

# EMPIRE

COMPANY LIMITED

## **ANNUAL INFORMATION FORM**

**Year Ended May 3, 2008**

July 25, 2008

## TABLE OF CONTENTS

|   |    |
|---|----|
| CORPORATE STRUCTURE .....                               | 2  |
| Name and Incorporation.....                             | 2  |
| Intercorporate Relationships .....                      | 2  |
| GENERAL DEVELOPMENT OF THE BUSINESS .....               | 4  |
| Food Retailing Division .....                           | 4  |
| Real Estate Division .....                              | 7  |
| Investments and Other Operations .....                  | 9  |
| Corporate .....   | 9  |
| Trends.....   | 9  |
| Significant Acquisitions and Dispositions .....         | 10 |
| DESCRIPTION OF THE BUSINESS .....                       | 12 |
| Food Retailing Division .....                           | 12 |
| Operations .....  | 12 |
| Products and Programs .....                             | 13 |
| Real Estate Division .....                              | 14 |
| Commercial Operations .....                             | 14 |
| Residential Operations .....                            | 15 |
| Investments and Other Operations .....                  | 15 |
| Growth.....   | 15 |
| Competition .....                                       | 16 |
| Other Information .....                                 | 16 |
| Risk and Risk Management .....                          | 19 |
| DIVIDENDS .....   | 20 |
| CAPITAL STRUCTURE.....                                  | 20 |
| Share Capital .....                                     | 20 |
| Long-Term Debt.....                                     | 22 |
| Credit Ratings (Canadian Standards) .....               | 23 |
| MARKET FOR SECURITIES.....                              | 25 |
| SELECTED CONSOLIDATED FINANCIAL INFORMATION.....        | 26 |
| MANAGEMENT'S DISCUSSION AND ANALYSIS OF OPERATIONS..... | 26 |
| DIRECTORS AND OFFICERS.....                             | 27 |
| Directors.....  | 27 |
| Executive Officers Who are Not Directors.....           | 28 |
| Other Proceedings .....                                 | 29 |
| Conflict of Interest .....                              | 30 |
| TRANSFER AGENT AND REGISTRAR.....                       | 30 |
| AUDIT COMMITTEE INFORMATION .....                       | 30 |
| MATERIAL CONTRACTS.....                                 | 31 |
| LEGAL PROCEEDINGS AND REGULATORY ACTIONS .....          | 31 |
| INTEREST OF EXPERTS .....                               | 31 |
| ADDITIONAL INFORMATION .....                            | 32 |
| APPENDIX A .....  | 33 |
| APPENDIX B .....  | 35 |

All disclosure for Empire Company Limited (“Empire” or “the Company”) is as of fiscal year-end, May 3, 2008, unless otherwise indicated.

This Annual Information Form (“AIF”) contains forward-looking statements which reflect management’s expectations regarding objectives, plans, goals, strategies, future growth, results of operations, performance and business prospects and opportunities of Empire. These forward-looking statements include the following items:

- Sobeys' expectation that there will not be a material adverse impact on its business as a result of global disruption in the market for third-party Asset-Backed Commercial Paper (“ABCP”) liquidity, and its belief that it has sufficient credit facilities to satisfy its financial obligations;
- Sobeys’ expectations that administrative and business rationalization activities as well as system process initiatives in the current year and upcoming quarters will have a cost impact as expected and will provide thereafter annualized cost reductions, both of which could be impacted by the final scope and scale of these activities;
- Sobeys’ expectations that the new distribution centre announced in Ontario and the closures of distribution centres in Québec will reduce overall distribution costs, which could be impacted by the number of positions eliminated at these distribution centres;
- Sobeys’ expectation that sales growth will continue through 2009 could be impacted by market conditions and therefore may not be realized;
- Management’s belief that the growth rate in residential lot sales will continue to be impacted by general economic conditions, particularly in the Western Canada housing market, with lot sales likely to slow moderately from the level experienced in fiscal 2008;
- The Company’s expectations on future capital spending for its real estate and food retailing divisions, which could be impacted by the availability of labour, capital resource allocation decisions, as well as general economic and market conditions;
- The Company’s expectation that certain real estate property held by ECL Properties can be successfully redeveloped or leased up to the point where such property can be offered for sale to Crombie REIT and if refused by Crombie REIT, then offered to a third party;
- The Company’s expectations regarding the purchase of 158,200 Series 2 Preferred shares for cancellation by the end of calendar 2008 could be impacted by market conditions and availability of sellers;
- Management’s expectations that Empire’s funded debt to capital ratio will decline in fiscal 2009 as a result of equity growth and plans to generate free cash flow which will be used to reduce bank debt;
- The Company’s expectations that its capital resources and liquidity position will meet its capital and liquidity requirements over the next year;
- The Company’s expectations relating to pending tax matters with Canada Revenue Agency (“CRA”) and provincial tax authorities, which could be determined differently by CRA. This could cause the Company’s effective tax rate and its earnings to be affected positively or negatively in the period the matter is resolved; and
- The Company’s expectations that the adoption of accounting standards relating to increased disclosure in financial statements will not have a significant impact on the Company’s financial statements disclosure.

Forward-looking statements are typically identified by words or phrases such as “anticipates”, “expects”, “believes”, “estimates”, “intends”, and other similar expressions. These statements are based on management’s assumptions and beliefs in light of the information currently available to them. These forward-looking statements are subject to inherent uncertainties, risks and other factors that could cause actual results to differ materially from such statements. These uncertainties and risks are discussed in the Company’s materials filed with the Canadian securities regulatory authorities from time

to time, including those discussed in the Risk Management section of the Company's fiscal 2008 Management's Discussion and Analysis.

When relying on forward-looking statements to make decisions, the Company cautions readers not to place undue reliance on these statements, as a number of important factors could cause actual results to differ materially from any estimates or intentions expressed in such forward-looking statements. The Company does not undertake to update any forward-looking statements that may be made from time to time by or on behalf of the Company, except as required by Canadian securities regulators.

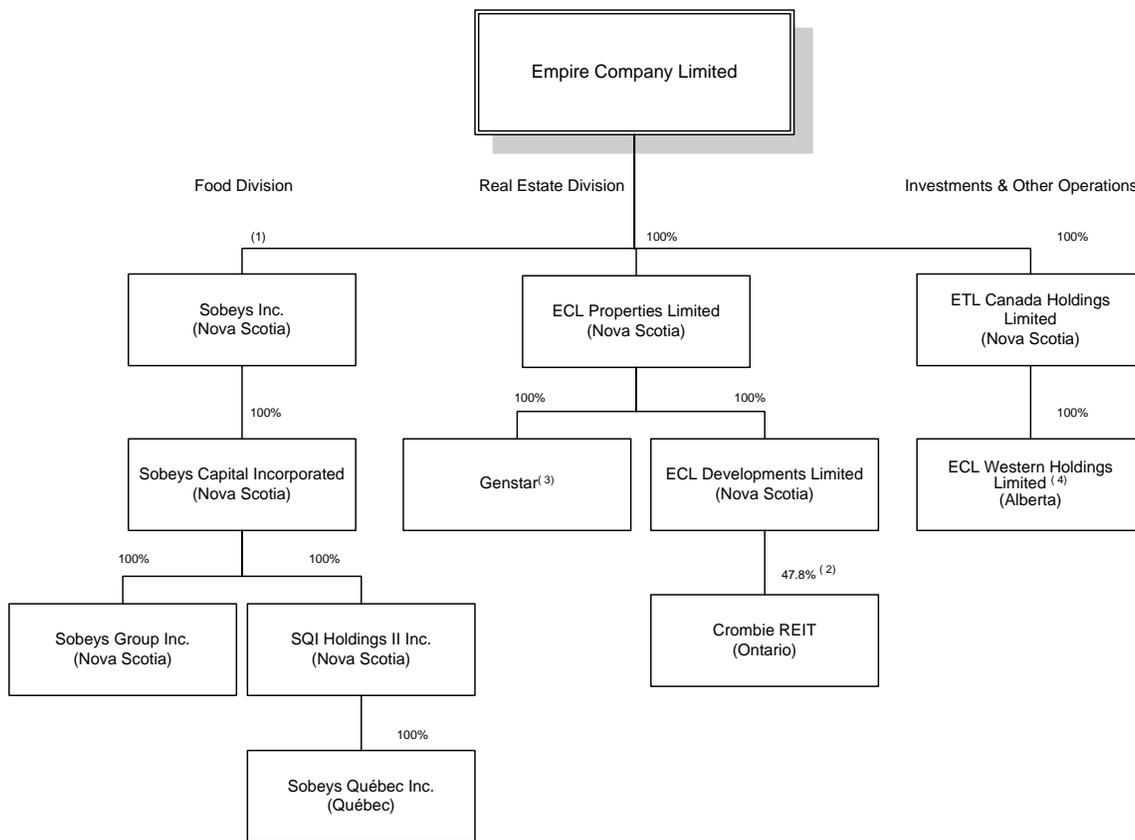
## **CORPORATE STRUCTURE**

### **Name and Incorporation**

Empire Company Limited was created by amalgamation under the Companies Act (Nova Scotia) on January 31, 1973. Predecessors of Empire had been carrying on business since 1907. Empire's head office is located at 115 King Street, Stellarton, Nova Scotia. In this Annual Information Form ("AIF"), "Empire" or the "Company" is used to refer collectively to Empire Company Limited and all of its subsidiaries, except where the context requires otherwise.

### **Intercorporate Relationships**

The following chart shows the names of the principal subsidiaries of Empire, their respective jurisdictions of incorporation, and the percentages of voting and non-voting securities owned by Empire as of May 3, 2008. Empire owns Class B Limited Partnership Units in Crombie Limited Partnership that are exchangeable into and equivalent to units of Crombie Real Estate Investment Trust ("Crombie REIT"), representing a 47.8 percent indirect ownership interest in Crombie REIT.



(1) Empire owns 27.9% of Sobeys directly and the balance (72.1%) indirectly through subsidiaries including Empro Holdings Limited (Nova Scotia) and Emplink Investments Limited (Nova Scotia).

(2) Empire owns Class B Limited Partnership Units in Crombie Limited Partnership (Nova Scotia) exchangeable into and equivalent to Crombie REIT units, representing a 47.8% indirect ownership interest in Crombie REIT.

(3) ECL Properties Limited indirectly holds a 35.7% interest in Genstar Development Partnership (Alberta) and a 43.3% interest in Genstar Development II Partnership (Alberta).

(4) ECL Western Holdings Limited (Alberta) owns a 27.6% interest in the Wajax Income Fund.

## GENERAL DEVELOPMENT OF THE BUSINESS

Empire Company Limited (TSX symbol: EMP.A) is a Canadian company headquartered in Stellarton, Nova Scotia. Empire's core businesses include food retailing and related real estate. Guided by conservative business principles, Empire's primary goal is to grow long-term shareholder value through income and cash flow growth and equity participation in businesses that have the potential for long-term growth and profitability. Over the past three years, Empire has strengthened its businesses through acquisitions, dispositions of non-strategic assets, capital investments, and strategic management. The developments of the various segments of the Company's business over the past three fiscal years are discussed in the following sections.

### Food Retailing Division

Empire's food retailing division business is carried on through Sobeys Inc. ("Sobeys"), which is headquartered in Stellarton, Nova Scotia. Sobeys is a leading national grocery retailer and food distributor. A wholly-owned subsidiary of Empire as of June 15, 2007 (see "Significant Acquisitions and Dispositions"), Sobeys owns and operates more than 1,300 corporate and franchise affiliate retail grocery stores in all 10 provinces under retail banners that include Sobeys, IGA, IGA *extra*, Foodland, Price Chopper, Thrifty Foods and Lawtons Drug Stores. Sobeys is committed to providing the most worthwhile experience for its customers, employees, franchisees, suppliers and shareholders.

Over the past three fiscal years, Sobeys has continued to grow and develop as a leading Canadian grocery retailer and food distributor. Sobeys has made significant investments over the past three fiscal years to support that growth, through property and equipment purchases totaling \$489 million in 2008, \$447 million in 2007 and \$332 million in 2006.

### Fiscal 2008

Sobeys' strategy is focused on delivering the best food shopping experience to its customers in the right format, right-sized stores, supported by superior customer service. The five distinct store formats deployed by Sobeys to satisfy its customers' principal shopping requirements are the full service, fresh service, convenience service, community service and price service formats. Sobeys remains focused on improving the product, service and merchandising offerings within each format by realigning and renovating its current store base, while continuing to build new stores. Sobeys' six major banners: Sobeys, IGA, IGA *extra*, Price Chopper, Foodland and Thrifty Foods, are the primary focus of these format development efforts.

During the fiscal year, Sobeys opened, replaced, expanded, renovated, acquired and/or converted the banners in 157 stores. In fiscal 2008, Sobeys continued to execute a number of initiatives in support of its food-focused strategy including productivity initiatives and business process, supply chain and system upgrades.

