

TRANSLATING PLAIN LANGUAGE
An inquiry into the nature and strategies
for successful plain language translation

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Abstract

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As plain language is increasing in popularity, the author looks at the intersection of plain language and translation in the context of transforming non-plain language text into plain language. Examples from *A Plain English Handbook* published by the United States Securities and Exchange Commission are examined with the assistance of key components of skopos and relevance theories.

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1 INTRODUCTION

In his essay “Politics and the English Language,” George Orwell wrote the following:

[Language] becomes ugly and inaccurate because our thoughts are foolish, but the slovenliness of our language makes it easier for us to have foolish thoughts. (Orwell, 1946).

After further criticizing the state of language and providing examples to prove his points, he suggests a few ground rules, three of which are:

- Never use a long word where a short one will do.
- If it is possible to cut a word out, always cut it out.
- Never use a foreign phrase, a scientific word, or a jargon word if you can think of an everyday English equivalent. (1946)

He concludes the essay with the clarification:

...I have not here been considering the literary use of language, but merely language as an instrument for expressing and not concealing or preventing thought. (1946)

The points Orwell so eloquently raises in his powerful essay demonstrate serious pitfalls that communicators could fall into and the simplicity with which they are easily avoided.

In the realm of pragmatic communication, expressing something plainly is reflective of more than skill with language. Plain language demonstrates a willingness on the communicator’s part to make sure the message being conveyed reaches the audience. Communicators who want to ensure the greatest chances of being understood by their audience employ plain language.

Use of plain language is also a way to ensure the relevance of what you communicate, as Orwell states:

If you simplify your English, you are freed from the worst follies of orthodoxy. You cannot speak any of the necessary dialects, and when you make a stupid remark its stupidity will be obvious, even to yourself. (1946)

Since Orwell's essay promoting it, plain language found a prominent place in advocacy and has even settled into bureaucracy. On the advocacy front, plain language became a rallying cry against unnecessary obfuscation through language used by institutions and government. This advocacy has resulted in bureaucracies adopting plain language programs for all their communications to their public.

One such program, implemented by the United States Securities and Exchange Commission, is the subject of this research. This program targets public companies and requires them to provide disclosure documents written in plain language. The purpose is to provide the general public with information they can understand and use. This information was typically written using legalese and technical jargon, and was often very difficult to understand, even to the professionals working in the field.

1.1 MOTIVATION FOR RESEARCH

One of the appealing aspects of translation studies as an academic discipline is how accommodating it is to new ideas. Over the past twenty years, the discipline has grown exponentially, expanding from its beginnings as a sub-discipline of linguistics to an autonomous field that is maturing into an

interdiscipline that welcomes approaches to examining translation that are well-beyond its linguistic origins. The discipline now readily adopts or adapts new research frameworks borrowed from many academic disciplines; and it is thanks to this accommodating nature that we can study the phenomenon of plain language through the lens of translation.

We propose that plain language has not been the subject of much extensive research in translation studies for a variety of reasons. One reason is the newness of the phenomenon itself. While plain language has nearly ancient ancestry, it is only in more recent times that plain language has been pulled into a more prominent position. In addition, the kinds of communications that employ plain language are of a pragmatic nature, and usually produced in areas that are often highly specialized, adding a potential inquiry into the necessity of specialized translators to carry out plain language translation. A final possibility as to why plain language has not been considered in translation studies is the rather messy question of where the plain language translation actually occurs. Is plain language translation something that occurs from source language A into plain language B? Or does it occur from source language A (technical writing, legalese, etc.) into source language A (plain language)? Or does this step happen in target language B (i.e. a translation of a text already written in plain language). The research possibilities are many and potentially rich.

This research is further motivated by the acceleration in use of plain language as a standard for communication. Government departments and agencies, businesses, and other organizations around the world are increasingly

adopting policies that promote or require plain language communication. What began as a grass-roots activist movement to help average citizens wade through complicated government forms has been legitimized again and again. Not only are we seeing governments and businesses adopting formal policies requiring plain language, but a small industry has arisen to provide them assistance for communicating in plain language (a Google search of “plain language consultants,” including quotation marks, returns over 7,000 hits)¹. If we can attribute a certain amount of momentum to plain language communication, then the next logical step in its forward motion is its intersection with a globalizing world where translation must enter the equation. The confluence of translation and plain language is already developing as countries with more than one official language such as Canada, or on a transnational scale, the European Union, officially adopt plain language policies.

Combining these motivating factors creates the two-fold purpose for this research. One purpose is to produce a comprehensive analysis of the historical context and development of plain language that can be used as groundwork for future research. The other purpose is to look at theoretical considerations for translation contextualized in a setting that is pragmatic in nature.

¹ Search performed on August 16, 2012.

1.2 PLAIN LANGUAGE RESEARCH IN TRANSLATION STUDIES

1.2.1 LITERATURE REVIEW

Our foundational readings for translating plain language are culled from throughout the discipline. It can be argued that one research area having a lot in common with plain language translation is technical translation. Jody Byrne's book, *Technical Translation: Usability Strategies for Translating Technical Documentation* (2006) provided many useful insights for this research. Like plain language documents, technical documents are user-driven communication with a clearly definable function or purpose. Both kinds of documents are created with a specific message to deliver to a specific target audience.

Since function and purpose are paramount in plain language communication, the distance between literature on technical translation and literature on functionalist approaches to translation is quickly travelled. In this area, Christiane Nord's *Translation as a Purposeful Activity: Functional Approaches Explained* (1997) was reviewed. This text provided valuable insight into determining an appropriate methodological approach to translating plain language. In addition, plain language communication, which will be described in more detail further down, is predicated not just on the audience being able to understand the information communicated, but more importantly, to use the information being communicated. Along the same lines, Nord's work entitled *Text Analysis in Translation: Theory, Methodology, and Didactic Application of a Model for Translation-Oriented Text Analysis* (1991) provides useful insight into analyzing plain language text in order to identify, categorize, and apply

appropriate weight to the various factors that must be considered in source text analysis during plain language translation.

The abundance of plain language writing guides is a testament to the increased presence this kind of communication now occupies in the world. Three major works on plain language writing were reviewed for this research. *The Plain English Guide* (1995) was written by Martin Cutts who was among the first campaigners for plain language writing in the U.K. government. The book provides a nearly exhaustive list of general guidelines that lead to plain language writing which are illustrated by a plethora of before-and-after examples. Where Martin Cutts' work had broad appeal and aim, a more recent work, *Plain Language in Government Writing* (2008) by Judith Gillespie Myers, narrows the focus to governmental communication. These two books provide the research with a general understanding of how plain language communication is achieved. The key plain language guideline that will be followed in this research, however, is *A Plain Language Handbook: How to create clear SEC disclosure documents* (1998). As previously mentioned, plain language communication appears in many different sectors. Attempting to address them all (however generally) would go far beyond the scope of this research. As such, the scope was narrowed to investigate plain language translation of documents that were typically written using both legalese and highly-specialized terminology.

1.2.2 PLAIN LANGUAGE RESEARCH WITHIN TRANSLATION STUDIES

Where does research on plain language translation fit within the overall translation studies discipline? At first glance, plain language appears to be a kind

of communication similar to technical language. Both types of communication share many key characteristics such as employing an unembellished writing style, targeting very specific, well-defined audiences and the general usefulness of the information to the recipient. However, plain language and technical language diverge on one significant point; plain language avoids the use of technical jargon while technical language is immersed in it. Technical language in translation has been the subject of research in translation studies (for example, see Byrne 2006, Wright and Wright 1993) yet plain language has received little attention. It is our hope that research on plain language translation might provide useful or innovate additional knowledge to the field of translation studies.

A significant amount of work in diverse domains within translation studies and theory, and an area which can likewise be addressed in plain language translation, revolves around the (often contentious) notion of “equivalence.” “Equivalence”, as plainly put forth in a general definition by the Canadian Oxford Dictionary 2nd Edition is

- 1** Equal in value, amount, importance, etc.
- 2** Corresponding or having the same relative position or function.
- 3** (of words) having the same meaning.
- 4** having the same result or effect.

Depending on the researcher’s focus or intended result, any one of these definitions can be elevated to a primary position and problematize the concept for translation. Early theorists such as Catford (1965), as well as others, handle equivalence in translation as something as essentially quantifiable as replacing a source text concept with the most suitable target text correspondent. Critics of

this approach express concern about the underlying assumptions in this definition. Snell-Hornby (1988/1995), for example, argues that Catford's approach "presupposes a degree of symmetry between languages" ((1988/1995, p. 16) neatly ignoring influences on the act of translation beyond solely linguistic issues. More recently, Pym (2010) proposes that equivalence-based theories in translation can actually be divided into two categories: natural and directional, where the latter acknowledges asymmetrical relations of equivalence.

