an error in the title "Reconciliation to most appropriate non-GAAP measure" on pages 3 and 7. It should read "Reconciliation to most appropriate GAAP measure".
- Under the definition of productive capacity, the release talks about productive capacity funded from "internal" operations. It is unclear as to the difference between internal versus external operations. A definition would be more meaningful if it talked about productive capacity from "ongoing" operations so as to differentiate between capacity arising from acquisitions and dispositions, and that arising from ongoing operations.
- The definition and computation of distributable cash from operations starts with cash flows from operations (a GAAP number) and incorporates changes in non-cash working capital as well as cash flows from discontinued operations. Three other adjustments are recommended, being that for productive capacity maintenance expenditures, funding of long-term unfunded contractual obligations arising from operations, and restrictions on distributions arising from compliance with covenants both on a current basis and 12 months out. The release provides some guidance as to how to compute these adjustments using amortization techniques or the amounts that best reflect expected cash outflow. This has the effect of mixing future dollars (and potentially very distant future dollars) with current dollars. Does deducting the present value of the future cash outlay doesn't make a more meaningful number in this case? If present value dollars are to be used, then all assumptions in determining the present value must be disclosed.
- As an additional request, in the discussion about debt can we see comments on i) how much of the debt is secured and what assets have been pledged and ii) at what level the debt is being issued – an operating company or higher up on the corporate structure.

Thank you once again for the opportunity to provide the CPRB with our comments. Should you require further information or clarification, please contact Paul Schneider (paul_schneider@ccgg.ca or 416.868.3582) at the Coalition.

Yours truly,



David R. Betty, O.B.E.
Managing Director