During fiscal 2008, Sobeys partnered with The Walt Disney Company and launched *Compliments Junior Disney*, a line of nutritious alternatives for snacks, lunch box ideas and easy-to-prepare meals for children. At the end of fiscal 2008, Sobeys has launched approximately 4,800 *Compliments* products.

On April 23, 2008, Sobeys acquired 100 percent of the shares of Sobey Leased Properties Limited which were formally held by Empire directly.

On September 12, 2007, Sobeys completed the purchase of Thrifty Foods, a British Columbia based network of 20 full-service format stores, primarily on Vancouver Island and two on the Lower Mainland and a distribution facility in Saanichton, BC.

Sobeys continues to make significant progress in the implementation of system-wide business process optimization and rationalization initiatives that are designed to reduce complexity and improve processes and efficiency throughout Sobeys.

A business process and information system transformation plan, similar to that deployed in the Ontario region, began in the Western region during fiscal 2007 and was completed during the second quarter of fiscal 2008.

Subsequent the end of fiscal 2008, additional severance costs of approximately \$4.6 million have been incurred related to the automated distribution facility being constructed in Vaughan, Ontario and will be recognized in the first quarter of fiscal 2009. The new distribution centre, when opened in fiscal 2010, is expected to provide annual distribution savings in excess of the costs incurred in the third quarter of fiscal 2007, and any additional business rationalization or restructuring costs incurred leading up to its opening.

During the first quarter of fiscal 2008, Sobeys completed a rationalization of administrative functions in its National departments. An additional \$1.0 million of rationalization costs is anticipated in the first quarter of fiscal 2009.

### **Fiscal 2007**

During the year, Sobeys opened, replaced, expanded, renovated, acquired and/or converted the banners in 150 stores. In fiscal 2007, Sobeys continued to execute a number of initiatives in support of its food-focused strategy including productivity initiatives and business process and system upgrades.

At the end of fiscal 2007, the *Compliments* brand consisted of approximately 4,400 *Compliments* products.

Sobeys experienced declines in its wholesale tobacco sales during fiscal 2007. Wholesale tobacco sales declined \$123.9 million in fiscal 2007, compared to fiscal 2006. Sales growth was also negatively impacted by the disposition on March 31, 2006 of the Sobeys' Cash & Carry business in Ontario and Québec. Cash & Carry sales were \$196.1 million in fiscal 2006.

During fiscal 2007, Sobeys continued to make significant progress in the implementation of system-wide business process optimization initiatives that are designed to reduce complexity and improve processes throughout Sobeys. In fiscal 2006, Sobeys began its business process and information systems transformation plan by focusing on the significant opportunity to upgrade information processing and decision support capabilities and improve efficiencies in the Ontario region. The system and processes that were implemented were developed over several years and are also employed in Sobeys' Atlantic region. The Ontario roll-out standardized and streamlined the "back shop" in support of Sobeys' food-focused strategy. This move will allow Sobeys to leverage technology investments, improve efficiencies and lower costs over the long-term. During the third quarter of fiscal 2007, Sobeys completed the implementation of the SAP system in Ontario in accordance with its plan. This implementation supports all aspects of Sobeys' Ontario business including operations, merchandising, distribution and finance and is an important enabler of further initiatives in Ontario including a distribution facility in Ontario that was announced on November 21, 2006.

A similar business process and system initiative began in the Western region during fiscal 2007.

On November 21, 2006, Sobeys announced plans to build a new distribution centre in Vaughan, Ontario. Utilizing automation technology, the new facility is expected to significantly increase Sobeys' warehouse and distribution capacity while reducing overall distribution costs and improving service to its store network and customers. During the third quarter of fiscal 2007, Sobeys recognized \$5.3 million

of severance costs associated with this rationalization. This new distribution centre, when opened in fiscal 2010, is expected to provide annual distribution cost savings in excess of the costs incurred in the third quarter and any additional business rationalization or restructuring costs incurred leading up to its opening.

In the fourth quarter of fiscal 2007, Sobeys completed the closure of two small distribution facilities, one in Anjou and one in the Abitibi region of Québec. Rationalization costs related to these facilities of \$5.6 million were incurred in the fourth quarter of fiscal 2007. During fiscal 2008, \$3.5 million of these costs were reversed as a result of changes in management's estimate of the expected costs. It is expected that the annualized savings associated with this closure will be approximately \$5.0 million.

During the third quarter of fiscal 2007, Sobeys completed a rationalization of administrative functions in Atlantic Canada. In addition to asset write-offs, in excess of 100 people were impacted by this rationalization; however, a number of these people were redeployed into Sobeys' retail store network. Pre-tax costs of \$7.9 million were incurred during the third quarter of fiscal 2007 as a result of this rationalization.

## **Fiscal 2006**

During fiscal 2006, Sobeys opened, replaced, expanded, renovated, acquired and/or converted the banners in 83 stores. Sobeys continued to execute against a number of initiatives in support of its food-focused strategy including productivity initiatives and business process, supply chain and system upgrades.

In fiscal 2006, Sobeys continued the roll-out of the Sobeys banner in Western Canada with the introduction of two new Sobeys stores and one rebannered store in Alberta. The addition of the Alberta stores brought the total Sobeys banner stores in Western Canada to 74.

*Compliments*, Sobeys' private label brand was launched in fiscal 2005, to contribute to growth of company-wide sales and profitability and earn a greater share of customers' food and grocery shopping requirements. The *Compliments* brand consists of three quality tiers: Value, Selection and Sensations. In addition, Sobeys introduced two sub-brands during fiscal 2006, *Compliments Organics* and *Compliments balance-équilibre*, an organic and healthy line of products respectively. At the end of fiscal 2006, Sobeys had launched approximately 3,700 *Compliments* products.

Sobeys remained focused on productivity and business process optimization initiatives, designed to achieve efficiencies and improve its cost structure. A key productivity focus in fiscal 2006 was the continued roll-out of the first phase of Sobeys' SMART Retailing initiative. The first phase of SMART Retailing focused on continuous improvement processes that have resulted in improved labour productivity in the handling of back-shop inventories, reduction in back-room inventories and reduction of waste or shrinkage in produce, bakery, and meat departments. Sobeys completed the first phase of SMART Retailing during the year with the program implemented in 675 stores. The second phase of SMART Retailing began during fiscal 2006 and was implemented in 425 stores in fiscal 2006. The second phase of SMART Retailing focused on the implementation of a comprehensive store performance management process (Peer-to-Peer) supported by tools to assist in the measurement of Sobeys' progress against targets and expectations. Phase two supported the ongoing implementation of SMART Retailing and focused on customer satisfaction, sales growth and margin improvements. The third phase will see the extension of the process and productivity improvements across the store.

During fiscal 2006, Sobeys also made significant progress in the implementation of system-wide business process optimization initiatives that are designed to reduce complexity and improve processes throughout the food retailing division. To this end, Sobeys continued the roll-out of a common point-of-sale ("POS") system. This common POS system provides improved customer information and

enhanced customer service at store check-outs, and is a key enabler of other business process optimization initiatives.

Sobeys also completed the roll-out of a new scale networking system, which improved accuracy and productivity and enabled full compliance with the nutritional labelling requirements that came into effect on December 12, 2005.

As discussed in the fiscal 2005 MD&A, system and process complexities in the Ontario business negatively impacted earnings in that region. In fiscal 2006, Sobeys began implementation of a business process and information systems transformation plan for its operations by focusing on the significant opportunity to upgrade information processing and decision support capabilities and improve efficiencies in the Ontario region. The system and processes that have been implemented were developed over several years and are currently employed in Sobeys' Atlantic region. The Ontario roll-out standardizes and streamlines the "back shop", in support of Sobeys' food-focused strategy. This move allowed Sobeys to leverage technology investments, improve efficiencies and lower costs over the long-term. Costs associated with this initiative totalled \$0.19 per share in fiscal 2006.

## **Real Estate Division**

Empire's real estate division includes commercial and residential property operations. Our commercial real estate operations are focused on the development of food-anchored shopping plazas through wholly-owned ECL Properties Limited ("ECL"), which includes wholly-owned ECL Developments Limited ("ECL Developments"), a self-storage operation and ownership of retail and office properties through a 47.8 percent ownership interest in Crombie REIT. ECL also owns various commercial properties held for sale or redevelopment. The focus of our residential operations is on land development, predominantly through a 35.7 percent ownership interest in Genstar Development Partnership and a 43.3 percent interest in Genstar Development II Partnership (collectively referred to as "Genstar"). Genstar is a residential land development business with operations primarily in Western Canada. Empire summarizes its real estate financial results between commercial property operations, consisting of ECL's results (excluding Genstar), and residential property operations which consist primarily of Genstar's financial results.

## **Fiscal 2008**

On April 22, 2008, the Company's real estate division sold 61 retail properties representing approximately 3.3 million square feet of gross leaseable area ("GLA") to Crombie REIT. The selling price in respect of the 61 properties was \$428.5 million representing an effective capitalization rate of 8.12 percent before transaction costs (see "Significant Acquisitions and Dispositions"). The \$428.5 million consideration included an additional equity investment in Crombie REIT of \$55.0 million which effectively resulted in an ownership interest in Crombie REIT being 47.8 percent at the end of fiscal 2008.

During the fourth quarter of fiscal 2008, ECL Developments finalized a \$100.0 million revolving term credit facility for the primary purpose of developing food anchored retail shopping plazas. Sobeys or a related banner would be positioned as the food retail anchor and ultimately the property would be offered for sale to Crombie REIT. Pursuant to a Development Agreement between Crombie REIT and ECL Developments, Crombie REIT can elect to purchase the property being offered or if not interested, the property would then be offered for sale to a third party.

During fiscal 2008, we expanded ECL Developments' real estate team to include real estate development vice presidents in Atlantic Canada, Quebec and British Columbia. These individuals, in addition to our existing teams in Ontario and Atlantic Canada, will work closely with Sobeys, including

newly-acquired Thrifty Foods, to develop properties that expand the growth potential for the food retailing division and Crombie REIT.

During fiscal 2008, ECL Developments Limited continued to work on several ongoing redevelopment projects include the conversion of Fredericton Mall in New Brunswick into a power centre, Phase II of the Greenfield Park site in Montreal, as well as the redevelopment of Highland Square Mall in New Glasgow, Nova Scotia, and development projects in Brantford, Ontario and Moncton, New Brunswick.

During fiscal 2008, Genstar continued to be an excellent investment, contributing \$34.7 million in earnings. Genstar's earnings contribution was below fiscal 2007's record performance, as a result of an anticipated slowdown in residential lot selling activity.

### **Fiscal 2007**

During fiscal 2007, ECL Developments Limited completed several major redevelopment projects, including the Avalon Mall in Newfoundland, the County Fair Mall in Summerside, Prince Edward Island and the Martello Condominiums in Halifax, Nova Scotia. Ongoing redevelopment projects include the conversion of Fredericton Mall in New Brunswick into a power centre, Phase II of the Greenfield Park site in Montreal and the redevelopment of Highland Square Mall in New Glasgow, Nova Scotia. Also during fiscal 2007, Donald Clow was named President of ECL Developments Limited.

Genstar had a record year in fiscal 2007 as it continued to benefit from significant strength in the residential real estate market, particularly in Calgary and Edmonton.

### **Fiscal 2006**

During fiscal 2006, Empire created Crombie REIT to acquire income-producing retail, office and mixed-use properties located in Canada, with a growth strategy focused primarily on the acquisition of retail properties in Ontario and Western Canada. On March 23, 2006, Crombie REIT completed its initial public offering of 20,485,224 units at a price of \$10 per unit, resulting in gross proceeds of the offering of \$204.8 million.

Concurrent with the initial public offering and other related transactions, Crombie REIT used the proceeds of the offering to contribute to the funding of the acquisition of 44 commercial properties in six provinces, totalling approximately 7.2 million square feet, from Empire and certain of its subsidiaries. Crombie REIT had no operations prior to March 23, 2006.

Upon completion of these transactions, and the subsequent exercise of an over-allotment option granted to the underwriters, Empire received Class B Limited Partnership units of Crombie Limited Partnership exchangeable into and equivalent to Crombie REIT units representing a 48.3 percent indirect ownership interest in the REIT with a value of \$200.8 million based on the initial public offering price of \$10 per unit. In addition, Empire also received cash proceeds of approximately \$155 million, net of post-closing obligations to Crombie REIT and before taxes. The balance of the purchase price was paid by the assumption of debt by Crombie REIT.

Following the completion of these transactions, Empire continued to own approximately 5.9 million square feet of commercial rentable space through wholly-owned SLP and ECL. SLP owned 4.6 million square feet of commercial space that consisted mainly of 51 free-standing Sobeys banner grocery stores, 28 properties with Sobeys banner grocery stores with attached shopping plazas and six shopping plazas not including a Sobeys banner grocery store. Total properties in the ECL portfolio at the end of fiscal 2006 consisted of 1.3 million square feet of commercial rentable space represented by five properties located in Atlantic Canada.