Presupposing symmetry between languages in equivalence in the context of plain language translation could fare rather well. As will be explained later, plain language communication is drafted with a specific message in mind, and care is taken to ensure that only that specific message is conveyed. In other words, the focus is on content and communication that transpires within a specifically designated, "controlled" context (non-plain language into plain language) or within parameters of a transnational, global structure such as finance (subsequently into target language(s)). It may be argued that Snell-Hornby's concerns are largely removed from plain language translation as many of the cultural influences she discusses have limited effect on the translation, given the specificity of plain language communication.

Eugene Nida (1964) is also influential, having developed a concept of equivalence that has had important repercussions on its theorization in translation studies. Nida conceptualized equivalence through a linguistics approach to translation that centered on stricter adherence to the source text on one side, and a more explicit focus on reception needs on the other. Nida broadly

argued that when “natural” communication and expression were a lesser priority, then formal equivalence could be used and when a more “naturalized” communication of a message was highly prioritized in target reception, then dynamic (or “functional”) equivalence was called for. As we will see later, reception is heavily favoured in plain language communication, and aligns well with Nida’s conception of dynamic equivalence.

Because of the challenges involved in developing a generally applicable definition of equivalence, what has emerged in translation theory is a wide range of approaches and specific contexts associated with the concept. Throughout the history of translation theory, the parameters for determining equivalence have expanded to refer to a large cross-section of entire relationships between source and target texts. These relationships might be at the linguistic micro translation-unit level (however a translation unit is defined) or at a more comprehensive or macro level, as seen in Gideon Toury’s (1980, 1995) descriptive approach advocating that the norms by which a target text is produced in/for the target culture will determine equivalence.² In this light, instead of understanding equivalence as a statically conceptualized hallmark or indicator of successful translation, it might best be understood as an important variable, one capable of transformation according to diverse contexts at different points within a translation’s evolution as a process or a product in a particular kind of situation..

² Toury sees norms as “...the translation of general values or ideas shared by a community – as to what is right and wrong, adequate and inadequate – into performance instructions appropriate for and applicable to particular situations, specifying what is prescribed and forbidden as well as what is tolerated and permitted in a certain behavioural dimension...” (Toury’s website, consulted on August 5, 2012 <http://www.tau.ac.il/~toury/works/GT-Role-Norms.htm>).

A final conception of equivalence considered here is the one conceived within the context of skopos³ theory. Briefly, equivalence in skopos theory is achieved if the source text communicates the same function as the target text. Skopos determines how the target text will emerge in translation. Such an approach moves the discussion outside traditional text-specific notions (as in Catford and others), away from conclusive dependence on the source text, and accounts for Snell-Hornby's concerns (as non-linguistic factors are of great influence in determining the purposes of source and target texts). Equivalence-in-function would be an ideal goal for translating plain language. By this we mean that the plain language translation of a text functions in its target environment as the source text does in the source environment. More specifically, equivalence-in-function would mean that the highly-trained specialists who have created a non-plain language source text would use it the same way that non-specialists would use the plain language translation target text.

1.2.3 PLAIN LANGUAGE TRANSLATION DEFINED FOR THIS THESIS

For the purpose of this thesis, we will focus concretely on teasing apart the many elements that converge to define a specific area we will denominate as "plain language translation." As mentioned previously, the term "translation" has been conceptualized and used as a metaphor to connote many different types of transfer and transformation. Plain language is a special kind of language, with specific characteristics rooted in historical context. Recently, it is also a specific mandate in the commission of texts. As such, we believe it is possible to analyze

³ Skopos means "aim" or "purpose" in Greek. Hans Vermeer introduced the word and concept into translation theory in the 1970s.

and theorize its use by leaning on the conceptual tools and frameworks put forth in translation studies for discussions and analyses on interlingual (source language/SL to target language/TL) transfer. To that end, we will use similar terminology and concepts, ones which have been adopted and adapted subsequently for the intralingual transformation concept associated with plain language translation. The creation of a source text in plain language may or may not have a tangible, physical non-plain language version; it may be created directly in plain language. When it is necessary to distinguish between the two cases, we will use SL₁ to refer to the source language that is not yet written in plain language, and SL₂ to refer to the source language when it is written in plain language. The term “translation” will principally be used throughout the thesis to denote an intralingual linguistic transfer, i.e. SL₁ to SL₂, whether actual or implied. We will include reflections on interlingual translation, i.e. SL₁ or SL₂ to TL, mainly in our discussions on theoretical considerations. Functional equivalence will also be considered. The complexities associated with theorizing plain language in terms of translation and equivalence have real implications on interlingual textual production (SL to TL; French to English or vice versa) in more traditional terms. In this manner, we hope to contribute to the body of knowledge in translation studies by focusing our research on this understudied subject.

2 PLAIN LANGUAGE

2.1 WHAT IS PLAIN LANGUAGE?

Plain language is a communication style, a special language, that can be defined in many ways. Indeed, this research has found that each organization

that has adopted a plain language policy has generally also adapted a definition of plain language to its specific context. Accordingly, throughout the literature on plain language one finds many definitions that are quite similar, yet remain distinct either in how it is approached or its focus (i.e. the purpose for adopting this style). The definitions presented below provide a cross-section of the definitions found in the literature, definitions ranging from vaguely worded guidance to mandated specifics.

Beginning on the vague end of the spectrum, plain language is defined as “language that reflects the interests and needs of the reader and consumer rather than the legal, bureaucratic, or technological interests of the writer or the organization that the writer represents” (Steinberg, 1991, p. 7). The purpose of this definition is to elevate the audience (“reader and consumer”) to a primary position of importance in determining the language used in the communicative act. This represents the proverbial levelling of the playing field, where the power over the reader and consumer is nullified by empowering them through plain language. Another definition, from Martin Cutts of the Plain Language Commission in the UK, states that plain language is

the writing and setting out of essential information in a way that gives a cooperative, motivated person a good chance of understanding the document at the first reading, and in the same sense that the writer meant it to be understood (Unspeakable acts revisited, 1998, p. 3).

This definition introduces the concepts of design (“setting out of”) and reader response (“understanding the document...in the same sense the writer meant it to be understood”) as specific goals or purposes of plain language

communication. Also in the UK, the Plain English Campaign defines this style of writing as “writing that the intended audience can read, understand and act upon the first time they read it. Plain English takes into account design and layout as well as language” (Plain English Campaign: FAQ). Here again we see design appear as an important element, including specific focus on audience design (“intended audience”). This research adopts the more widely applicable “plain language” to term the concept, and shall use “plain language” instead of “plain English” in discussing this style of communication, unless required otherwise in a citation or quotation.

According to the Center for Plain Language, a U.S.-based non-profit organization, plain language is “reader-focused writing” where the “definition of plain depends on the audience” and is measured by the reader’s ability to “quickly and easily 1) find what they need; 2) understand what they find; and 3) act appropriately on that understanding” (Center for Plain Language: About Plain Language). Even President Clinton provided a definition of plain language:

Plain language documents have logical organization, easy-to-read design features, and use:

- common, everyday words, except for necessary technical terms:
- "you" and other pronouns:
- the active voice; and
- short sentences. (Clinton, 1998)

Finally, the definition employed by the U.S. Securities and Exchange Commission (“SEC”) in *A Plain English Handbook: How to create clear SEC disclosure documents* (“the SEC Handbook”) combines many elements of the previous definitions, including focus on the audience, word choice and

aesthetics. This definition, and the guidance provided by the SEC Handbook, will be the guiding plain language principles followed in this research. Before exploring the basis for this decision in any detail, which occurs later, it is important to provide some historical context.

2.2 A BRIEF HISTORICAL PERSPECTIVE

The history of plain language communication is fragmented. There have been several independent pockets of activity throughout the world, and these activities were often motivated by consumer protection groups and aimed squarely at governments. Because the specific plain language activity that prompted this research occurred in the recent past, a concise summary of the history of plain language is provided, followed by a more detailed examination of specific actions in the recent past to historically contextualize the research. The summary aims to provide a sense of the width and breadth of plain language activity both through time and across geography through the list of key achievements provided in the table below.

In both the table and the research reviewed an interesting trend was identified. We have already mentioned that plain language activities were historically undertaken by governments, often under pressure by constituents and advocacy groups. As we move forward in time, we see that plain language is still active in governmental organizations, but that it has also expanded into the private sector as corporations begin to implement policies based on plain language principles. While many of these corporations have adopted such policies on their own, this research will look at a new spin on the trend, namely a

specific instance where the government now requires corporations to employ plain language. The circumstances surrounding this turn of events will be discussed in more detail further below, but is mentioned here to provide a glimpse of the cultural and sociological currents underlying plain language development.

A thorough analysis of plain language progress in each country is beyond the scope of this research, yet we can safely state that there are many other plain language activities and initiatives that have been or are being undertaken around the world which, due to space limitations, we have not included (see *Plain Language for Lawyers* by Michèle Asprey, Ch. 4). The following table summarizes some significant plain language achievements globally.

