This is a high-level summary of areas that may require valuation related analysis and reporting for companies with operations in Canada or that are considering transactions in Canada. The following overview was prepared by VRG member firm Peter Ott & Associates Inc.

In Canada, expert valuation analysis and reports are employed, prepared and contribute to the resolution of legal and financial disputes, as well as, matters before arbitration boards, securities commissions and other regulatory bodies. Some of the common scenarios that give rise to independent and objective valuation analysis and reporting in Canada include:

**INCOME TAX**
The Canadian Income Tax Act (“ITA”) references fair market value (“FMV”) more than 2,000 times and while not defined within the ITA, FMV has generally been defined by courts to be: “the highest price available in an open and unrestricted market between informed, prudent parties acting at arm’s length and under no compulsion to act, expressed in terms of money and money’s worth.” Canada’s ITA typically requires FMV information for: (i) arm’s length and non-arm’s length purchase price allocations, (ii) non-arm’s length transactions, (iii) corporate reorganizations, (iv) royalty rates, (v) intangibles, including goodwill and patents, (vi) stock option compensation, (vii) notional deemed dispositions, (viii) debt instruments and convertible securities, and (ix) reasonable interest rates.

**ESTATE PLANNING**
Canadian estate planning transactions generally require valuers to provide value-related information to business owners who wish to provide pre-arranged succession of businesses and ensure family members are provided for upon an owner’s death or disability. Proper valuation analysis is required to satisfy Canada’s tax requirements and ensure an orderly transition of assets.

**EMPLOYEE SHARE OWNERSHIP PLANS**
Business valuation on the successful implementation and continuation of an employee share ownership plan (“ESOP”) and/or stock option arrangement are vital. Employees need to know the value of their ownership in the plan and companies may use participation in the plan for purposes of measurement, motivation and team-building. Independent valuation reporting keeps employees informed on the company and its progress and creates trust between the employees and the original ownership group. The preparation of periodic valuation reporting clarifies the basis under which value will be determined within the ESOP, reduces the possibility of disagreement with income tax authorities, and quantifies the funding requirements for potential share buy-backs.

**EXPROPRIATIONS**
Expropriated property by Canadian municipal, provincial and/or federal authorities may lead to significant losses suffered by owners. Valuation professionals provide support to determine the damages to be compensated, either due to loss of profits or permanent loss of goodwill.

**FAMILY LAW**
Family law matters and related property equalization in most Canadian provinces require that business assets be included in the pool of assets subject to division at the breakdown of a marriage. Valuation professionals determine the value of business assets and assist with the structuring of settlements.
between the parties that are equitable within the matrimonial rules of each Canadian province.

**FINANCIAL REPORTING**
Financial reporting in Canada, either under International Financial Reporting Standards or Canadian Accounting Standards for Private Enterprises ("ASPE") require the determination of the fair value of assets acquired and liabilities assumed in a business combination at their acquisition-date. In addition, subsequent testing for impairment of certain intangible assets and goodwill is also periodically required. Valuation specialists in Canada are frequently utilized to support financial statement issuers with the initial fair value estimates of acquired assets and assumed liabilities, as well as with subsequent impairment testing.

**MINORITY SHAREHOLDER ACTIONS**
In Canada, minority shareholder actions involving dissenting minority and/or oppressed shareholders require business valuation analysis. In the case of dissent actions, where a controlling shareholder proposes fundamental corporate changes, minority shareholders have the right to withdraw from the corporation rather than be subject to the change, and corporate statutes in Canada use “fair value” as the basis for purchasing dissenting shareholders’ interests. In the case of oppression actions, i.e., where the majority shareholders act in a prejudicial manner to the interests of the minority, an oppressed minority shareholder may request Canadian courts to intercede in the affairs of the corporation and protect their interests, or alternatively to direct the corporation to purchase the oppressed minority shareholder’s interest at fair value.

**BUSINESS REORGANIZATIONS AND RESTRUCTURINGS**
Business reorganizations and restructurings may require valuation professionals to determine proper valuation of a business and its segments in a planned or enforced business restructuring and/or rationalization.

**MERGERS, ACQUISITIONS AND DIVESTITURES**
Mergers, acquisitions and divestitures (sales) may require sound valuation analysis and advice, including during leveraged buyouts by management teams. Independent valuation analysis may also be performed as a starting point for price negotiation in a business acquisition.

**SECURITIES REGULATIONS**
Canadian securities regulators protect minority security holders through Multilateral Instrument 61-101 Protection of Minority Security Holders in Special Transactions (MI 61-101) have established rules and processes to address material conflict of interest transactions, e.g., insider bids, issuer bids, business combinations and related party transactions. While MI 61-101 may not mandate the preparation of a fairness opinion, company boards and special committees of boards have a responsibility to determine whether a transaction is in the best interests of the issuer and its minority security holders. Where a fairness opinion by a valuer is obtained in connection with a material transaction, the opinion must clearly summarize among other matters: (i) the methodology, information and analysis underlying the fairness opinion so as to enable a reader to understand the basis for the opinion, including financial metrics, and (ii) the compensation arrangement of the financial advisor preparing the fairness opinion, including whether the fee is contingent on the successful completion of the transaction. Staff of Canadian provincial security regulators review disclosure documents in “real time” including whether any formal valuation complies with the requirements of MI 61-101 and may request supporting information, including work product associated with a formal valuation. Fairness opinion disclosure requirements have increased and should provide security holders with sufficient information to enable the making of an informed decision and include a list of matters that are mandated to be disclosed within the fairness opinion document.

**SHAREHOLDER AGREEMENTS**
Value-related information is frequently required to assist in structuring shareholder agreements and/or resolving shareholder disputes. Buy/sell arrangements of many shareholder agreements in Canada, should one party want to leave the agreement, require the determination of the value of shares of the exiting shareholder.

**LITIGATION SUPPORT**
Litigation support and the determination of damages in the context of litigation claims require value analysis, e.g., breach of contract or misrepresentation, business interruption for insurance claim or personal injury where an individual’s earnings potential is reduced.

To learn more about how VRG can work with your company, we welcome you to visit us online at vrg.net or contact Peter Ott, CPA, CA, CBV at peter@peterott.ca or 905-471-3145.