The remaining wholly-owned real estate operations were primarily focused on commercial property development. The strategic focus moving forward was to position ECL as the property developer of choice for Crombie REIT.

ECL continued to develop its relationship with Genstar through its increased participation in Genstar - U.S. builder deal investments, mainly located in California, and through continued participation in residential development, primarily focused in Western Canada.

## **Investments and Other Operations**

Investments and other operations primarily consist of wholly-owned ETL Canada Holdings Limited and its subsidiaries (collectively "Theatres"), a 27.6 percent interest in Wajax Income Fund ("Wajax") which is owned by ECL Western Holdings Limited and Kepec Resources Limited (Kepec"), a joint venture with APL Oil and Gas Limited, which has ownership interests in various oil and gas properties in Alberta.

During the first quarter of fiscal 2008, the majority of the liquid investment portfolio, with the exception of the investment in Wajax, was sold to assist in the financing the acquisition of the remaining common shares of Sobeys that Empire did not already own.

As at May 3, 2008, Theatres operated or had an interest in 387 screens in 53 locations operating in eight provinces from coast-to-coast. Theatres has expanded over time, organically and through acquisitions, to become the second largest movie exhibitor in Canada.

## **Corporate**

From time to time, Empire will acquire, repurchase, or redeem its own securities. During fiscal 2008, no Non-Voting Class A shares were repurchased. Since the beginning of fiscal 2005, the Company has repurchased and cancelled 127,430 Non-Voting Class A shares. These share repurchases were carried out in order to effectively offset the issuance of additional Non-Voting Class A shares under an Employee Share Purchase Plan.

## **Trends**

Over the past decade, there have been considerable changes in food retailing – reflecting new competitive pressures as well as the changing demographics, lifestyle choices and preferences of Canadians. With the aging of the baby-boom generation and the rise of dual career families, Canadians have more disposable income but less free time, placing a greater value on service and convenience. This has fueled the increasing popularity and demand for ready-to-eat, ready-to-serve products as well as significant growth in frozen foods. As well, the multicultural complexion of the country has evolved – as has consumer focus on health and wellness. All of these trends have been driving demand for greater diversity and choices in food.

At the same time, the entire retail landscape continues to blur, as major retailers across many channels look for a larger share of each customer's wallet and seek to leverage their real estate investments by providing a broader array of non-traditional offerings in their stores. Increasingly, many non-grocers are offering convenience food and grocery products. The Company continues to see significant growth in square footage from traditional competitors. In addition, new mass merchandisers have entered Canadian markets in recent years. During fiscal 2007, food price inflation remained low across all regions of Canada, however, towards the end of fiscal 2008, food inflationary pressures in several product areas emerged and may well continue into fiscal 2009.

All of these trends have resulted in broader consumer choice, greater value to the customer, increasingly intense competition and growing pressure on gross margins.

With respect to real estate development, the trend has been for large anchor retailers to locate away from traditional enclosed shopping centres to free-standing locations. ECL has and will continue to address this ongoing trend by redeveloping certain regional and neighbourhood shopping centres where anchor tenants may be relocated to free-standing structures.

There has been a slowdown in residential lot selling activity. Volatile capital markets and the real estate slowdown in the United States are likely to affect the Canadian economy which may impact our residential operations. Not only is credit tight, which can have significant impact on a capital intensive business like real estate, consumers and real estate buyers have become hesitant. With the strength of our relationship with Sobeys and Crombie REIT, combined with our strict discipline approach, we are confident we will continue to build shareholder value through the real estate and economic cycles.

With respect to the movie-going experience, the trend has been for a more enriched entertainment experience through curved screens, stadium-style seating, digital projection, a broader array of concession products and other programming to compliment the traditional filmed programming. Theatres' strategy has been to bring these amenities to the markets it serves.

Reference is also made to the section titled "Description of the Business – Competition."

### **Significant Acquisitions and Dispositions**

On April 22, 2008, the Company's real estate division sold 61 retail properties to Crombie REIT. The transaction involved the sale of certain properties directly from Sobey Leased Properties ("SLP") and Sobeys Properties Partnership ("SPP"), which represented 61 properties of approximately 3.3 million square feet of GLA. The properties consisted of 40 freestanding grocery stores carrying various Sobeys banners and 21 strip plazas all of which are also anchored by Sobeys bannered grocery stores. The sale was previously announced by Empire and Crombie REIT on February 25, 2008.

The selling price in respect of the 61 properties was \$428.5 million representing an effective capitalization rate of 8.12 percent before transaction costs. Empire received net cash proceeds on closing of approximately \$280 million. The difference between the \$428.5 million sale price and the net cash proceeds received on closing is related to funds used for the retirement of bank debt, the repayment of SPP long-term debt and for additional equity investment by Empire in Crombie of \$55.0 million represented by 5,000,000 Class B units of Crombie Limited Partnership, in addition to closing and transaction costs. The net cash proceeds were used by both Empire and Sobeys to repay bank indebtedness.

Empire realized an after-tax gain of \$144.3 million on closing of this transaction. Under Canadian Generally Accepted Accounting Principles, this gain was not be included in net earnings; rather the gain (net of related taxes) was recorded as a reduction in the carrying value of Empire's investment in Crombie REIT.

On September 12, 2007, Sobeys acquired all the assets of Thrifty Foods for an amount of \$253.6 million. The assets acquired include 20 full-service supermarkets, a main distribution center and a wholesale division on Vancouver Island and the lower mainland of British Columbia. The acquisition was accounted for using the purchase method with the results of Thrifty Foods being consolidated since the acquisition date. The measurement and allocation of finite and infinite intangible assets and goodwill was finalized during the fourth quarter of fiscal 2008.

On June 15, 2007, Empire completed the acquisition of all of the outstanding common shares of Sobeys that it did not own. At the time, Empire owned 72.1 percent of the outstanding common shares of Sobeys. The acquisition was effected by way of a court-approved plan of arrangement. The total costs of the transaction to Empire were approximately \$1,061 million. Effective June 18, 2007 the common shares of Sobeys were delisted from the Toronto Stock Exchange and effective May 2, 2008, Sobeys became a venture issuer.

On August 27, 2006, Sobeys acquired substantially all of the food distribution assets of Achille de la Chevrotière Ltée and its associated companies (“ADL”) for an amount of \$79.2 million. The assets acquired included 25 owned or franchised retail store operations and other wholesale supply agreements and distribution facilities in Rouyn-Noranda, Québec.

On March 31, 2006, Sobeys announced the sale of 11 Ontario Cash & Carry operations and the closing of its three remaining Cash & Carry operations in Ontario and Québec.

On March 23, 2006, Empire and certain of its subsidiaries sold 44 commercial properties in six provinces, totalling approximately 7.2 million square feet, to Crombie REIT (see “General Development of the Business – Real Estate Division – Fiscal 2006” for additional information)

## DESCRIPTION OF THE BUSINESS

The following is a brief description of each of Empire's operating divisions. Segmented financial information for fiscal 2008 and 2007 is contained in the "Notes to the Consolidated Financial Statements", which is incorporated herein by reference to pages 92 and 93 of the Empire 2008 Annual Report.

Wherever possible, Empire management maximizes synergies between operating companies. For the Company's real estate operations, this relationship provides top-quality anchor tenants and a stable source of revenue and cash flow. For the Company's food retailing, drug, and theatre operations, it provides added flexibility to respond to competitive conditions.

### Food Retailing Division

Sobeys carries on business in the retail food distribution industry across Canada, including the retail and wholesale distribution of pharmaceutical, health and beauty products. Sobeys' food and pharmacy distribution businesses operate through company-owned stores, franchised stores, affiliated stores and independent accounts.

At May 3, 2008, Sobeys had approximately 39,630 full and part-time employees.

The major businesses and/or regions of Sobeys, their respective geographic areas of operations and their respective operating subsidiary companies are:

| BUSINESS/REGION                                | GEOGRAPHIC AREA  | SUBSIDIARY                   |
|--|------------------|------------------------------|
| Sobeys Atlantic (corporate & franchise stores) | Atlantic Canada  | Sobeys Group Inc.            |
| Sobeys Québec (corporate & franchise stores)   | Québec           | Sobeys Québec Inc.           |
| Sobeys Ontario (corporate & franchise stores)  | Ontario          | Sobeys Capital Incorporated  |
| Sobeys West (corporate & franchise stores)     | Western Canada   | Sobeys Capital Incorporated  |
| Lawtons (corporate & franchise drug stores)    | Atlantic Canada  | Lawton's Drug Stores Limited |
| Thrifty Foods (corporate stores)               | British Columbia | Jace Holdings Ltd.           |

### Operations

Sobeys employs a variety of store formats in its corporate and franchised retail operations, ranging from full service supermarkets to convenience stores, thereby allowing Sobeys to better tailor its offering to the various customer segments it serves.

Sobeys' overarching goal is to satisfy more of its current shoppers' requirements for food and related merchandise while earning the loyalty of more and more customers, resulting in higher sales and profit per square foot. As part of Sobeys' strategy for growth, Sobeys goes to market through five customized store formats:

*Full Service Format Stores* are food stores that are ready to serve the total food shopping requirements of our customers with the broadest assortment and specialty items designed for each unique market we

serve – from sushi bars and kosher cuisine to health and wellness offerings. Full Service Format Stores are intended to provide superior customer care – from full service meat, deli and seafood counters to the value-added food knowledge and expertise provided by our 1,600 Aide-Gourmet personnel in Québec. Full Service Format Stores are branded Sobeys, IGA *extra* or Thrifty Foods, and are located in Atlantic Canada, Québec, Ontario, Western Canada and British Columbia.

*Fresh Service Format Stores* are food stores that are ready to serve the “fresh fill-in” and “today’s meal” needs of customers, and are intended to provide superior service and customized offerings. Fresh Service Format Stores are branded Sobeys, Sobeys Urban Fresh, IGA, and Sobeys *express*, and are located in Western Canada, Ontario and Québec.

*Community Service Format Stores* are food stores that are ready to serve the “routine and fill-in” food shopping occasions of our customers in rural and one-store communities. Community Service Format Stores are branded IGA and Foodland, and are located in Atlantic Canada, Québec, Ontario and Western Canada.

*Price Service Format Stores* are food stores that are ready to serve customers with low prices every day, in markets and for customers where price is the driving factor for store selection. Price Service Format Stores are branded Price Chopper and are located in Atlantic Canada, Ontario and one store in Western Canada.

*Convenience Service Format Stores* are food stores that are ready to serve the “on-the-go” convenience needs of our customers. Convenience Service Format Stores are branded Needs, Marché Bonichoix, and Les Marchés Tradition, and are located in Atlantic Canada and Québec.

The franchise operations of Sobeys provide operational support to its franchisees and affiliated independent retailers in such areas as advertising, promotion, merchandising, purchasing and store planning and design. The objective of this relationship is to provide the independent retailer with many benefits including a broad range of private label products and cooperative advertising and commercial programs. Sobeys operates franchised stores under the IGA, IGA *extra*, Sobeys, Price Chopper and Foodland banners.

A description of the geographic locations and banners of Sobeys retail stores, including the number of franchised stores versus corporate stores, is provided in the attached Appendix A.

In addition to distribution to corporate and franchised stores, Sobeys provides wholesale distribution of a full range of products to affiliated retail stores and independent accounts. Sobeys’ wholesale business is operated under the names Lumsden Brothers, a division of Sobeys Capital Incorporated, in Ontario and TRA Atlantic, a division of Sobeys Group Inc., in Atlantic Canada. Sobeys also operates “Cash & Carry” wholesale outlets in the West and Atlantic provinces where certain convenience store and restaurant operators shop for food and tobacco products. Sobeys continues to operate the food distribution assets acquired from ADL.

### *Products and Programs*

*Compliments*, Sobeys’ private label brand, was launched in fiscal 2005 to contribute to growth of Sobeys’ company-wide profitability and earn a greater share of customers’ food and grocery shopping requirements. The *Compliments* brand consists of three tiers: Value, Selection and Sensations. In addition, Sobeys has introduced three sub-brands, *Compliments Organics*, *Compliments balance-équilibre*, an organic and healthy line of products, respectively, and *Compliments Junior Disney*, a nutritious line of snacks and easy to prepare meals developed for children.

At the end of fiscal 2008, the *Compliments* brand consisted of approximately 4,800 products.

During fiscal 2005, Sobeys announced the formation of the *Compliments* Culinary Centre at Toronto's George Brown College and the Sobeys Culinary Centre at the Nova Scotia Community College. These Centres forge a relationship between these two Community Colleges and Sobeys to enable Sobeys to continue developing outstanding product offerings to meet the needs of its customers. The centres provide Sobeys with access to additional industry expertise, agility in product development, innovation, and quality and the ability to further develop customer value.