Table 1 Plain Language Achievements Worldwide			
Year	Country	Activity	Comment
1550	England	Comment from King Edward VI	"I would wish that the superfluous and tedious statutes were made more plain and short, to the intent that men might better understand them." ¹
1713	Sweden	Plain Swedish Ordinance	King Charles XII issued an ordinance requiring the chancellery to write in plain Swedish and avoid using foreign words.
1946	United Kingdom	Essay by George Orwell	"Politics and the English Language"
1966	Germany	German Language Society	Non-political body responsible for editing German legislation to make it more understandable.
1971	United Kingdom	<i>Tuebrook Bugle</i>	Community newspaper launched to provide plain language versions of benefits forms.
1975	United States	Plain language consumer loan agreement	National City Bank creates plain language loan agreement.
1976	Sweden	Linguist appointed to Cabinet Office	Focus on improving legal language used in writing laws and ordinances.
1976	Australia	Plain language car insurance policy introduced	NRMA Insurance introduces a plain language car insurance policy, and produces other plain language policies over the next five years.
1977	United States	Citizens Bank Radios rules	FCC is first to right regulations in plain language.
1978	United States	Executive Orders issued	President Carter issues Executive Orders for regulations to be written in plain language.
1979	United Kingdom	Plain English Campaign (PEC) launched	Launched at a protest in London's Parliament Square.
1983	Australia	"Plain English and Simpler Forms" program launched	To produce models and guidelines for plainer writing.
1987	Australia	<i>Plain English and the Law</i>	Report prepared by the Victoria Law Reform Commission with recommendations and a drafting guide.
1989	Canada	<i>Plain Language: Clear and Simple</i> published	Writing manual created by 14 federal departments of the Canadian government.

Table 1 Plain Language Achievements Worldwide			
Year	Country	Activity	Comment
1990	United Kingdom	Crystal Mark Award created	PEC creates an award for achievement in plain language communication
1990	Australia	<i>Writing in Plain English</i> published	Dr. Robert Eagleson publishes a book to assist government employees.
1993	Sweden	Plain Swedish Group appointed	Group consisting of judges, linguists, political scientists and information managers with final say on government bills, ordinances, etc.
1993	Australia	Corporations Law Simplification Program	Goal of simplifying Australian laws.
1993	Australia	Tax Law Improvement Project	Goal of simplifying Australian laws.
1994	Italy	Civil Service Reform	Introduction of efforts to simplify bureaucratic language.
1994	New Zealand	Revising tax code	Five-year program to completely revise tax code resulting in a new tax act.
1994	Australia	Queensland Land Titles Act 1994	Australian legislation written in plain language.
1995	South Africa	Labour Relations Act	Plain language experts called in to assist in drafting.
1996	South Africa	Constitution	Plain language experts called in to assist in drafting.
1997	Canada	Plain Language Service (PLS)	Canadian Public Health Association establishes a plain language service.
1998	European Union	<i>Fight the FOG</i> campaign	Effort to improve European Commission communications.
1998	United States	Presidential Executive Memorandum	President Clinton issues a memorandum to require plain language in government writing.
1998	United States	Plain language amendment to Securities Act of 1933	Amendment requiring certain financial disclosure documents to be written in plain language.
1998	United States	SEC publishes <i>A Plain English Handbook</i>	Provides extensive guidance on how to use plain language in drafting disclosure documents.
2000	Canada	National Instrument 81-101	Canadian Securities Administrators issues requirements for plain language use in mutual fund

Table 1 Plain Language Achievements Worldwide			
Year	Country	Activity	Comment
			prospectuses.
2000	South Africa	Code of Banking Practice	Banks agree to revise contracts into plain language.
2001	France	COSLA created	Interministerial Committee to develop proposals to improve administrative language and oversee implementation of accepted proposals. Focused on revising forms and creating assistance tools (e.g., lexicons).
2001	South Africa	Parliamentary Plain Language Project	To develop plain language policy, guidelines, and training.
2002	Italy	<i>Chiaro!</i> announced	Program to simplify the way the government communicates with the people.
2007	France	COSLA revised	Changed from “comité” to “conseil,” widened scope of focus and added expected results.
Sources: Unless otherwise indicated by a footnote mark, the above information is summarized from <i>Plain Language for Lawyers</i> , 2003, by Michele Asprey, Ch. 4			
1 <i>The Plain English Guide</i> by Martin Cutts (1995), p. 4.			
2 Timeline prepared by Cheryl Stephens, http://cherylstephens.com/content/mediakit/history-of-plain-language.pdf			
3 “A History of Plain Language in the United States Government (2004)” by Joanne Locke, www.plainlanguage.gov , viewed on January 8, 2009.			

Historically, plain language was considered useful even in ancient times.

Cicero himself suggested that plain style is best for education, while more elegant forms of writing are better suited to entertainment or oratory.⁴ Plain language was also promoted in literary works. It appears in Chaucer’s *Canterbury Tales* (1387-1400), in “The Clerk’s Tale,” where the Host asks the Clerk to tell a story:

“Tell us some merry thing of adventures.
Your terms, your colours, and your speech-figures,
Keep them in store till so be you indite

⁴ Paraphrase of a quotation found on <http://www.plainlanguage.gov/resources/quotes/historical.cfm>, consulted on August 8, 2012.

High style, as when men unto kings do write.
**Speak you so plainly, for this time, I pray,
'That we can understand what things you say.'**"⁵

Shakespeare also advocates plain language in a dialogue between Queen Elizabeth and King Richard in Act 4 of *Richard the Third* (1591):

King Richard: Be eloquent in my behalf to her.

Queen Elizabeth: An honest tale speeds best being plainly told.

King Richard: Then plainly to her tell my loving tale.

(Shakespeare, <http://www.r3.org/bookcase/shaksper/act4.html>)

In the above examples we have seen plain language called upon either to educate or to tell a story. Since then, plain language has taken on a more radical purpose, which can be traced back at least to the period of the American Revolution (1775 -1783) when revolutionary writer and political philosopher Thomas Paine employed plain language to craft his rallying cries. He explains:

As it is my design to make those that can scarcely read understand, I shall therefore avoid every literary ornament and put it in language as plain as the alphabet.⁶

Between Thomas Paine's era and the current era, mass literacy skyrocketed, but language often remained a tool for obfuscation and a way to wield power. In recent history, movements to implement plain language requirements for government communications and regulations, in legal affairs, and in the business

⁵ *The Canterbury Tales*, "The Clerk's Tale," <http://classiclit.about.com/library/bl-etexts/gchaucer/bl-gchau-can-clerk.htm>, my emphasis

⁶ From "The Affair of Silas Deane," as published in the *Pennsylvania Packet* of December 31, 1778 and January 2, 5, 7, and 9, 1779.
<http://www.davemckay.co.uk/philosophy/paine/paine.php?name=vol02.27.the.affair.of.silas.deane>

world emerged to champion consumers and citizens who could not easily understand official information meant for them.

Interest in plain language, which we intend as a concept and term that is historically-based and implies more than simply being clear or communicating in a non-misleading way, spans decades and can be found in both government and private activities. The commonality in the wide-ranging scope of these activities is the effort to create communication that will be understood by those reading it. It is in this context that the research now turns its focus to the more recent plain language activities in the UK, Canada and the US that led up to the creation of the SEC Handbook.

2.3 RECENT PLAIN LANGUAGE ACTIVITY

2.3.1 IN THE UNITED KINGDOM

In 1946, George Orwell published an article entitled “Politics and the English Language” in which he decried the state of the English language. Orwell likened the decline of English to a vicious circle where the language “becomes ugly and inaccurate because our thoughts are foolish, but the slovenliness of our language makes it easier for us to have foolish thoughts” (p. 1). He provides examples of poor writing and possibly foreshadows the current plain language movement by stating “the great enemy of clear language is insincerity” (p. 6). Orwell clarifies, near the end of the essay, that he has “not here been considering the literary use of language, but merely language as an instrument for expressing and not for concealing or preventing thought” (p. 7).

The plain language movement in the UK began in earnest nearly thirty years later. In 1971, Chrissie Maher launched the *Tuebrook Bugle*, the United Kingdom’s first community newspaper. Outraged by the Liverpool City Council’s unwillingness to provide an easy-to-understand summary of the welfare benefits available to her struggling community, Chrissie wrote a front page article denouncing the city council and committing the newspaper to running a series explaining the benefits the community members were entitled to, promising “...we’ll do what the council have refused to do and simplify all the complicated jargon.” (Maher, 1). In the following years Chrissie became a member of the National Consumer Council (“NCC”) and created the “Salford Form Market” to help community members understand and complete complex government forms.

The government became interested in their efforts which led to Chrissie and her team developing “rewrites to prove that official information could be put into plain English” (Maher 3). In 1979, dissatisfied with how slowly the government was moving to adopt the simplified forms, Chrissie staged a protest in London’s Parliament Square. The protest, which involved shredding government forms, received national media attention, and marked the official launch of the Plain English Campaign (“PEC”).

In the ensuing years, Chrissie used various, usually humorous, stunts to elevate the issues of the campaign. She dressed as the “Gobbledygook Monster” to deliver a copy of the PEC’s magazine to then prime minister Margaret Thatcher, awarded people and organizations trophies for exemplary clear writing and awarded booby prizes (tripe!) for particularly unintelligible writing. These events garnered significant press and the shame or pride that accompanied an award resulted in increased efforts by government agencies and businesses. Over these years, as more and more individuals, companies, and government agencies were recognized for producing clear writing, the PEC became well respected as an advocate and for providing education and guidance on writing in plain language. In 1990 the PEC launched the Crystal Mark, the PEC’s seal of approval for clear writing, to encourage organizations to adopt the plain language style. According to the PEC website, “the Crystal Mark has now become firmly established in the UK as the standard that all organisations aim for when they

produce public information.”⁷ The PEC has given its seal of approval to hundreds of organizations in the private and public sector and many websites, in both the UK and abroad, including HM Revenue & Customs, Scottish Parliament, Merrill Lynch Investment Managers, Amnesty International, and AT&T, to name a few.

2.3.2 IN CANADA

Plain language activity in Canada began in the 1970s, and was focused mainly in the legal and financial sectors. In the late 1970s two financial services firms adopted plain language: the Bank of Nova Scotia rewrote its loan forms and Royal Insurance of Canada developed a plain language insurance policy. In the 1980s, the Justice Reform Committee of British Columbia published a report called *Access to Justice* which contained recommendations for bringing plain language into the judicial system. In 1989 *Plain Language: Clear and Simple*, a writing manual put together by fourteen federal departments of the Canadian government working together was published. In 1990 the Canadian Bar Association and the Canadian Banker’s Association prepared a report entitled “The Decline and Fall of Gobbledygook: Report on Plain Language Documentation,” which also contained various recommendations for adopting and using plain language. Later, in 1991, a Canadian Bar Association resolution saw the adoption of the recommendation, while the Canadian Banker’s Association followed suit in 2000, announcing that members were “committed to providing customers with banking information which they can easily understand

⁷ PEC Webiste, Crystal Mark, About the Crystal Mark, FAQ:
http://www.plainenglish.co.uk/about_the_crystal_mark/faqs.html

and use” (Asprey, p. 77). Also in the 1990s, Alberta would introduce the *Financial Services Act*, which included Canada’s first plain language requirement. In October 1997 the Canada Public Health Association established the Plain Language Service (PLS). According to its website, the PLS “provides plain language and clear design revisions for the public, private and volunteer sectors.”⁸

In 1999 a Canadian insurance company named Clarica began an ambitious plain language program. In her article “Plain language at Clarica” Susan Milne, who worked with Clarica on the campaign, explains that the company “changed its name from The Mutual Group to Clarica, based on the new principle, *Clarity through dialogue*.[...] [and] also launched a national advertising campaign with the theme *There’s a lot to be said for clarity*” (Plain language at Clarica, 2000, p. 19). This plan amounted to a public commitment to plain language, and was driven by the company’s research, which showed that their “customers see financial decisions as overwhelming and confusing” (Milne, p. 19).

In 2000, the Canadian Bankers Association issued guidance for creating plain language mortgage agreements. This guidance committed member banks “to providing customers with banking information which they can easily understand and use” (Canadian Bankers Association, 2000, p. 2). It sets out basic principles to follow in creating and designing mortgage documents and provides many “before and after” examples.

⁸ CPHA website, Plain Language Service: <http://www.cpha.ca/en/pls.aspx>.

Effective February 1, 2000, the Canadian Securities Administrators issued new requirements for mutual fund prospectuses in its National Instrument 81-101 (“NI 81-101”), which included a section entitled “Plain Language and Presentation,” that effectively introduced a Canadian “requirement” for public companies to employ plain language. While the section mainly focuses on content and how it is positioned within the document, it does begin with the statement that the prospectus “shall be prepared using plain language and in a format that assists readability and comprehension.” It also states in part 4.1(2)(a) that the prospectus “shall present all information briefly and concisely.” The guidance provided in NI 81-101 is both very general in nature and short of examples. The entire section is provided in Appendix A – The SEC Handbook. Because of the limited guidance NI 81-101 provides, and given the level of cross-border exchange between the United States and Canada, additional direction can be found south of the border.

2.3.3 IN THE UNITED STATES

Plain language in the United States did not see much official activity between Thomas Paine’s time and the 1970s when consumer advocacy and dissatisfaction with difficult-to-understand government documents began to rise. In 1975, driven by the amount of litigation that was involved in collecting on defaulted loans, National City Bank (now Citibank) voluntarily developed a plain language consumer loan agreement. The goal was to improve its customers’ understanding of their obligations and subsequently reduce litigation. The company also credits this move as “one of the things that helped it increase its

market share in the 1970s and 1980s” (Asprey, 2003, p. 1). Likewise in this decade, U.S. presidents took up arms against complicated language used in government writing, specifically aiming at legislation they felt that everyone should be able to understand. Nixon (president from 1969 to 1974) requested legislation be written in ‘laymen’s terms’ and Carter (president from 1977 to 1981) went a step further, issuing an Executive Order “to make government regulations ‘cost-effective and easy-to-understand by those who were required to comply with them’” (Locke, 2004). In addition to this activity, the U.S. Department of Education funded a project to research problems with public documents and to produce guidance for Federal agencies seeking to implement plain language.

The 1980s saw minimal activity on plain language adoption by government agencies and departments due in large part to President Reagan (president from 1981 to 1989) rescinding President Carter’s Executive Order. With no imperative to act, few agencies made the decision to implement plain language writing, with the exception of the Social Security Administration which made plain language communication a priority.

The 1990s was an important decade for plain language initiatives in the U.S. government. By 1996 the SEC was working internally to develop plain language guidelines for its own communications and for public companies that issue securities to the public. For the next year, the SEC operated a pilot program for investors to submit disclosure documents written in plain language. Two key events transpired in 1998: an Executive Memorandum issued by

President Clinton (president from 1993 to 2001) and the passage of the plain English amendment to the Securities Act of 1933.

As part of his effort to “reinvent government,” President Clinton issued a memorandum discussing the use of plain language in government writing. In it he explained that the purpose of plain language was “to make the Government more responsive, accessible, and understandable in its communications with the public” (Clinton, 1998). And, most importantly, Clinton set specific dates by which the agencies and executive departments should follow the directive.

On January 22, 1998, the SEC adopted the plain English rule and amendments to the Securities Act of 1933. In September of the same year, the SEC provided additional information on the new rule and amendments when it issued Staff Bulletin No. 7, which was subsequently updated in June 1999.

2.3.4 CONCLUSION

These rules mark a turning point in plain language use as a tool for empowerment. Previous initiatives generally targeted poor institutional communication flowing out of government bureaucracies or voluntary measures adopted by profit-seeking companies. These newly-implemented rules move responsibility for clear communication outside the purvey of governments and require more than volunteerism. Now, accountability for clear communication is

placed squarely on the shoulders of companies that face legislated requirements to communicate using plain language.⁹

3 OVERVIEW OF CANADIAN AND US FINANCIAL MARKETS REGULATION

3.1 *ECONOMICS 101 – REVIEW OF BASIC ECONOMIC CONCEPTS*

Before delving into the finer points of financial markets and securities regulation, it is worthwhile to lay some basic groundwork on the mechanics of capital markets and the forces at work within them.

Simply put, an economy is a system in which goods and services are produced and consumed. Individuals or companies producing goods and services (producers) look for individuals and companies interested in consuming the goods and services (consumers). Markets are the places within an economy where producers and consumers come together to trade. Trade occurs when a consumer and a producer come to an agreement for the exchange of the good or service. In modern times, this exchange generally involves payment by the consumer to the producer, in the form of money, for the good or service. Money, in turn, is a component of an economy's financial system, which also includes other components such as banks and stock exchanges.

The main point of this brief overview is that trade is fundamental to us all (regardless of whether we exist in a free-market economy or a command economy) and that a market is necessary for trade to occur. Markets come in many forms and sizes, and can be as simple as a child selling lemonade on the

⁹ While no specific penalty has been defined for non-compliance, the non-compliant document would not be allowed to be issued, slowing the process and potentially costing the company through delays in raising the intended funds.

street corner at one dollar per glass, or more fluid, as with flea markets, where bargaining is the order of the day. One of the most complex markets is the stock market, where the idiom “buy low, sell high” belies a frenzy of actions. In fact, stock markets are an already complex component of the even larger and more complex securities industry. Markets become more complex in proportion to the amount of risk and reward involved in the transaction, and as the complexity of a market increases, so does the number and complexity of governmental regulations.