The AIR MILES<sup>®</sup> Reward Program is offered to customers by certain banners of Sobeys throughout Atlantic Canada and Québec. The program offers Sobeys' customers discounts, contests, and other loyalty rewards, while providing Sobeys with increased customer loyalty and insight on customer buying habits as part of an overall customer relationship management strategy.

## **Real Estate Division**

Empire's real estate division includes commercial and residential property operations. ECL is primarily focused on the development of food-anchored shopping plazas. The strategic focus is to position ECL as the developer of choice for Crombie REIT.

As at May 3, 2008, Empire, through wholly-owned ECL, has a 47.8 percent interest in Crombie REIT. Crombie REIT is the largest commercial landlord in Atlantic Canada. Crombie REIT owns, manages and maintains income-producing enclosed and strip shopping centres as well as freestanding food stores, office buildings and mixed-use properties located in Canada and has a growth strategy focused primarily on the acquisition of retail properties. As of June 12, 2008, Crombie REIT has a portfolio of 114 commercial properties in seven provinces, comprising approximately 11.3 million square feet of gross leaseable area. Crombie REIT is well-positioned in many of its markets, as much of its real estate is strategically situated and mature.

### *Commercial Operations*

ECL is focused on the expansion of its development pipeline through the identification of attractive commercial real estate locations to be successfully developed from an economic standpoint, for preferential sale to Crombie REIT or, in absence of their interest, to a third party. ECL has 1.9 million square feet of property either under development or offered for sale as at fiscal year-end, comprised of 14 properties located in Nova Scotia, New Brunswick, Quebec and Ontario.

At the end of fiscal 2008, commercial real estate operations had approximately 0.8 million square feet of GLA as compared to approximately 5.7 million square feet at the end of last fiscal year. The decrease is largely the result of the sale of 61 properties totalling 3.3 million square feet of GLA to Crombie REIT in the fourth quarter and the concurrent transfer of the remaining assets of SLP totalling approximately 1.1 million square feet of GLA to Sobeys. In addition, commercial real estate operations had planned developments equalling approximately 1.1 million square feet of GLA in various stages of development.

The wholly-owned real estate operations are focused on commercial property development. For new commercial property development, management is committed to adhering to a disciplined growth strategy. Specifically, investment decisions are expected to meet certain criteria, including:

- A satisfactory return on investment from every project;
- A beneficial competitive effect on Sobeys and Crombie REIT;
- Credit-worthy tenants with long-term leases that include contractual increases;
- Enhanced geographic diversification; and
- Competitive positioning in the local market through location or quality.

Pursuant to a Development Agreement with Crombie REIT, ECL provides Crombie REIT with a preferential right to acquire all property developments proposed to be undertaken by ECL. ECL also has a Non-Competition Agreement with Crombie REIT whereby it will not compete with Crombie REIT in the acquisition, ownership, investment in or development of any grocery-anchored shopping plazas in Canada. These agreements are for an initial 10-year term, subject to an extension reached by mutual agreement. Empire subsidiaries continue to work closely with Crombie REIT to identify development opportunities that further Crombie REIT's external growth strategy.

With the formation of Crombie REIT in fiscal 2006, the management and employees of ECL, other than those people engaged in the development of new properties and certain accounting functions for ECL, are employed by Crombie REIT. Crombie REIT, through its executive management and other employees, provides financial, operations and leasing services as well as general management, administration and support services to ECL. Pursuant to a Management Cost Sharing Agreement, Crombie REIT provides property management services for certain of the properties held by ECL. ECL provides an annual payment consisting of all direct and indirect costs incurred by Crombie REIT in providing services to ECL.

### *Residential Operations*

Genstar has land holdings held for residential development, primarily in Ontario and Western Canada. Genstar has an experienced management team that focuses on residential land development in selected markets. Empire continues to maintain its 35.7 percent ownership interest in Genstar and is represented on its Board by the CFO of Empire and the President of ECL Properties.

### **Investments and Other Operations**

At the end of fiscal 2008, the market value of portfolio investments, excluding its investment in Crombie REIT and Genstar U.S. investments, equalled \$155.0 million, consisting of a 27.6 percent equity interest in Wajax which had a market value of \$153.4 million as well as preferred equities and other investments valued at \$1.6 million. The unrealized gain on these investments totalled \$121.8 million at the end of fiscal 2008.

During the first quarter of fiscal 2008, the remaining investments in the liquid portfolio, with the exception of the investment in Wajax, were sold to assist in the financing the acquisition of the remaining common shares of Sobeys that Empire did not already own.

Other operations consist primarily of wholly-owned Empire Theatres, the second largest movie exhibitor in Canada which owns or has an interest in 387 screens in 53 locations as at May 3, 2008. Theatres' management is focused on identifying underserved and emerging markets in Canada which could be successfully developed on their own.

### **Growth**

For the three-year period ended May 3, 2008, each of Empire's operating companies continued to expand their asset base and reinvest in existing assets needed to support growth. During this period, consolidated cumulative property and equipment purchases for Empire totalled \$1.60 billion. The cumulative property and equipment purchases for Sobeys totalled \$1.35 billion, funded primarily through cash flow from operations and existing bank credit lines. Cumulative capital expenditures for the real estate division totalled \$131.2 million and for investments and other operations totalled \$124.3 million over this three-year period.

Empire's consolidated revenue in fiscal 2008 was \$14.06 billion, an increase of \$698.3 million or 5.2 percent compared to fiscal 2007. Substantially all of the Company's consolidated revenues were derived from arms-length customers.

## **Competition**

Sobeys maintains a strong national presence in the Canadian retail food and food distribution industry through regionally managed operations. The most significant operating risk to the food retailing division is the potential for reduced revenues and profit margins as a result of increased competition. To mitigate this risk, Sobeys' strategy is: to be geographically diversified with the benefits of national scale; to be customer and market-driven; to focus on superior execution; and to have cost-effective operations. Sobeys reduces its exposure to competitive or economic pressures in any one region of the country by operating in each region of Canada through a network of corporate, franchised and affiliated stores, and through servicing the needs of thousands of independent wholesale accounts. Sobeys approaches the market with five distinct store formats, and a variety store sizes, and banners to meet anticipated needs of its customers in order to enhance profitability by region and target market.

Empire's real estate operations, through ECL, competes with numerous other developers, managers, and owners of real estate properties in seeking tenants and new properties for future development. The existence of competing developers, managers, and owners could affect our real estate group's ability to: (i) acquire a prospective property in compliance with our investment criteria; (ii) lease space in its properties and (iii) maximize rents charged and minimize concessions granted. Commercial property revenue is also dependent on the renewal of lease arrangements by key tenants. These factors could adversely affect revenues and cash flows. Other than space leased to affiliated companies, no one tenant accounted for more than 5.0 percent of real estate division total base rental income in fiscal 2008.

Continued growth of rental income is dependant on renewing expiring leases and finding new tenants to fill vacancies at market rental rates, thereby ensuring an attractive return on investment. The success of the real estate portfolio is also subject to general economic conditions, the supply and demand for rental property in key markets served, and the availability of attractive financing to expand the real estate portfolio where deemed prudent. During fiscal 2008, real estate operations encountered generally positive economic conditions with relatively stable occupancy levels and healthy rental renewal rates. During fiscal 2008, capitalization rates remained relatively low which impacted the number of potential properties that generate an attractive return on investment.

Genstar faces competition from other residential land developers in securing attractive sites for new residential lot development. Although Genstar does hold land for future development, given the relatively low level of interest rates and continued strong demand for new home construction in many of Genstar's markets, it faces significant competition when looking to acquire new land for future development.

## **Other Information**

### ***Supply Chain & Product Availability***

Sobeys' retail store network is serviced through 22 retail support centres (distribution centres) located throughout the country. In addition, certain products are delivered directly to Sobeys' stores by various vendors through a direct delivery process.

Sobeys continues to invest in its distribution and logistics network as evidenced by an expansion of the Debert, Nova Scotia distribution centre which began in the second half of fiscal 2007 and was

completed in fiscal 2008. As part of the ADL acquisition in August 2006, two distribution centres were added to the distribution network (ADL Abitibi and Delicana).

In fiscal 2008, Sobeys constructed a new facility in Trois-Rivières, Québec to handle the distribution of all dairy and yogurt products for the province.

Sobeys continues to undertake specific initiatives designed to reduce distribution and logistics costs through improved productivity. On November 21, 2006, Sobeys announced plans to build a new distribution centre in Vaughan, Ontario. Utilizing automation technology, the new facility is expected to significantly increase Sobeys' warehouse and distribution capacity while reducing overall distribution costs and improving service to its store network and customers. During the third quarter of fiscal 2007, Sobeys recognized \$5.3 million of severance costs associated with this rationalization and additional severance costs of \$4.6 million will be recorded in the first quarter of fiscal 2009. This new distribution centre, when opened in fiscal 2010, is expected to provide annual distribution cost savings in excess of any additional rationalization or restructuring costs incurred leading up to its opening.

In the fourth quarter of fiscal 2007, the Company completed the closure of two small distribution facilities, one in Anjou and one in the Abitibi region of Quebec. Rationalization costs related to these facilities of \$5.6 million were incurred in the fourth quarter of fiscal 2007. During fiscal 2008, \$3.5 million of these costs were reversed as a result of changes in management's estimate of the expected costs. It is expected that the annualized savings associated with this closure will be approximately \$5.0 million.

Sobeys continues to focus on continuous improvement in its logistics function through system upgrades or improvements, voice technology and other logistics productivity software.

Sobeys has no material concerns with respect to product availability. Sobeys' inventories are maintained using a large number of national and regional suppliers.

### ***Intangible Properties***

Sobeys is not dependent upon any single trademark or trade name although some trademarks on corporate retail brands and store banner names are important to operations. Sobeys recognizes the importance of its corporate and brand trademarks and the need to protect and enhance their value. It is the practice of Sobeys to register or otherwise protect such intangible assets in all jurisdictions in which it operates.

ECL and its affiliates are not dependent on a single trademark or trade name for the continued success of their operations. The success of the commercial properties owned and managed by ECL and its affiliates is dependent on the quality of individual property management in ensuring that necessary property maintenance and common area services are delivered in a timely and quality manner.

Theatres operates under the Empire Theatres trademark, which has established itself as the second largest movie-exhibitor in Canada with a reputation for well-maintained, clean facilities with modern amenities. Management focuses its efforts on providing the movie-goer with a modern cinema experience in order to strengthen the Empire Theatres brand over time.

### ***Seasonality***

Sobeys' operations, specifically inventory levels, sales volume and product mix are impacted to some degree by certain holiday periods in the year.

ECL and Theatre operations are impacted to some degree by certain holiday periods in the year, however, business is not materially cyclical or seasonal.

## ***Employees***

Substantially all of the employees of Empire are employed by the operating subsidiaries, with the majority employed by Sobeys. At fiscal year-end 2008, Empire and its operating subsidiaries employed approximately 41,800 full-time and part-time employees. Of these employees, 28 are full-time and part-time employees of Empire's head office. Empire, its subsidiaries and franchise affiliates employed approximately 87,000 full-time and part-time employees, approximately 39,630 of whom are employees of Sobeys.

During fiscal 2008, the Atlantic Region has been involved in negotiations at the Sobeys distribution centre in Stellarton, Nova Scotia. Negotiations are proceeding to conciliation with the date yet to be determined. The Ontario Region negotiated a three-year, nine month extension to the existing agreement at the distribution centre in Whitby, Ontario. The new expiry is February 28th, 2012. At the end of fiscal 2008, the Western Region concluded a new two-year agreement at the distribution centre in Edmonton, Alberta.

During fiscal 2007, the Western Region negotiated a new three-year agreement for the distribution centre in Thompson, Manitoba. Negotiations resulted in new agreements in Yorkton, Saskatchewan, Moose Jaw, Saskatchewan and Prince Albert, Saskatchewan retail stores.

A 15-month strike at a franchise location in Regina was resolved in late November of 2006 with a market competitive agreement that will expire on December 31, 2009. A franchise location in Alberta concluded a new two-year agreement.

During fiscal 2007, the Ontario Region completed a new three-year collective agreement at Sobeys' Milton retail support centre. Three franchise collective agreements were completed in the 2007 fiscal year.

During fiscal 2007, the Québec region renewed the collective bargaining agreement with office employees in Montreal and completed agreements for both warehouse and office employees of the newly acquired ADL business. In the Québec region, 44 collective bargaining agreements were completed within the store network.

Sobeys has good relations with its employees and the unions representing those employees, and strives to conclude acceptable collective agreements without work stoppages.

At fiscal year-end May 3, 2008, ECL employed 32 full-time and part-time employees. ECL maintains good relations with its employees and has experienced no significant labour issues.