Stock markets are among the most diverse markets in existence. The multitude of securities (shares or stocks, as well as other investment instruments such as derivatives and options) currently traded on the various worldwide stock markets are mindboggling in both number and intricacy. The most basic conception of a stock market will serve our purposes here. In their simplest form, they are the places in an economy where organizations (usually companies) raise capital by selling certain rights (usually partial ownership in the company called shares or stocks) to investors, in exchange for cash. At the end of this transaction, the company has raised capital in the form of cash and the investor has purchased shares in the company. The investor is now a shareholder and has an equity interest (partial ownership) in the company. The shareholder, depending on the type of share he or she owns, now has certain rights, such as voting at shareholder meetings, and may receive income, in the form of dividends, providing the company is profitable and pays out a dividend. The shareholder also has the right to sell his or her shares.

Share ownership often forms an integral part of an investment portfolio. While the value of shares in a particular company fluctuate, shares remain fairly liquid, which means they can be easily converted to cash by being sold; the cost of selling them is relatively low. In addition to this, shares also may provide income in the form of a dividend. Because of their popularity, and more importantly because they and the markets they are traded on are complex, regulations have been implemented by both the Canadian and U.S. governments to ensure that potential investors have access to the same information and that the information is comprehensible. As the Canadian and U.S. financial systems are free-market based, equal access to information is critical for transactions to occur as efficiently and as fairly as possible. For any kind of security, this information is first made available when the company makes an offering to raise capital, and it appears in a document called a prospectus.

Before getting into the finer points of prospectuses, laying down the additional groundwork to provide a general understanding of the Canadian and U.S. securities industries and regulators will be useful. First, we will provide an overview of the regulatory environment for securities in Canada, then in the U.S., paying particular attention to the specific sections of the regulations that mandate plain language usage. Following this we will discuss prospectuses in general, and the sections within them that are specific to the objectives of this research. Finally, we will discuss the guidelines provided by the U.S. regulatory body for writing in plain language.

3.2 THE CANADIAN SECURITIES INDUSTRY

3.2.1 HISTORY AND BACKGROUND¹⁰

Securities were first traded in Montréal in 1832, in a café where investors in the first Canadian railroad traded shares amongst themselves. Shortly thereafter, the first stock exchange in Canada, the Montreal Stock Exchange, was incorporated in Montreal in 1874. Since then, major stock exchanges were established in Toronto (the Toronto Stock Exchange), Alberta (the Alberta Stock Exchange), Vancouver (the Vancouver Stock Exchange), and Winnipeg (the Winnipeg Stock Exchange). With the evolution of the securities industry over the years, these and other Canadian exchanges have closed or merged. Currently there are three major exchanges in Canada: the Montreal Exchange, the Toronto Stock Exchange, and the TSX Venture Exchange (Toronto).

3.2.2 REGULATION

The securities industry in Canada is regulated at the provincial and territorial level. As such, each province and territory has established an agency or division that is responsible for overseeing the securities industry within their respective geographic boundaries. Table 2 lists the current provincial and territorial securities regulators.

Regulator	Province/Territory
Alberta Securities Commission	Alberta
British Columbia Securities Commission	British Columbia
Manitoba Securities Commission	Manitoba
New Brunswick Securities Commission	New Brunswick
Department of Government Services -	Newfoundland and Labrador

¹⁰ This section is referenced from an information sheet from the Department of Finance Canada produced in January 2005 (http://www.fin.gc.ca/activity/factsheets/cansec05_e.pdf).

Table 2 Provincial and Territorial Securities Regulators in Canada	
Regulator	Province/Territory
Consumer & Commercial Affairs Branch	
Superintendent of Securities - Department of Justice	Northwest Territories
Nova Scotia Securities Commission	Nova Scotia
Superintendent of Securities - Department of Justice	Nunavut
Ontario Securities Commission	Ontario
Securities Office - Consumer, Corporate and Insurance Services Division - Office of the Attorney General	Prince Edward Island
Autorité des marchés financiers	Quebec
Saskatchewan Financial Services Commission	Saskatchewan
Superintendent of Securities - Community Services	Yukon Territory

Source: Canadian Securities Administrators, Who We Are, <http://www.securities-administrators.ca/aboutcsa.aspx?id=80> (viewed on May 28, 2009).

As the table demonstrates, there are currently thirteen securities industry regulators functioning in Canada. The role of these regulators is to administer and enforce provincial legislation governing the securities industry, with the underlying goal of protecting and educating investors. The regulators develop compliance requirements, promote investor education, enforce regulations by taking disciplinary action against companies or individuals, and encourage fair and efficient capital markets.

At first glance it would seem that a company wishing to raise capital in Canada would be faced with the following dilemma: if the company wanted its securities to be available across Canada, it would have to comply with thirteen sets of regulations and incur the related costs of such compliance, which are not insignificant. If the company had limited resources, perhaps the reason for raising capital, the cost of complying with thirteen sets of regulations may be too

prohibitive, and the company would be forced to limit the availability of its shares to only one or two locations. Thanks to the Canadian Securities Administrators (“CSA”), companies wishing to raise capital in Canada do not face that dilemma.

The CSA is an independent organization comprised of the provincial and territorial securities regulators; it is not a branch of the federal Canadian government. As (self) defined on its website, the CSA is “a voluntary umbrella organization of Canada’s provincial and territorial securities regulators whose objective is to improve, coordinate and harmonize regulation of the Canadian capital markets” (Canadian Securities Administrators website, Who We Are). The CSA carries out this objective by meeting regularly to jointly develop policies, rules, regulations and other programs that are then adopted by the provincial and territorial regulators. Working together in this way, the CSA promotes a streamlined approach for companies seeking to raise capital in Canada. One method the CSA uses to implement regulations is to issue national instruments, which are official documents that outline rules and procedures governing specific actions within the securities industry. It is through one such national instrument that the CSA implemented the requirement that issuers of mutual fund securities must use plain language in preparing disclosure documents (i.e. a prospectus).

3.2.3 NATIONAL INSTRUMENT 81-101

National Instrument 81-101 (“NI 81-101”) sets out the rules for preparing a mutual fund prospectus disclosure document. A mutual fund is a collective investment vehicle that pools money from many investors for further investment. NI 81-101 applies to mutual funds that plan on raising money by issuing shares

for the first time. A first-time issuer must prepare a prospectus, which is a document used by investors to determine whether or not to buy the shares of the mutual fund (see section 3.4 Prospectuses below for more details). NI 81-101 is a twenty-four page document with sections focusing on many aspects of preparing and filing a prospectus disclosure document. Since most of these sections have little bearing on translation, or even the use of plain language, we will forego even a brief summary of the overall document, in the interest of maintaining focus, and instead hone in on the section that is most relevant to this research: Part 4.1, Plain Language and Presentation, which is reproduced in its entirety in Table 3 below.

Table 3	Excerpt from National Instrument 81-101
Part 4.1	Plain Language and Presentation
	<p>4.1 Plain Language and Presentation</p> <p>(1) A simplified prospectus and annual information form shall be prepared using plain language and in a format that assists in readability and comprehension.</p> <p>(2) A simplified prospectus</p> <p>(a) shall present all information briefly and concisely;</p> <p>(b) shall present the items listed in the Part A section of Form 81-101F1 and the items listed in the Part B section of Form 81-101F1 in the order stipulated in those parts;</p> <p>(c) may, unless the Part B section is being bound separately from the Part A section as permitted by subsection 5.3(1), place the Part B section of the simplified prospectus in any location in the simplified prospectus;</p> <p>(d) shall use the headings and sub-headings stipulated in Form 81-101F1, and may use sub-headings in items for which no sub-headings are stipulated;</p> <p>(e) shall contain only educational material or the information that is specifically mandated or permitted by Form 81-101F1; and</p> <p>(f) shall not incorporate by reference into the simplified prospectus, from any other document, information that is required to be included in a simplified prospectus.</p> <p>4.2 Preparation in the Required Form - Despite provisions in securities legislation relating to the presentation of the content of a prospectus, the simplified prospectus and annual information form shall be prepared in accordance with this Instrument.</p>

Source: Ontario Securities Commission,
http://www.osc.gov.on.ca/documents/en/Securities-Category8/rule_20000128_81_101rule.pdf

Plain language also appears at the beginning of the instrument, in Part 1.1, Definitions, where it is defined as “[...]language that can be understood by a reasonable person, applying a reasonable effort.”¹¹

As we go through Part 4.1 of NI 81-101, we see that plain language is really only addressed in section 4.1(1), where the requirement to use plain language to prepare the document is set out. Beyond that, content and presentation are the only items addressed. As such, one must look to the definition of plain language for more guidance. This effort is not greatly rewarded, however, as the definition relies upon the word “reasonable,” an undefined qualification of the target audience. No examples are provided and no reference is given to another document where further guidance might be found. While this requirement is important for the advancement of plain language usage as a way to empower potential investors by avoiding confusing jargon and legalese, it falls short of providing actionable points for creating a plain language document and leaves open to wide interpretation whether or not compliance efforts will in fact meet the requirement. For this reason, we turn our focus to the U.S. securities industry, which shares many similarities to the Canadian securities industry, notably a regulatory body that has also issued the requirement to prepare disclosure documents using plain language, but which has taken the additional step of providing an extensive handbook setting out examples and specific points to consider in preparing a plain language document.

¹¹ http://www.osc.gov.on.ca/documents/en/Securities-Category8/rule_20000128_81_101rule.pdf, consulted on August 12, 2012

3.3 THE UNITED STATES SECURITIES INDUSTRY

3.3.1 HISTORY AND BACKGROUND

While the history of the United States securities industry may have its deepest roots harkening back to colonial times, it is the industry's more recent history, starting in the early years of the 20th century, which is most relevant to this research. In the years leading up to the stock market crash in October 1929, there was little federal government oversight in the securities industry. Easy access to credit, risky ventures such as margin financing (borrowing to invest), and spotty information about securities led to a situation where the system itself became risky. These, combined with other factors, greatly contributed to the stock market crash, which was quickly followed by the Great Depression, and taken together, created an environment that prompted increasing support for government regulation of the securities industry. Subsequently, the Securities Act was passed in 1933, and the Securities Exchange Act was passed in 1934, both of which were created to introduce regulation of the securities industry, restore confidence in U.S. capital markets, and create a federal agency responsible for enforcing and interpreting securities regulations. This federal agency, the U.S. Securities and Exchange Commission ("SEC"), was created by the Securities and Exchange Act of 1934.

3.3.2 REGULATION

The particular regulation of interest to this research is the Securities Act of 1933. This Act stipulates that securities offered for sale in the U.S. must be

registered with the SEC.¹² To do this, companies making a securities offering prepare a two-part registration statement, where Part 1 contains the prospectus (the particular document that is subject to this research) and Part 2 contains additional information that is not specifically required by the regulations (and will therefore not be subject to this research).

The SEC's mission is "to protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation" (SEC website, About the SEC, What We Do). The SEC enacts rules and interprets legislation governing public companies and stock markets. The basic concept behind these rules and legislation is that all investors should have equal access to the same information about the investment. The key point here, indeed the very foundation of the free market mechanisms governed by the SEC, is equal access to information.

3.3.3 *RULE 421*

Rule 421 of the General rules and regulations promulgated under the Securities Act of 1933 is where, in the legislation concerning prospectuses, plain language is set out as a requirement (paragraph D). Rule 421 is reproduced in its entirety in Table 4 below.

In general, Rule 421 deals with the information found in prospectuses. The aim of the rule is to ensure that information is clearly presented and understandable. In reaching this aim, the rule addresses both form and content. Part 421(a) addresses the order in which the information should be set out and

¹² Certain securities may be exempt from registration for a variety of reasons (e.g., size of offering, private offering, government securities, etc.). These securities would therefore not be subject to the plain language requirement and are thus outside the scope of this research.

explicitly forbids attempts at obfuscation by stating the information should not “be set forth in such fashion as to obscure any of the required information or any information necessary to keep the required information from being incomplete or misleading.” Part 421(b) of the rule warns issuers from relying on “legal and highly technical business jargon” or overly long or complicated sentences and/or paragraphs. It requires them to “use descriptive headings and subheadings” and encourages presenting information clearly and concisely (e.g., bullet lists, short sentences, avoiding glossaries). Part 421 (c) of the rule limits repetition by encouraging referencing other sections where information has already been presented, but explicitly forbids presenting information in such a way that the reader is forced to refer to information not contained in the prospectus (e.g., the regulations or the Act). The first three parts of Rule 421 work toward ensuring clarity and ease of comprehension by setting out how information should be presented and placing limitations on the kinds of language that can be used; however, the specific requirement to use plain language is set out in Rule 421(d).

Table 4 Excerpt from Securities Act of 1933
Section C – Regulation
<p>Rule 421 -- Presentation of Information in Prospectuses</p> <ul style="list-style-type: none"> a. The information required in a prospectus need not follow the order of the items or other requirements in the form. Such information shall not, however, be set forth in such fashion as to obscure any of the required information or any information necessary to keep the required information from being incomplete or misleading. Where an item requires information to be given in a prospectus in tabular form it shall be given in substantially the tabular form specified in the item. b. You must present the information in a prospectus in a clear, concise and understandable manner. You must prepare the prospectus using the following standards: <ul style="list-style-type: none"> 1. Present information in clear, concise sections, paragraphs, and sentences. Whenever possible, use short, explanatory sentences

Table 4 Excerpt from Securities Act of 1933

Section C – Regulation

and bullet lists;

2. Use descriptive headings and subheadings;
3. Avoid frequent reliance on glossaries or defined terms as the primary means of explaining information in the prospectus. Define terms in a glossary or other section of the document only if the meaning is unclear from the context. Use a glossary only if it facilitates understanding of the disclosure; and
4. Avoid legal and highly technical business terminology.

Note to Rule 421(b):

In drafting the disclosure to comply with this section, you should avoid the following:

1. Legalistic or overly complex presentations that make the substance of the disclosure difficult to understand;
 2. Vague "boilerplate" explanations that are imprecise and readily subject to different interpretations;
 3. Complex information copied directly from legal documents without any clear and concise explanation of the provision(s); and
 4. Disclosure repeated in different sections of the document that increases the size of the document but does not enhance the quality of the information.
- c. All information required to be included in a prospectus shall be clearly understandable without the necessity of referring to the particular form or to the general rules and regulations. Except as to financial statements and information required in a tabular form, the information set forth in a prospectus may be expressed in condensed or summarized form. In lieu of repeating information in the form of notes to financial statements, references may be made to other parts of the prospectus where such information is set forth.
- d.
 1. To enhance the readability of the prospectus, you must use plain English principles in the organization, language, and design of the front and back cover pages, the summary, and the risk factors section.
 2. You must draft the language in these sections so that at a minimum it substantially complies with each of the following plain English writing principles:
 - i. Short sentences;
 - ii. Definite, concrete, everyday words;
 - iii. Active voice;
 - iv. Tabular presentation or bullet lists for complex material, whenever possible;

Table 4 Excerpt from Securities Act of 1933	
Section C – Regulation	
<ul style="list-style-type: none"> v. No legal jargon or highly technical business terms; and vi. No multiple negatives. 	<ul style="list-style-type: none"> 3. In designing these sections or other sections of the prospectus, you may include pictures, logos, charts, graphs, or other design elements so long as the design is not misleading and the required information is clear. You are encouraged to use tables, schedules, charts and graphic illustrations of the results of operations, balance sheet, or other financial data that present the data in an understandable manner. Any presentation must be consistent with the financial statements and non-financial information in the prospectus. You must draw the graphs and charts to scale. Any information you provide must not be misleading.
<p>Instruction to Rule 421 You should read Securities Act Release No. 33-7497 (January 28, 1998) for information on plain English principles.</p>	

Source: General rules and Regulations under the Securities Act of 1933, Regulation C (17 CFR Part 230.421)

Rule 421(d) is broken into three parts and begins by explaining the goal of the rule and to what parts of the prospectus it applies. The next part provides “plain English writing principles” that should be followed to ensure compliance, and the last part encourages the use of “design elements” to improve understanding.

3.4 PROSPECTUSES

As previously mentioned, a company can raise money by issuing securities for sale to the public. To do this, the company (or issuer) must file a registration statement for the securities with the SEC. A significant portion of the registration statement compiles specifically required information in what is called a prospectus. The issuer is required by the Securities Act of 1933 to provide specifically legislated information in the prospectus, which generally includes information about the issuer, the security being issued, how the proceeds will be

used, a summary of risk factors, and many other items relevant for making investment decisions. The information found in a prospectus is geared to potential investors and aims to provide all the relevant information investors typically need to make an investment decision. The specific sections to which the plain English rule 421(d)(1) applies, and which will be the subject of this research, are the front and back cover pages, the summary and the section describing the risk factors.

The front cover of the prospectus must contain the registrant's name, the title and amount of the securities, the offering price for the securities, the market for the securities, a cross-reference to the risk factors section, statements required by any U.S. states or the SEC, and information about the underwriter, the date, and if applicable, a note explaining changes may be made to the prospectus.

3.5 THE PLAIN ENGLISH HANDBOOK

Prior to adopting plain language rules for prospectuses, the SEC ran a pilot program wherein participating securities issuers prepared their prospectuses using plain language. From this program the SEC collected before and after examples of text and compiled them, along with other observations and advice from writing specialists, in a document entitled *A Plain English Handbook: How to create clear SEC disclosure documents* ("the SEC Handbook"). The SEC Handbook was created with companies and law firms, as the typical drafters of disclosure documents, in mind, and its purpose is to "provide practical tips on how to create plain English documents" (SEC, p. 6).