At fiscal year-end May 3, 2008, Theatres employed 2,081 full-time and part-time employees. Theatres maintains good relations with its employees and has experienced no significant labour issues.

## ***Bankruptcy***

Neither Empire nor any of its subsidiaries have had any bankruptcy, receivership or similar proceedings taken against them nor have they undertaken any voluntary bankruptcy, receivership or similar proceedings within the three most recently completed fiscal years, nor do they expect to undergo any such proceedings in the current fiscal year.

## ***Food Safety***

Sobeys is subject to potential liabilities connected with its business operations, including potential liabilities and expenses associated with product defects, food safety and product handling. Such

liabilities may arise in relation to the storage, distribution and display of products and, with respect to Sobeys' private label products, in relation to the production, packaging and design of products.

A large majority of Sobeys' sales are generated from food products and Sobeys could be vulnerable in the event of a significant outbreak of food-borne illness or increased public health concerns in connection with certain food products. Such an event could materially affect financial performance. Procedures are in place to manage food crises, should they occur. These procedures identify risks, provide clear communication to employees and consumers and ensure that potentially harmful products are removed from inventory immediately. Food safety related liability exposures are insured by the Company's insurance program. In addition, Sobeys has food safety procedures and programs, which address safe food handling and preparation standards. Sobeys employs best practices for storage and distribution of food products.

### ***Ethical Business Conduct***

Any failure of the Company to adhere to its policies, the law or ethical business practices could significantly affect its reputation and brands and could therefore negatively impact the Company's financial performance. The Company's framework for managing ethical business conduct includes the adoption of a Code of Business Conduct and Ethics which directors and employees of the Company are required to acknowledge and agree to on a regular basis and, as part of an independent audit and security function, maintenance of a whistle-blowing hotline.

### ***Real Estate***

Sobeys owns certain retail store locations as well as leases stores from related parties and third-party landlords. At May 3, 2008, of the 27.2 million square feet of retail store space under operation, 11.8 percent was owned, 12.7 percent was leased from related parties and the balance was leased from third-party landlords.

### ***Reorganization***

Reference is made to "General Development of the Business – Significant Acquisitions and Dispositions" for information regarding the sale by Empire and certain subsidiaries of Empire to Crombie of 61 real estate properties on April 22, 2008, and the sale by Empire and certain subsidiaries of Empire to Crombie of 44 real estate properties on March 23, 2006.

Reference is made to "General Development of the Business – Significant Acquisitions and Dispositions" for information regarding the reorganization of Sobeys, by way of a court-approved plan of arrangement, and subsequent delisting of the common shares of Sobeys from the Toronto Stock Exchange.

Neither Empire nor any of its subsidiaries have undergone any other material reorganization within the three most recently completed fiscal years.

### ***Risk and Risk Management***

A detailed discussion of operating and financial risks relating to the Company is included in the Management's Discussion and Analysis for the fiscal year ended May 3, 2008, which is incorporated by reference into this AIF.

## DIVIDENDS

The declaration and payment of dividends is at the discretion of the Board.

Empire is not aware of any restrictions that could prevent it from paying dividends.

Empire has no stated policy with respect to payment of dividends on either its Class B common shares or on its Non-Voting Class A shares. Empire has paid dividends on its outstanding shares during the periods indicated as set out below:

|                           | Annual Dividend Rate |                |                |
|---------------------------|----------------------|----------------|----------------|
|                           | Fiscal<br>2008       | Fiscal<br>2007 | Fiscal<br>2006 |
| Series 2 Preferred shares | \$1.13               | \$1.11         | \$0.87         |
| Non-Voting Class A shares | \$0.66               | \$0.60         | \$0.56         |
| Class B common shares     | \$0.66               | \$0.60         | \$0.56         |

## CAPITAL STRUCTURE

### Share Capital

Empire's capital structure as at May 3, 2008 was as follows:

|  | Number of<br>Shares<br>Authorized | Number of<br>Shares Issued<br>& Outstanding | \$<br>Millions |
|--|-----------------------------------|---|----------------|
| Preferred shares, par value of \$25 each, issuable in series       |                                   |   |                |
| Series 2 cumulative, redeemable, rate of 75% of prime.             | 2,772,300                         | 258,200                                     | \$6.5          |
| 2002 Preferred shares, par value of \$25 each, issuable in series. | 992,000,000                       | -   | -              |
| Non-Voting Class A shares, without par value.                      | 259,107,435                       | 31,484,498                                  | 185.1          |
| Class B common shares, without par value, voting.                  | 40,800,000                        | 34,260,763                                  | 7.6            |
|  |                                   |   | 199.2          |
| Employee Share Purchase Plan                                       |                                   |   | (3.5)          |
|  |                                   |   | \$195.7        |

### ***Non-Voting Class A Shares and Class B Common Shares***

The rights of the Non-Voting Class A shares and Class B common shares are subject to the rights of the holders of the Preferred shares of the Company which enjoy a preferential right to dividends and return of capital on liquidation. The Preferred shares of the Company are non-voting except that they are entitled to certain voting rights and rights to appointment of directors when certain dividends are in-arrears. The following is a summary of the privileges and rights attaching to the Non-Voting Class A shares and Class B common shares of the Company:

1. The Non-Voting Class A shares and the Class B common shares rank equally, *pari passu*, share for share, with each other and entitle the respective holders thereof to the same rights and benefits except as otherwise provided in the conditions attaching thereto.
2. The directors may at any time and from time-to-time declare a dividend or confer any other benefit whatsoever upon the holders of the Non-Voting Class A shares without being obliged to declare an equal or any dividend or confer an equal or any other benefit upon the holder of the

Class B Common shares provided that no dividend may be declared in respect of or any other benefit conferred upon the holders of the Class B common shares unless concurrently therewith the same dividend is declared in respect of and the same benefit is conferred upon the holders of the Non-Voting Class A shares.

3. The holders of the Non-Voting Class A shares may receive notice of and may attend any meeting of the Class B common shareholders of the Company but are not entitled to vote at the meeting.
4. The Class B common shares carry the right to one vote per share at all meetings of the Class B common shareholders of the Company.
5. Under certain circumstances, the Class B common shares may at any time be converted into Non-Voting Class A shares on a one for one basis. The circumstances, among other things, require the approval of the Board of Directors and require that Class B common shares which are to be converted be offered first to all the other holders of Class B common shares.
6. No subdivision or consolidation of the Class B common shares shall be made unless the same subdivision or consolidation of the Non-Voting Class A shares is made concurrently. No subdivision or consolidation of the Non-Voting Class A shares shall be made unless the same subdivision or consolidation of the Class B common shares is made concurrently.

If a formal take-over bid (other than a "Family Share Transaction" described below) is made for Class B common shares, then the conditions attaching to the Class B common shares and Non-Voting Class A shares generally provide that Canadian holders of Class B common shares shall also be entitled to receive an offer to purchase their Class B common shares and Canadian holders of Non-Voting Class A shares shall also be entitled to receive an offer to purchase their Non-Voting Class A shares on terms and conditions at least as favourable, including the price offered. If an offeror acquires Class B common shares pursuant to a formal take-over bid and does not make the same offer for Non-Voting Class A shares within 60 days, then the Class B common shares acquired pursuant to the offer as well as some other Class B common shares held by the offeror and any others acting jointly or in concert with the offeror, shall convert to Non-Voting Class A shares.

A "Family Share Transaction" means any transfer of any kind of an interest in Class B common shares to one or more of the descendants of J.W. Sobey, now deceased and formerly a businessman of Stellarton, Nova Scotia. For this purpose, descendants include spouses, companies controlled by any such descendants or their affiliates and trusts for bona fide estate planning purposes primarily for the benefit any such descendants.

### ***Preferred Shares***

The Preferred shares, par value of \$25 each, are issuable in series, with each series consisting of such number of shares and having such provisions as may be determined by the directors of the Company prior to issue. The Preferred shares rank in preference over Non-Voting Class A shares, Class B common shares and 2002 Preferred shares in respect to the payment of dividends and in the distribution of assets in the event of liquidation, dissolution or winding-up of the Company. The Preferred shares of each series rank equally with the Preferred shares of every other series in respect to the payment of dividends and in the distribution of assets. The Company may not create or issue any shares ranking in priority or on par with the Preferred shares as to the payment of dividends or the distribution of assets without the approval of two thirds of the Preferred shareholders.

The holders of the Series 2 Preferred shares are entitled to receive a cumulative preferential cash dividend, as and when declared by the Directors, on the last day of January, April, July and October in each year in an amount per share determined as one-quarter of 75 percent of the average prime rate in

effect on each day during the three calendar months ending immediately prior to the last day of the calendar month preceding the month in which the dividend payment is to be made multiplied by \$25.00.

The Series 2 Preferred shares may be redeemed at the option of the Company at a price per share equal to \$26 per share prior to January 12, 1993 and thereafter at a price reducing by \$0.05 per share per annum to \$25 together with an amount equal to dividends accrued and unpaid to but not including the date fixed for redemption. In the event of liquidation, dissolution or winding-up, the Series 2 Preferred shareholders are entitled to receive \$25 per share plus an amount equal to any accrued and unpaid dividends, before any payment or distribution to the holders of the Non-Voting Class A shares, Class B common shares and 2002 Preferred shares.

The shareholders of Series 2 Preferred shares are not entitled to attend or to vote at any meeting of shareholders of the Company unless the Company has failed to pay eight consecutive quarterly dividends on the Series 2 Preferred shares. So long as any dividends on such shares remain in-arrears, the holders of the shares are entitled to attend all meetings of shareholders, vote separately as a class together with the holders of any other series of Preferred shares who have similar voting rights and to elect two directors of the Company. Each Series 2 Preferred Share entitles the holder to one vote.

### **2002 Preferred Shares**

The 2002 Preferred shares are issuable in series, with each series consisting of such number of shares and having such provisions as may be determined by the directors of the Company prior to issue. The 2002 Preferred shares rank in preference over Non-Voting Class A shares, Class B common shares and subordinate to the Preferred shares in respect to the payment of dividends and in the distribution of assets in the event of liquidation, dissolution or winding-up of the Company. The 2002 Preferred shares of each series rank equally with the 2002 Preferred shares of every other series in respect to the payment of dividends and in the distribution of assets. The Company may not create or issue any shares ranking in priority or on a parity to the 2002 Preferred shares as to the payment of dividends or the distribution of assets without the approval of two thirds of the Preferred shareholders.

### **Long-Term Debt**

The Company has the following long-term debt outstanding:

| (\$ in millions)                             | <b>As at May 3, 2008</b> | As at May 5, 2007 |
|--|--------------------------|-------------------|
| Long-term debt due within one year           | \$60.4                   | \$82.5            |
| Liabilities relating to assets held for sale | 6.4                      | 6.8               |
| Long-term debt                               | 1,414.6                  | 792.6             |
|  | <b>\$1,481.4</b>         | <b>\$881.9</b>    |

During the year, in relation to the privatization of Sobeys, the Company entered into new credit facilities (the "Credit Facilities") consisting of a \$950.0 million unsecured revolving term credit maturing June 8, 2010 (subject to annual one-year extensions at the request of the Company) and a \$50.0 million unsecured non-revolving credit that matured on June 30, 2007. The unsecured non-revolving credit facility was repaid on June 30, 2007 with funds drawn from the unsecured revolving credit facility. The Credit Facilities are subject to certain financial covenants. Interest on the debt varies based on the designation of the loan (bankers' acceptances ("BA") rate loans, Canadian prime rate loans, U.S. base rate loans or London InterBank Offered Rate ("LIBOR") loans), fluctuations in the underlying rates, and in the case of the BA rate loans or LIBOR loans, the margin applicable to the financial covenants. On June 18, 2007, the Company entered into two delayed fixed rate interest swaps. The first swap, in an

amount of \$200.0 million, is for a period of three years at a fixed interest rate of 4.998 percent. The second swap, in an amount of \$200.0 million, is for a period of five years at a fixed interest rate of 5.051 percent. Both swaps became effective on July 23, 2007.

On June 27, 2007, pursuant to the terms of the Credit Facilities, the Company and Sobeys filed notice with the lenders requesting the establishment of a new \$300.0 million five-year credit in favour of Sobeys at the same interest rate and substantially on the same terms and conditions as the Credit Facilities. On July 23, 2007, Sobeys drew down \$300.0 million from its new credit facility, the proceeds of which were used to pay a dividend to the Company. The Company used the proceeds from the dividend to reduce its indebtedness under the Credit Facilities and the Credit Facilities were reduced to \$650.0 million accordingly. On that date, the Company also transferred the second swap to Sobeys.

On July 30, 2007, Sobeys exercised an option under its new Credit Facility to increase the size of the credit from \$300.0 million to \$600.0 million. At the same time, Sobeys terminated its previously existing \$300.0 million operating Credit Facility which would have expired on December 20, 2010. At May 3, 2008, \$275.0 million of this new Credit Facility was drawn down; \$250.0 million has been classified as long-term debt and \$25.0 million has been classified as bank indebtedness. Sobeys has also issued \$41.7 million in letters of credit against the facility at May 3, 2008.

On November 8, 2007, Sobeys established and drew down on a new unsecured revolving credit facility of \$75.0 million. The maturity date is November 8, 2010. The interest rate is floating and may be tied to the bankers' acceptance rate, Canadian prime rate or LIBOR.

Sobeys' debentures and MTNs, and ECL's long-term debt tranches are not listed or quoted in a market place.

**Credit Ratings (Canadian Standards)**

Sobeys' credit ratings for its securities at fiscal year-end were as follows:

|                         | <b>Dominion Bond Rating Service</b> | <b>Standard &amp; Poor's</b> |
|-------------------------|-------------------------------------|------------------------------|
| MTNs                    | BBB low (negative trend)            | BB+ (negative trend)         |
| Sinking Fund Debentures | BBB low (negative trend)            | BB+ (negative trend)         |

The credit ratings accorded to the debt by the rating agencies are not a recommendation to purchase, hold or sell the debt, in as much as such ratings do not comment as to market price or suitability for a particular investor. Credit ratings are intended to provide investors with an independent measure of the credit quality of an issue of securities. The Company provides the rating agencies with confidential, in-depth information in support of the rating process.

DBRS' credit ratings for long-term debt instruments range from AAA to D. DBRS' BBB rating exhibits adequate credit quality. Protection of interest and principal is considered acceptable, but the entity is fairly susceptible to adverse changes in financial and economic conditions, or there may be other adverse conditions present which reduce the strength of the entity and its related securities. Ratings designations may be modified by the addition of a high or low to indicate relative standing within the BBB category. A low designation indicates the debt's relative standing within the BBB category. Each DBRS rating category is appended with one of three rating trends – "Positive", "Stable" or "Negative". The rating trend helps to give the investor an understanding of DBRS' opinion regarding the outlook for the rating in question. However, the investor must not assume that a positive or negative trend necessarily indicates that a rating change is imminent.

S&P's credit ratings for long-term debt instruments range from AAA to D. S&P's BB+ rating exhibits adequate protection parameters. However, adverse economic conditions or changing circumstances are more likely to lead to a weakened capacity of a company to meet its financial commitment on the obligation. Ratings designations may be modified by the addition of a plus or minus to indicate relative standing within the BB category. A plus designation indicates the debt's relative standing within the BB category. S&P's rating outlook assesses the potential direction that a rating may be headed over the immediate to longer-term, with outlooks falling into one of five categories: positive, negative, stable, developing or not meaningful. A negative outlook means that a rating may be lowered in the immediate to long term.

The credit ratings on the Notes and Debentures may not reflect the potential impact of all risks related to structure and other factors on the value of the Notes and Debentures. In addition, real or anticipated changes in the Company's credit ratings will generally affect the market value of the debt. The foregoing ratings may be revised or withdrawn at any time by the rating agency if in its judgment circumstances warrant.

## MARKET FOR SECURITIES

The Non-Voting Class A shares (symbol EMP.A) and the Series 2 Preferred shares (symbol EMP.PR.B) of Empire are both listed on the Toronto Stock Exchange.

The monthly closing high and low share price and the monthly average volume for the Non-Voting Class A shares for the fiscal year ended May 3, 2008 are as follows:

| Month        | High<br>(\$ per share) | Low<br>(\$ per share) | Average Daily Volume<br>by month (in shares) |
|--------------|------------------------|-----------------------|--|
| May 6-30/07  | 43.00                  | 42.00                 | 47,483                                       |
| June-07      | 43.50                  | 41.95                 | 46,574                                       |
| July-07      | 50.66                  | 43.62                 | 87,249                                       |
| August-07    | 49.73                  | 47.51                 | 62,576                                       |
| September-07 | 50.20                  | 48.40                 | 51,397                                       |
| October-07   | 55.10                  | 49.50                 | 61,929                                       |
| November-07  | 55.19                  | 43.19                 | 50,002                                       |
| December-07  | 45.29                  | 38.63                 | 57,971                                       |
| January-08   | 43.12                  | 39.50                 | 48,248                                       |
| February-08  | 39.50                  | 36.00                 | 61,533                                       |
| March-08     | 38.61                  | 36.20                 | 59,722                                       |
| April-08     | 38.41                  | 35.40                 | 59,645                                       |
| May 1-3/08   | 39.25                  | 38.32                 | 53,467                                       |

The monthly closing high and low share price and the monthly average volume for the Series 2 Preferred shares (EMP.PR.B) for the fiscal year ended May 3, 2008 are as follows:

| Month        | High<br>(\$ per share) | Low<br>(\$ per share) | Average Daily Volume<br>by month (in shares) |
|--------------|------------------------|-----------------------|--|
| May 6-30/07  | 24.95                  | 24.00                 | 44   |
| June-07      | 24.00                  | 24.00                 | 0  |
| July-07      | 24.10                  | 24.00                 | 38   |
| August-07    | 25.00                  | 24.00                 | 5  |
| September-07 | 25.00                  | 25.00                 | 0  |
| October-07   | 25.00                  | 25.00                 | 1,545  |
| November-07  | 25.00                  | 24.00                 | 73   |
| December-07  | 24.00                  | 24.00                 | 0  |
| January-08   | 25.75                  | 24.00                 | 14   |
| February-08  | 25.75                  | 25.50                 | 10   |
| March-08     | 25.50                  | 25.00                 | 245  |
| April-08     | 25.00                  | 25.00                 | 200  |
| May 1-3/08   | 25.00                  | 25.00                 | 0  |

## SELECTED CONSOLIDATED FINANCIAL INFORMATION

Consolidated, three-year financial information relating to the Company is included in Empire's 2008 Management's Discussion and Analysis for the fiscal year ended May 3, 2008, which is incorporated by reference into this AIF.

In addition, the following table provides summary financial information for Empire over the last three fiscal years.

|  | <b>Fiscal Year Ended</b> |                           |                           |
|--|--------------------------|---------------------------|---------------------------|
|  | <b>May 3, 2008</b>       | May 5, 2007               | May 6, 2006               |
| <i>(in millions, except per share information)</i> | <b>(52 weeks)</b>        | (52 weeks) <sup>(1)</sup> | (52 weeks) <sup>(1)</sup> |
| Revenue  | <b>\$14,065.0</b>        | \$13,366.7                | \$13,063.6                |
| Operating income                                   | <b>472.6</b>             | 431.1                     | 491.4                     |
| Operating earnings                                 | <b>242.8</b>             | 200.1                     | 202.0                     |
| Capital gains and other items, net of tax          | <b>73.0</b>              | 5.7                       | 94.8                      |
| <b>Net earnings</b>                                | <b>\$315.8</b>           | \$205.8                   | \$296.8                   |
| Long-term debt, excluding current portion          | <b>\$1,414.6</b>         | \$792.6                   | \$707.3                   |
| Shareholders' equity                               | <b>\$2,382.3</b>         | \$2,131.1                 | 1,965.2                   |
| Total assets                                       | <b>\$5,706.9</b>         | \$5,241.5                 | 5,051.5                   |
| <b>Per Share Information, fully diluted</b>        |                          |                           |                           |
| Operating earnings                                 | <b>\$3.69</b>            | \$3.04                    | \$3.07                    |
| Capital gains and other items, net of tax          | <b>1.11</b>              | 0.09                      | 1.44                      |
| <b>Net earnings</b>                                | <b>\$4.80</b>            | \$3.13                    | \$4.51                    |

<sup>(1)</sup> Restated.

## MANAGEMENT'S DISCUSSION AND ANALYSIS OF OPERATIONS

Reference is made to the Company's Management's Discussion and Analysis for the fiscal year ended May 3, 2008, which is incorporated into this AIF by reference to pages 27 to 68 of the Empire Company Limited 2008 Annual Report.

## DIRECTORS AND OFFICERS

The name, province of residence, and principal occupation of each of the directors and officers of Empire as at May 3, 2008 were as follows:

### Directors

| Name and Province of Residence                                     | Office                            | Principal Occupation   | Director Since |
|--|-----------------------------------|--|----------------|
| JOHN L. BRAGG <sup>(3)(6)(8)</sup><br>Nova Scotia, Canada          | Director                          | Chairman, President and Co-CEO, Oxford Frozen Foods Limited (food processing) and Chairman of Bragg Communications (which operates under the brand name of Eastlink) | 1999           |
| MARCEL CÔTÉ <sup>(3)(5)(7)</sup><br>Quebec, Canada                 | Director                          | Senior Partner, Secor Inc. (Consulting firm)   | 2007           |
| CHRISTINE CROSS <sup>(3)(9)</sup><br>Hertfordshire, United Kingdom | Director                          | President, Christine Cross Ltd. (Consulting firm)  | 2007           |
| ROBERT P. DEXTER<br>Nova Scotia, Canada                            | Chair                             | Chair and CEO, Maritime Travel Inc. (Travel agency)  | 1987           |
| DAVID S. FERGUSON <sup>(3)(9)</sup><br>Georgia, United States      | Director                          | Principal, D.S. Ferguson Enterprises, LLC. (Consulting firm)   | 2007           |
| ED HARSANT <sup>(1)(5)(7)</sup><br>Ontario, Canada                 | Director                          | President of Stonehedge Partners   | 2003           |
| DAVID A. LESLIE <sup>(1)(9)</sup><br>Ontario, Canada               | Director                          | Corporate Director   | 2007           |
| BILL M <sup>c</sup> EWAN<br>Nova Scotia, Canada                    | Director                          | President & CEO, Sobeys Inc.   | 2007           |
| MALEN NG <sup>(2)(9)</sup><br>Ontario, Canada                      | Director                          | Chief Financial Officer, Workplace Safety and Insurance Board of Ontario   | 2007           |
| MEL RHINELANDER <sup>(4)(5)(7)</sup><br>Ontario, Canada            | Director                          | Vice Chairman, Extendicare REIT and Assisted Living Concepts, Inc. (Long-term care facility)   | 2007           |
| STEPHEN J. SAVIDANT <sup>(1)(5)</sup><br>Alberta, Canada           | Director                          | Chairman of ProspEx Resources Ltd.   | 2004           |
| DAVID F. SOBEY<br>Nova Scotia, Canada                              | Director                          | Chair Emeritus, Sobeys Inc.  | 1963           |
| DONALD R. SOBEY<br>Nova Scotia, Canada                             | Director                          | Chair Emeritus, Empire Company Limited   | 1963           |
| FRANK C. SOBEY <sup>(10)</sup><br>Nova Scotia, Canada              | Director                          | Chairman, Crombie REIT (Real estate development)   | 2007           |
| JOHN R. SOBEY <sup>(1)</sup><br>Nova Scotia, Canada                | Director                          | Corporate Director   | 1979           |
| KARL R. SOBEY <sup>(5)</sup><br>Nova Scotia, Canada                | Director                          | Corporate Director   | 2001           |
| PAUL D. SOBEY<br>Nova Scotia, Canada                               | Director,<br>President<br>and CEO | President & CEO, Empire Company Limited  | 1993           |
| ROB G. C. SOBEY <sup>(9)</sup><br>Nova Scotia, Canada              | Director                          | President & CEO, Lawton's Drug Stores Limited  | 1998           |

- (1) *Audit Committee Member*
- (2) *Audit Committee Chair*
- (3) *Human Resources Committee Member*
- (4) *Human Resources Committee Chair*
- (5) *Corporate Governance Committee Member*
- (6) *Corporate Governance Committee Chair*
- (7) *Nominating Committee Member*
- (8) *Nominating Committee Chair*
- (9) *Oversight Committee Member*
- (10) *Oversight Committee Chair*

The term of office for each person elected or appointed a director is until the next annual meeting of shareholders of Empire or until his or her successor is elected.

### **Executive Officers Who are Not Directors**

| <b>Name and Province of Residence</b>     | <b>Occupation</b>                             |
|---|---|
| PAUL V. BEESLEY<br>Nova Scotia, Canada    | Executive Vice President & CFO                |
| STEWART H. MAHONEY<br>Nova Scotia, Canada | Vice President, Treasury & Investor Relations |
| KARIN McCASKILL<br>Ontario, Canada        | Secretary                                     |
| FRANÇOIS VIMARD<br>Ontario, Canada        | CFO, Sobeys Inc.                              |
| CRAIG T. GILPIN<br>Ontario, Canada        | President Operations, Sobeys Ontario          |
| J. GARY KERR<br>Alberta, Canada           | President Operations, Sobeys West             |
| MARC POULIN<br>Québec, Canada             | President Operations, Sobeys Québec           |
| JASON POTTER<br>Nova Scotia, Canada       | President Operations, Sobeys Atlantic         |

During the past five years, each of the above-mentioned directors and officers has been engaged in the principal occupation or held the position with the company or firm indicated opposite their name other than:

- Paul V. Beesley, who prior to June 2006 was Senior Vice President, CFO and Secretary;
- Craig Gilpin, who prior to March 2004 was Senior Vice President, Finance of A&P Canada;
- Karin McCaskill, who prior to September 2007 was, and is still currently Senior Vice President, General Counsel and Secretary of Sobeys;
- Jason Potter, who prior to June 2006 was Senior Vice President Merchandising Sobeys West;

- Stephen J. Savidant, who prior to May 2006 was President and CEO of Esprit Energy Trust;
- Rob G.C. Sobey, who prior to February 2006 was Senior Vice President, Merchandising and Marketing of Sobeys Atlantic, prior to June 2003 was Vice President, Performance Development of Sobeys; and
- François Vimard, who prior to July 2007 was Executive Vice President, Supply Chain & Technology of Sobeys.