In the preface to the SEC Handbook, none other than Warren Buffet¹³ makes a startling observation based on his more than forty years' experience reading disclosure documents: "Too often, I've been unable to decipher just what is being said or, worse yet, had to conclude that nothing was being said" (SEC, p. 1). These are strong words indeed coming from such a preeminent businessman known for making impeccable investment decisions. He goes on to speculate as to the reasons why these texts have been difficult to read, suggesting it might be because readers "simply don't have the technical knowledge" or "perhaps the writer doesn't understand what he or she is talking about" or the more sinister idea that "a less-than-scrupulous issuer doesn't want us to understand a subject it feels legally obligated to touch upon" (SEC, p. 1). What Mr. Buffet has very neatly pointed out are the reasons underpinning the plain language rule.

The SEC Handbook is divided into twelve chapters and two appendices, which can be further divided into two general areas of focus: writing and design. The sections of the SEC Handbook most relevant to this research are briefly summarized in the next few paragraphs.

The SEC Handbook begins with the question "What Is a 'Plain English' Document?" and lays out a fairly concise answer. The chapter then clarifies that "plain English" does not mean removing complex information, rather it requires

¹³ Warren Buffet has enjoyed an illustrious career and is world renown as a very successful business man. He is the CEO and largest shareholder of Berkshire Hathaway, a holding company with subsidiaries operating in many different industries (Berkshire Hathaway 2007 Annual Report). Mr. Buffet is much respected for his investment savvy, which has earned him the nickname "Oracle of Omaha" because of his constant success. The implicit support shown by a preface written by one of the most successful businessmen in the world legitimizes the SEC Handbook and its goals in the world of financial securities.

“orderly and clear presentation of complex information so that investors have the best possible chance of understanding it” (SEC, p. 5). Further, successful plain English writing involves considering what information should be imparted before the writing process is even begun. Finally, the chapter emphasizes that

A plain English document uses words economically and at a level the audience can understand. Its sentence structure is tight. Its tone is welcoming and direct. Its design is visually appealing. A plain English document is easy to read and looks like it’s meant to be read (SEC, p. 5).

The SEC Handbook devotes an entire chapter (Chapter 3) to “Knowing Your Audience,” emphasizing that knowing your audience is fundamental to creating a document that they will be able to understand. This implies that the function of the document is of primary importance. If the document is not understood by its target audience, it fails at its function. As will be shown later on, function will play an important role in translating plain language. The chapter is also useful in that it provides a list of questions that can be used to create an idea of the target audience, and while these questions are quite specific to the context of writing disclosure documents, they can be modified to apply to translation-specific situations. The following table illustrates how the constructs of plain language prospectus writing can easily be adapted to a situation of translation.

Table 5 Profile-creating questions		
Writing a Prospectus		Translation (general)
What are their demographics – age, income, level of education, and job experience?	→	Who will be reading the translation – age, level of education?
How familiar are they with investments and financial terminology?	→	How familiar is the audience with the style (poetry, philosophy, science fiction, non-literary, technical, academic)?
What investment concepts can you safely assume they understand?	→	What literary, non-literary or cultural references can you safely assume they will catch?
How will they read the document for the first time? Will they read it straight through or skip around to the sections that interest them?	→	How will the translation be used? For example, will users read the document from beginning to end, or only consult sections as needed?
Will they read your document and your competitors' side by side?	→	Will they read the translation and the original side by side? Is the reader even expected to be familiar with the source language?
How will they use the document while they own the security? What information will they be looking for later, and is it easy to find?	→	Will the document become a reference for the reader?

Source: The SEC Handbook, Chapter 3.

“Knowing the Information You Need to Disclose” is the title of Chapter 4.

The title might at first appear to imply that some sort of expertise in the topic is required, however the chapter actually addresses issues such as redundancy, missing information, information flow and the like. The advice given here applies to rewriting an existing document – essentially intralingual translation from legalese to plain language. The tips in this chapter are particularly applicable in the context of translating a source text written in legalese into a plain language target text, in which case two levels of translating will occur – language A to language B and legalese to plain language. This will be discussed further on.

Chapter 6 is entitled “Writing in Plain English” and begins with a list of common problems found in prospectuses:

Table 6 Common Problems	
<ul style="list-style-type: none">• Long sentences• Passive voice• Weak verbs• Superfluous words• Legal and financial jargon	<ul style="list-style-type: none">• Numerous defined terms• Abstract words• Unnecessary details• Unreadable design and layout

(SEC, p. 17)

The chapter is filled with before and after examples as well as explanations pertaining to why the after example is an improvement. Following are two examples used in the chapter to illustrate the plain English “rule” being discussed. More of these and other examples will be discussed in greater detail in the next section.

Example 1 (Avoid passive voice)

Before

The foregoing Fee Table **is intended** to assist investors in understanding the costs and expenses that a shareholder in the Fund will bear directly or indirectly.

After

This table describes the fees and expenses that you may pay if you buy and hold shares of the fund.

(SEC, 1998, p. 20)

Example 2 (Try personal pronouns)

Before

This Summary does not purport to be complete and is qualified in its entirety by the more detailed information contained in the Proxy Statement and the Appendices hereto, all of which should be carefully reviewed.

After

Because this is a summary, it does not contain all the information that may be important to you. You should read the entire proxy statement and its appendices carefully before you decide how to vote.

(SEC, 1998, p. 22)

The sections of the SEC Handbook that deal with design generally address the use of graphic elements in presenting the information. In addition to basic elements such as font and colors, these sections also encourage using tables, bullet lists, and headings as a way to clearly organize the information. Tables are promoted as a tool for clarifying confusing or complicated information, and graphics are suggested as ways to deliver comparative information in a fashion that is easily understandable. Other seemingly obvious or mundane suggestions involve presenting information in an intuitive fashion; for example, in a list that includes both positive and negative numbers, with the list starting at the lowest negative number and working upward toward the highest positive number. The design suggestions also delve into considerations of typesetting and printing choices, which are not relevant to translating plain language and as such not discussed here.

4 TRANSLATING PLAIN LANGUAGE

4.1 THEORETICAL CONSIDERATIONS

4.1.1 GENERAL

Certain theoretical considerations must be introduced to form a basis for analyzing plain language translation, and we shall begin with considering what translation means in this research. Translation has many meanings: Do we refer to a product or a process? Is it strictly language-based, or is it cultural as well? Does it only happen to texts, or does it happen with other media? To what extent does context influence actual practice? The lack of consensus within translation studies on any one single definition of translation presents a unique challenge to researchers. Some definitions may be seen as too narrow, others as too broad, and still others as too context-specific. We have not set out to develop a universally-applicable definition of translation; instead, we present how we conceptualize translation for the purposes of this research.

In terms of its theorization historically, translation has been defined as a process and a product and then often parsed into numerous sub-categories. We find definitions of translation that emerge from genre and text-type categorization (e.g. literary, pragmatic, technical) (Trosborg 1997) , orientation (source- or target-focused) (Toury 1995), and definitions of translation that are derived from the approach employed in the act of translating (e.g. foreignizing, domesticating) (see Venuti, 1995); we also have definitions of translation that address more than just text (intersemiotic translation (Jakobson 1959/1966), interpretation (Pochacker 2004), or which focus on social factors (sociology of

translation (Wolf, 2007) or process as in cognitive translation (Holmes, 1988). Lacking a universal definition to work from, but recognizing that developing a universal definition may not be an appropriate goal for us, we acknowledge that the issue of a working definition of translation for our particular area of research is nonetheless significant. How to theorize the double-stage of translation that occurs when moving from source language text to SL plain language text to target language text? In which category or definition of translation is it best placed?

Looking at translation beyond strict categories and as a concept that unfolds along a continuum would allow us to deal more flexibly with the nuances, fuzzy boundaries, specifics and generalities we encounter. At one end of the continuum we would find the broader conceptual categories of translation, a point from which to argue that translation embraces nearly all kinds of alteration or conversion and can accommodate intralingual transformation, i.e. a rewording in the same source language (Jakobson 1959). At the other end of the continuum would be located the narrowest possible conception of translation, where definitions adhere strictly to interlingual transfer and transformation.

Conceptualizing translation fluidly in this way means that many variations in defining translation can all coexist. Along the continuum of definitions, translation as it materializes in highly specialized research into plain language translation in mutual fund prospectuses, for example, would necessarily find affinities at various points. Indeed, plain language translation not only

depends on a broader concept for its reworked language at stage 1; it also is very context-specific in terms of its interlingual transformation at stage 2.