The number of Class B common shares of Empire beneficially owned, directly or indirectly, or over which control or direction is exercised by the directors and executive officers of Empire as a group is 22,742,346 or approximately 66.4 percent of those issued and outstanding.

### **Other Proceedings**

No director or executive officer is, as at the date of this AIF, or was within 10 years before the date of this AIF, a director, chief executive officer or chief financial officer of any company (including a personal holding company), that:

(a) was subject to an order (as defined in Form 51-102 F2 of National Instrument 51-102 – *Continuous Disclosure Obligations*) that was issued while the director or executive officer was acting in the capacity as director, chief executive officer or chief financial officer; or

(b) was subject to an order (as defined in Form 51-102 F2 of National Instrument 51-102 – *Continuous Disclosure Obligations*) that was issued after the director or executive officer ceased to be a director, chief executive officer or chief financial officer and which resulted from an event that occurred while that person was acting in the capacity as director, chief executive officer or chief financial officer.

No director, executive officer, shareholder holding a sufficient number of securities of Empire to affect materially the control of Empire, or a personal holding company thereof,

(a) is, as at the date of this AIF, or was within 10 years before the date of this AIF, a director or executive officer of any company (including a personal holding company) that, while that person was acting in that capacity, or within a year of that person ceasing to act in that capacity, became bankrupt, made a proposal under any legislation relating to bankruptcy or insolvency or was subject to or instituted any proceedings, arrangement or compromise with creditors or had a receiver, receiver manager or trustee appointed to hold its assets;

(b) has, within 10 years before the date of this AIF, become bankrupt, made a proposal under any legislation relating to bankruptcy or insolvency or been subject to or instituted any proceedings, arrangement or compromise with creditors, or had a receiver, receiver manager or trustee appointed to hold the assets of the trustee, executive officer or shareholder; or

(c) has been subject to:

(i) any penalties or sanctions imposed by a court relating to securities legislation or by a securities regulatory authority or has entered into a settlement agreement with a securities regulatory authority; or

(ii) any other penalties or sanctions imposed by a court or regulatory body that would be likely to be considered important to a reasonable investor making an investment decision.

## **Conflict of Interest**

No director or officer of the Company has any existing or potential material conflicts of interest with the Company or any of its subsidiaries.

## **TRANSFER AGENT AND REGISTRAR**

The transfer agent and registrar is CIBC Mellon Trust Company with offices located in Halifax, Nova Scotia and Toronto, Ontario, and can be contacted by phone at 1-800-387-0825 or by e-mail at [enquiries@cibcmellon.com](mailto:enquiries@cibcmellon.com).

## **AUDIT COMMITTEE INFORMATION**

### **Audit Committee Mandate**

The Audit Committee Mandate as approved by the Company's Board is included in Appendix B.

The Audit Committee Mandate contains specific policies and procedures for the engagement of non-audit services.

### **Audit Committee Composition**

The members of the Audit Committee, at the fiscal year ended May 3, 2008, and their relevant education and experience are:

1. Malen Ng (Audit Committee Chair).
  - Masters of Business Administration.
  - Currently CFO, Workplace Safety and Insurance Board of Ontario.
  - Formerly President and CEO, Hydro One Networks Inc. Prior to that she was Executive Vice President of Wires Operations and Executive Vice President & Chief Financial Officer of Hydro One Inc., and prior to that was Vice President of Corporate Finance with Ontario Hydro.
  - Currently a director of Sobeys Inc., Assisted Living Concepts Inc. and Jacques Whitford.
2. Edward C. Harsant
  - President, Stonehedge Partners.
  - Formerly President, North American stores for Staples, Inc. Prior to that he was President, The Business Depot Ltd.
  - Currently Chair of the Lawtons Advisory Board; a director of Sobeys Inc., a member of the Advisory Board of Bargain Shops Holdings Inc; a member of the Advisory Board of South Shore Industries Ltd.
  - Former Chair Retail Council of Canada and former director of the Canadian Special Olympics.
3. David Leslie
  - Fellow of the Institute of Chartered Accountants of Ontario.
  - Formerly Chairman and CEO of Ernst & Young LLP.
  - Currently director of Sobeys Inc., Enbridge Inc., Enbridge Gas Distribution Inc., Imbris Inc., CanWest Global Communications Inc., a trustee of Crombie REIT and Chair of Sunnybrook Health Sciences Centre.

4. Stephen Savidant

- Masters of Business Administration; Bachelor of Mechanical Engineering.
- Previously President and CEO and member of the Board of Trustees of Esprit Energy Trust. Prior to that he was President and CEO and member of the Board of Directors of Canadian Hunter Exploration Ltd.
- Currently Chairman and a director of ProspEx Resources Ltd; a director of Sobeys Inc. and Toromont Industries Limited.

5. John R. Sobey

- Past President and Chief Operating Officer of Sobeys Inc.
- 34 years of retail grocery experience at Sobeys – began his career in the retail stores and progressed in various management roles in merchandising, category management and retail store operations.
- Director of Sobeys Inc. and Medavie Inc.

All members of the Audit Committee are considered to be financially literate and independent.

***Pre-Approval Policies and Procedures***

Reference is made to Appendix B – Section six for a description of the specific policies and procedures for the engagement of non-audit resources.

***External Auditor Service Fees (by Category)***

External auditor service fees by category are disclosed in the Management Information Circular dated July 25, 2008, for the Company's 2008 Annual General Meeting of Shareholders.

**MATERIAL CONTRACTS**

The Company has not entered into any contracts, other than in the ordinary course of business, that is material to the Company and that was either entered into since January 1, 2002, and is still in effect or was entered into within the most recently completed fiscal year.

**LEGAL PROCEEDINGS AND REGULATORY ACTIONS**

The Company is not, and was not during fiscal 2008, a party or subject to any legal proceedings or group of similar proceedings, nor are any such proceedings known to the Company to be contemplated, where the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the Company.

There were no penalties or sanctions imposed against the Company by, and no settlement agreements entered into by the Company with, a court relating to securities legislation or a securities regulatory authority during fiscal 2008.

**INTEREST OF EXPERTS**

The Company's auditor is Grant Thornton LLP, 610 East River Road, New Glasgow, NS. The Company's consolidated financial statements as at the year ended May 3, 2008 have been filed under National Instrument 51-102 in reliance on the report of Grant Thornton LLP, independent chartered accountants, given on their authority as experts in auditing and accounting. As of July 25, 2008, the

partners and employees of Grant Thornton LLP collectively owned beneficially, directly or indirectly, less than one percent of any class of the Company's outstanding securities.

### **ADDITIONAL INFORMATION**

Empire shall provide any person or company, upon request to the Secretary of the Company:

- a) when the securities of Empire are in the course of a distribution pursuant to a short-form prospectus or a preliminary short-form prospectus or a short-form prospectus has been filed in respect of a proposed distribution of its securities,
  - (i) one copy of Empire's latest AIF, together with one copy of any document, or the pertinent pages of any document, incorporated therein by reference;
  - (ii) one copy of the comparative financial statements of Empire for its most recently completed financial year together with the auditors' report thereon and one copy of any interim financial statements issued by Empire subsequent to such annual audited financial statements;
  - (iii) one copy of the Information Circular of Empire in respect of its most recent annual general meeting of shareholders which involved the election of directors; and
  - (iv) one copy of any other documents that are incorporated by reference into the preliminary short form prospectus or the short form prospectus and are not required to be provided under (i) to (iii) above; or
- b) at any other time, one copy of any other documents referred to in (a) (i), (ii) and (iii) above, provided that Empire may require the payment of a reasonable charge if the request is made by a person or company who is not a security holder of Empire.

Additional information with respect to directors' and officers' remuneration and indebtedness, principal holders of Empire's securities, options to purchase securities and interests of insiders in material transactions, where applicable, is contained in Empire's Management Information Circular dated July 25, 2008, and issued in connection with its annual general meeting of shareholders to be held on September 11, 2008. Additional financial information is provided in the Company's comparative financial statements for its last fiscal year ended May 3, 2008. A copy of such documents may be obtained by request from Paul V. Beesley, Executive Vice President & Chief Financial Officer of Empire, via the Empire website at: [www.empireco.ca](http://www.empireco.ca), or on the System for Electronic Document Analysis and Retrieval (SEDAR) at [www.sedar.com](http://www.sedar.com).

## APPENDIX A

All information is as of May 3, 2008

### FULL, FRESH & COMMUNITY SERVICE SUPERMARKETS

| <b>Geographic Area</b>    | <b>Sobeys</b> | <b>IGA</b> | <b>IGA extra</b> | <b>Foodland</b> | <b>Bonichoix</b> | <b>Le Marchés<br/>Tradition<br/>/Thrifty Foods</b> | <b>Thrifty Foods (BC)</b> |
|---------------------------|---------------|------------|------------------|-----------------|------------------|--|---------------------------|
| Newfoundland and Labrador | 14            | -          | -                | 24              | -                | -  | -                         |
| Prince Edward Island      | 5             | -          | -                | -               | -                | -  | -                         |
| Nova Scotia               | 40            | -          | -                | 11              | -                | -  | -                         |
| New Brunswick             | 22            | -          | 1                | 5               | 3                | -  | -                         |
| Quebec                    | -             | 166        | 83               | -               | 92               | 31   | -                         |
| Ontario                   | 94            | 25         | -                | 153             | -                | -  | -                         |
| Manitoba                  | 16            | 11         | -                | -               | -                | -  | -                         |
| Saskatchewan              | 12            | 4          | -                | -               | -                | 2  | -                         |
| Alberta                   | 61            | 44         | -                | -               | -                | -  | -                         |
| British Columbia          | 3             | 3          | -                | -               | -                | -  | 20                        |
| Northwest Territories     | -             | -          | -                | -               | -                | -  | -                         |
| <b>TOTAL</b>              | <b>267</b>    | <b>253</b> | <b>84</b>        | <b>193</b>      | <b>95</b>        | <b>33</b>  | <b>20</b>                 |

### DRUG, DISCOUNT AND CONVENIENCE STORES

| <b>Geographic Area</b>    | <b>Cash &amp;<br/>Carry</b> | <b>Rachelle-<br/>Béry</b> | <b>Price<br/>Chopper</b> | <b>Needs</b> | <b>Lawtons</b> | <b>Sobeys<br/>express</b> | <b>Sobeys<br/>Fast<br/>Fuel</b> | <b>Sobeys Spirits,<br/>Wine &amp; Cold Beer</b> |
|---------------------------|-----------------------------|---------------------------|--------------------------|--------------|----------------|---------------------------|---------------------------------|---|
| Newfoundland and Labrador | 2                           | -                         | 9                        | 46           | 21             | -                         | 1                               | -   |
| Prince Edward Island      | 1                           | -                         | 2                        | 9            | 3              | -                         | -                               | -   |
| Nova Scotia               | 3                           | -                         | 8                        | 75           | 39             | -                         | 5                               | -   |
| New Brunswick             | 1                           | -                         | 6                        | 20           | 9              | -                         | 3                               | -   |
| Quebec                    | -                           | 17                        | -                        | -            | -              | -                         | -                               | -   |
| Ontario                   | -                           | -                         | 91                       | -            | -              | 2                         | -                               | -   |
| Manitoba                  | 3                           | -                         | 1                        | -            | -              | -                         | -                               | -   |
| Saskatchewan              | -                           | -                         | -                        | -            | -              | -                         | -                               | -   |
| Alberta                   | -                           | -                         | -                        | -            | -              | -                         | -                               | 26  |
| British Columbia          | -                           | -                         | -                        | -            | -              | -                         | -                               | -   |
| Northwest Territories     | -                           | -                         | -                        | -            | -              | -                         | -                               | -   |
| <b>TOTAL</b>              | <b>10</b>                   | <b>17</b>                 | <b>117</b>               | <b>150</b>   | <b>72</b>      | <b>2</b>                  | <b>9</b>                        | <b>26</b>                                       |

**APPENDIX A – continued**

**DISTRIBUTION CENTRES**

| <i>Geographic Area</i>    | <i>Distribution Centres</i> |
|---------------------------|-----------------------------|
| Newfoundland and Labrador | 3                           |
| Prince Edward Island      | -                           |
| Nova Scotia               | 4                           |
| New Brunswick             | 1                           |
| Quebec                    | 7                           |
| Ontario                   | 3                           |
| Manitoba                  | 1                           |
| Saskatchewan              | -                           |
| Alberta                   | 2                           |
| British Columbia          | 1                           |
| Northwest Territories     | -                           |
| <b>TOTAL</b>              | <b>22</b>                   |

**CORPORATE AND FRANCHISED STORES – BY GEOGRAPHIC AREA**

| <i>Geographic Area</i> | <i>Corporate Stores</i> |                       | <i>Franchised Stores</i> |                       |
|------------------------|-------------------------|-----------------------|--------------------------|-----------------------|
|                        | <i>Number</i>           | <i>Square Footage</i> | <i>Number</i>            | <i>Square Footage</i> |
| Atlantic               | 347                     | 4,632,902             | 41                       | 361,138               |
| Quebec                 | 34                      | 772,390               | 355                      | 7,698,596             |
| Ontario                | 152                     | 4,606,122             | 213                      | 4,139,301             |
| West                   | 83                      | 1,987,714             | 103                      | 2,444,402             |
| British Columbia       | 20                      | 564,599               | -                        | -                     |
| <b>TOTAL</b>           | <b>636</b>              | <b>12,563,727</b>     | <b>712</b>               | <b>14,643,437</b>     |

**CORPORATE AND FRANCHISED STORES – BY BANNER**

|              | <i>Sobeys</i> | <i>IGA</i> | <i>IGA extra</i> | <i>Foodland</i> | <i>Bonichoix</i> | <i>Le Marchés Tradition/ Thrifty Foods</i> | <i>Cash &amp; Carry</i> |
|--------------|---------------|------------|------------------|-----------------|------------------|--|-------------------------|
| Corporate    | 199           | 13         | 12               | 40              | -                | 2  | 10                      |
| Franchise    | 68            | 240        | 72               | 153             | 95               | 31   | -                       |
| <b>TOTAL</b> | <b>267</b>    | <b>253</b> | <b>84</b>        | <b>193</b>      | <b>95</b>        | <b>33</b>                                  | <b>10</b>               |

|              | <i>Price Chopper</i> | <i>Needs</i> | <i>Lawtons</i> | <i>Sobeys express</i> | <i>Sobeys Fast Fuel</i> | <i>Sobeys Spirits, Wine &amp; Cold Beer</i> | <i>Rachelle-Béry</i> | <i>Thrifty Foods (BC)</i> |
|--------------|----------------------|--------------|----------------|-----------------------|-------------------------|---|----------------------|---------------------------|
| Corporate    | 68                   | 150          | 68             | 2                     | 9                       | 26  | 17                   | 20                        |
| Franchise    | 49                   | -            | 4              | -                     | -                       | -   | -                    | -                         |
| <b>TOTAL</b> | <b>117</b>           | <b>150</b>   | <b>72</b>      | <b>2</b>              | <b>9</b>                | <b>26</b>                                   | <b>17</b>            | <b>20</b>                 |

**APPENDIX B**

**EMPIRE COMPANY LIMITED  
AUDIT COMMITTEE MANDATE**

# **EMPIRE COMPANY LIMITED**

## **AUDIT COMMITTEE MANDATE**

The Audit Committee (the “Committee”) is responsible to the Board of Directors (the “Board”) for the policies and practices relating to integrity of financial and regulatory reporting as well as internal controls to achieve the objectives of safeguarding of corporate assets, reliability of information and compliance with policies and laws. The Committee is also responsible for identifying principle risks of the business and ensuring appropriate risk management techniques are in place.

The Committee charges management with developing and implementing procedures to:

- Ensure internal controls are appropriately designed, implemented and monitored including reviewing and discussing any significant deficiencies in the design or operation of internal controls and any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal control over financial reporting
- Ensure financial reporting and disclosure of required information is complete, accurate and timely as required by applicable legislation and regulation.

### **COMPOSITION**

The Committee shall be composed of three or more independent Directors, appointed by the Board on the recommendation of the Corporate Governance Committee, in accordance with the independence standards established by the Board of Directors, and all applicable corporate and securities law.

All members of the Committee shall be financially literate as defined by applicable legislation. Financially literate shall mean the ability to read and understand a set of financial statements that present a breadth and level of complexity of accounting issues that are generally comparable to the breadth and complexity of the issues that can reasonably be expected to be raised by the Company's financial statements.

A member of the Board of Directors who is not financially literate may be appointed to the Committee provided that the member becomes financially literate within three months following his or her appointment, subject to the Company's Board of Directors determining that this appointment will not materially adversely affect the ability of the Committee to act independently and to satisfy the other requirements of this mandate.

If a Committee member ceases to be independent for reasons outside the member's reasonable control, the member shall tender their resignation to the Chair of the Corporate Governance Committee, within three months of the occurrence of the event which caused the member to not be independent.

The members of the Committee are appointed or reappointed annually by the Board, with such appointments to take effect immediately following the Annual General Meeting of Shareholders of the Company. Each member of the Committee shall continue to be a member thereof until their successor is appointed, unless they resign or are removed by the Board, or cease to be a Director of the Company. The Board, upon recommendation of the Corporate Governance Committee, may fill vacancies of members of the Committee for the remainder of the current term of appointment.

The Board shall appoint a Chair from among the members of the Committee to preside at its meetings. The Chair must be independent. If the Chair of the Committee loses their independent status, that person shall cease to be Chair immediately and be replaced as Chair by an existing member of the Committee with the Nominating Committee being asked to replace this member within three months. In

the absence of the Chair, one of the other members of the Committee present shall be chosen by the Committee to preside at the meeting.

### **AUTHORITY**

The Committee has the authority to:

- Conduct or authorize an investigation into any matters within its scope of its mandate or responsibility;
- At the Company's expense, as determined by the Committee, engage independent legal, accounting or financial advisors and such other advisors as it deems necessary to advise the Committee or assist in carrying out its duties or to assist in the conduct of an investigation;
- Communicate and meet without Management involvement, the internal auditors, external auditors or outside counsel as necessary; and
- Call a meeting of the Board to consider any matter of concern to the Committee. The Committee shall have direct access to all books, records, facilities and personnel of the Company including to the external and/or internal auditor as it determines this to be advisable. All employees are to cooperate as requested by Committee members.

### **MEETINGS**

The Audit Committee shall meet quarterly or more frequently as circumstances dictate.

Meetings of the Committee may be called by:

- The Chair;
- Any member of the Audit Committee;
- Management; or
- The external auditors.

The time and place of meetings of the Committee and the procedure at such meetings shall be determined from time to time by the members thereof provided that:

1. a quorum shall be a majority of the members, present in person or by telephone or other telecommunication device that permits all persons participating in the meeting to speak and hear each other;
2. notice of the time and place of every meeting shall be given in writing or facsimile communication to each member of the Committee at least 24 hours prior to the time fixed for such meeting, provided, however, that a member may in any manner waive a notice of a meeting. Attendance of a member at a meeting is a waiver of notice of that meeting, except where a member attends a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called.

The external auditors shall be invited to attend and be heard at every Audit Committee meeting, and have the opportunity to discuss matters with the Committee without the presence of Management at each meeting. The Committee will meet in camera with the external auditors at each meeting.

There shall be an in-camera session at each quarterly scheduled Committee meeting without management, with in-camera sessions at other Committee meetings as required by any member of the Committee. The Secretary of the Company shall act as Secretary of the Committee and minutes of the Committee shall be recorded and maintained by the Secretary.

All Committee members are expected to attend each meeting. The Chair of the Committee shall report the business of the meeting at the next regularly scheduled Board of Directors meeting.

## **RESPONSIBILITIES**

### **Administration:**

1. The Committee annually reviews its mandate and recommends any changes to the Corporate Governance Committee.
2. The Committee annually completes a self assessment survey and reviews the Committee's financial literacy and independence.

### **External Auditor:**

3. As required by the Board, the external auditor reports directly to the Committee.
4. The Committee must recommend to the Board of Directors:
  - a) the external auditor to be nominated for purposes of preparing or issuing an auditor's report or performing other audit, review or attest services for Empire; and
  - b) the compensation of the external auditor.
5. The Committee is directly responsible for overseeing the work of the external auditor engaged for the purpose of preparing or issuing the Auditor's Report or performing other audit, review or attest services for Empire, including the resolution of disagreements between management and the external auditor regarding financial reporting.
6. The Committee must pre-approve all non-audit services to be provided to Empire or its subsidiary entities by Empire's external auditor. The Committee has established a policy for certain pre-approvals and has delegated to the Chair of the Committee the authority to pre-approve the non-audit services, with such pre-approval presented to the Audit Committee at the next scheduled Committee meeting following such pre-approval.

Without limiting the foregoing, de minimis non-audit services may be performed by Empire's external auditor without prior approval of the Committee if:

- a) the aggregate amount of all these non-audit services that were not pre-approved is reasonably expected to constitute no more than \$50,000 of the total audit fees paid by Empire and its subsidiaries to Empire's external auditor during the fiscal year in which the services are provided;
- b) Empire or subsidiaries of Empire, as the case may be, did not recognize the services as non-audit services at the time of the engagement; and
- c) the services are promptly brought to the attention of the Audit Committee of Empire and approved, prior to the completion of the audit, by the Audit Committee or by the Chair of the Audit Committee, who has been granted authority to pre-approve non-audit engagements.

The Committee has instructed management that, to obtain pre-approval, management must detail the work to be performed by the external auditor and obtain the assurance from the external auditor that the proposed work does not impair their independence.

7. The Committee reviews with the external auditors and management all major accounting policies and practices adopted, any proposed changes in major accounting policies, the presentation and impact of significant risks and uncertainties and key estimates and judgements of management that may be material to financial reporting. The Committee shall also review any significant changes to GAAP or its application.

8. The Committee must review and approve Empire's hiring policies regarding partners, employees and former partners and employees of the present and former external auditor of Empire.
9. The Committee ensures through enquiry that the external auditor is in good standing with the Canadian Public Accountability Board (CPAB) and that the lead partner and other partners fulfill the rotation requirements. The Committee also reviews that the relationship with the external auditor and Empire Management is independent with consideration to the requirements set out by the Canadian Securities Administrators and the CICA.
10. The Committee receives from the external auditor an outline of the annual audit scope, plan, resources, reliance on management and progress reports against that plan.
11. The Committee reviews the Auditor Report with the external auditors:
  - a) significant findings during the year and management's response thereto;
  - b) any difficulties encountered in the course of their audits, including any restrictions to the scope of their work or access to required information; and
  - c) any changes required to the planned scope of their audit or quarterly reviews.

**Risk Management:**

12. The Committee annually reviews the adequacy and quality of the insurance coverage maintained by the Company.
13. The Committee reviews the principal risks of the business and ensures appropriate risk management techniques are in place. This will involve enquiry of management regarding how risks are managed as well as opinions from management regarding the degree of integrity of the risk mitigation strategies and accepted thresholds. The Committee shall review risk management policies as recommended by management.
14. The Committee reviews the Environmental Report, the Litigation Report and the Hedge Report, and reviews their appropriateness.
15. The Committee reviews the status of compliance with laws and regulations and the scope and status of systems designed to ensure compliance therewith, and receives reports from management, legal counsel and other third parties as determined by the Committee on such matters, as well as major legislative and regulatory developments which could impact the Company's contingent liabilities and risks.

**Financial Management and Reporting:**

16. The Committee reviews and recommends to the Board approval of Empire's interim and annual financial statements, MD&A and quarterly financial and material press releases prior to public disclosure of this information.
17. The Committee reviews the financially related disclosures contained in the Annual Report, Annual Information Form and Information Circular.
18. The Committee ensures that adequate disclosure procedures are in place for the review of Empire's public disclosure of financial information extracted or derived from Empire's financial statements, and must periodically assess the adequacy of those disclosure procedures.
19. The Committee reviews the disclosure controls and procedures and internal controls on financial reporting, including any significant deficiencies or material non-compliance with such controls and procedures.
20. The Committee reviews the Corporate Disclosure Policy and the Disclosure Committee Mandate and reviews the minutes of the quarterly Disclosure Committee meetings.

21. The Committee must establish procedures for:
- a) the receipt, retention and treatment of complaints received by Empire regarding accounting, internal accounting controls, or auditing matters; and
  - b) the confidential, anonymous submission by employees of Empire of concerns regarding questionable accounting or auditing matters.
22. The Committee reviews the status and adequacy of Company's efforts to ensure its businesses are conducted and its facilities are operated in an ethical, legally compliant and socially responsible way, and recommends to the Board, for approval, policy changes and program initiatives considered advisable.