“Translation” is also often defined in relation to specific contextual factors: professional domain protocols; subject matter expertise; academic disciplines; etc. In terms of discipline, historically, translation studies has borrowed from and interacted not insignificantly with multiple, other domains – which inevitably have impacted its theorization proper. No less probable and instructive is its interface with economics. In fact, there are interesting parallels to be drawn in their respective histories of disciplinary growth. Both fields have struggled in the past and continue to struggle today with issues surrounding research methodologies. According to Daniel M. Hausman’s *Philosophy of Economics*¹⁴, six main problems persist with regard to the current methodologies in economics, one of which has striking resemblances to methodological issues faced by translation studies, and which might prove insightful: positive versus normative economics and the question of abstraction.

The methodological issue surrounding positive versus normative economics emerges from the way economics is used as a basis to shape government policy, where there is a difference between “a *positive* science concerning ‘facts’ and a *normative* inquiry into what ought to be” (Hausman, 2008). The opposition here boils down to how adequately economic research can scrub itself of ideological bias when its focus is so heavily influenced by ideology.

¹⁴ Stanford Encyclopedia of Philosophy, online, consulted on January 17, 2011; <http://plato.stanford.edu/entries/economics/>

This is due to the fact that “...much of economics is built around a normative theory of rationality” (2008). This means that economic research assumes a certain level of rational behavior, but that rational behavior in an individual may be in conflict with society or the government. Where a parallel can possibly be drawn between translation studies and economics is on this question of normative, where some translation theories are seen to be normative and prescriptive, while others are seen to be more positive (we have in mind the opposition between early linguistics-based and descriptive translation theories, for example).

The question of abstraction in economics appears when “mainstream economic models stipulate that everyone is perfectly rational and has perfect information or that commodities are infinitely divisible” (2008). The Latin phrase *ceteris paribus* is most often used to indicate these abstractions. In establishing parameters of research, this phrase would be cited to indicate everything other than the conditions of the model that are explicitly set out will be held equal. This signifies that all other potential variables are being held constant in order to focus solely on the phenomenon being studied. The question here is the legitimacy of the abstraction in the first place, and then, assuming legitimacy, to what extent?

In translation studies, we often find ourselves wishing there was a way to invoke *ceteris paribus* as a way to focus solely on the question at hand. In looking at plain language translations of prospectuses, it would be very useful to invoke *ceteris paribus* for elements that are not central to the research without fear of reprisal for “overlooking” or “ignoring” elements that may be legitimate, but

whose inclusion might add undue length or distraction to the precise subject of inquiry. Applying such abstraction has a certain value in allowing one to state from the outset which factors are taken into consideration and which factors are not. The underlying reasoning for holding such factors constant would be provided, and such abstraction would be an accepted methodological tool.

For example, one element against which it would be useful to invoke *ceteris paribus* in this research is the question of culture. This question arises on two fronts during source text analysis: the culture of the text sender and that of the source text recipient (the intended audience of the text, not the translator as intermediary). It would be useful to make the assumption that we can establish that the producer and receiver (a member of the audience) of the text (the source text creator and intended audience, not the translator as intermediary) share a culture, and agree to hold steady any cultural elements that might otherwise come to bear on the analysis. Holding such elements as “constant” in our analysis would allow us to zero in on the specific elements of plain language translation we are researching. In our case specifically, it would be very useful to apply *ceteris paribus* to the purpose of a prospectus to avoid spending time looking for differences in their purposes when it suffices, for this research, to move forward believing that all prospectuses have the same purpose, namely to raise capital. To be clear, the application of the notion of *ceteris paribus* is intended in no way to tacitly ignore, demean or marginalize other research or valid questions.

4.1.2 SKOPOS THEORY

For the purpose of setting parameters for our analysis of plain language translation, we will adopt elements principally from skopos and relevance theories from translation studies. First, from skopos (German **Skopostheorie**, from Greek **skopos** “purpose, goal”)¹⁵ theory we borrow the concepts of aim, purpose, intention, and function, all of which guide the creation of a translated text. To varying degrees, skopos ‘predetermines’ the translated text that will result; it may find its form in specific client instructions and requirements or be the fruit of analysis carried out on the source text in terms of a specific context by the translator receiving the commission. (Nord, 1997, p. 29)

In this theoretical vein, translator decisions are not made solely on the basis of the source language text. There is no direct equivalence. As such, a SL text potentially has many translation variations, and possibly adaptations, in the TL(s) – depending on the operating conditions. These variations and adaptations are contingent on the skopoi designated to the translator; the skopoi can dictate content inclusion, design and lay-out, and even the terminology used. Thus, a non-plain language SL₁ text could potentially have various renditions, depending on the specific requirements and goals of the sender and/or receiver of the translated text. If the commissioner or receiver requires plain language SL₂, then translation of the text will be guided and directed according to precisely stated skopoi imposing the terms of plain language use. If the receiver of the text requires a prospectus in plain language, for example, the scope is narrowed

¹⁵ Dictionary of Translation Studies by Mark Shuttleworth, 1997, St. Jerome Publishing, p. 156

even further. Without very specific requirements, the text could not be produced as it is. These clearly delineated boundaries established to constrain the degree to which a translator is left 'free' to make certain choices and decisions are best reflected in the work of skopos theorist Christiane Nord. Indeed, our discussion on analysis of the source text for plain language translation will depend substantially on her approach, given that the terms, i.e. skopos, for translating a text into plain language for such specialized financial documents as prospectuses are precise, and legally bound.

Nord conceptualizes skopos as a complex, multilayered notion that adapts to particular translation situations. Accordingly, we conceptualized skopos for this research on two levels: to borrow from economics, we conceive these as the macro level (general skopos) and the micro level (specific skopos). If we contextualize the four elements cited above, then we have four micro level skopoi that combine to create the macro level skopos:

- aim – for the potential investor to learn about the security being offered
- purpose – to convey the information to the target audience in a straightforward manner
- intention – to provide the information necessary for the investor to make a decision
- function – sell securities and meet the plain language rules set out by the SEC

All of which combine in a macro skopos of creating a SL₂ prospectus that functions in the SL₂ context the same way the SL₁ prospectus functions in the SL₁ context.

4.1.3 RELEVANCE THEORY

Relevance theory is also pertinent for our analysis, and supports the aim, purpose, intention and function that comprise the skopos of a given text. In particular, we rely on Ernst-August Gutt's (1991) conception of relevance theory for translation, which derives its usefulness for our domain with the idea that the more effort the target audience must expend in order to understand the communication, the less likely the communication will be successful. The receiver has an expectation to be able to understand the communication offered to them. Ideally, this understanding will come through relatively minimal processing effort, which can be ensured through careful construction of the writing. Once again, in terms of our SL text, plain language principles are used to help craft the communication so that the processing effort is minimized, thus guaranteeing the success of the communication. The two key concepts borrowed from Gutt's relevance theory work for this research are:

- *Processing effort*, which implies the amount of effort needed by the reader to understand the text given the context and the reader's knowledge (26)
- *Contextual effects*, which occur as the reader makes implications and confirms or eliminates assumptions in the process of reading the text (27).

Finally, we propose that plain language translation in fact may both shun and support more traditional theories of equivalence. As mentioned in the Introduction, the theoretical question revolves around ascertaining where the plain language translation actually occurs. The translation of a text into plain language, whether it is carried out from SL₁ into SL₂ or into a TL, is receiver-oriented and does adhere to clearly defined skopos principles. Thus, it does not prioritize a source-oriented equivalence in the traditional sense of the term. However, if the translation into plain language is conducted from SL₁ to SL₂, and subsequently translated interlingually into TL, then the TL text will have relied more substantially on the same functional dictates of the SL text (i.e. SL₂). The relation of the target text to the source text becomes one of the more traditional equivalence type, i.e. closer dependence on the SL text. Ultimately, whether intralingual or interlingual (SL₂ or TL), the main goal of plain language translation is to provide information in a language that investors understand, where the term “investor” encompasses any person looking to make an investment, regardless of their level of knowledge of investments. Accordingly, plain language translation benefits from “functionality plus loyalty” which allows the translator the option to focus on some elements of the source text and disregard others, as dictated by the translation skopos (NORD, 1991, p. 29). In sum, a premium is placed on the function of the plain language translation (successfully communicating information) while still acknowledging the desire for a connection or link to the source text.

4.2 ANALYSIS OF PLAIN LANGUAGE TRANSLATION

4.2.1 PURPOSE OF ANALYSIS

Prior to translating a prospectus into plain language, a fair amount of text analysis must be carried out in order to guide the translation decisions. Text analysis is employed to determine information about both source and target texts, audiences and cultures. This analysis is generally focused on the source text, but is carried out with the target text and audience in mind. Because the journey from source text to target text in most traditional translation situations involves different languages, or more broadly, different communications mediums (e.g., book to film), text analysis for plain language translation presents an interesting twist in the process.

Analysis of the source text is critical to “ensure full comprehension and correct interpretation of the text” (Nord, p. 1). In the case of plain language translation of prospectuses, the source text language (SL₁) is jargon-filled, highly technical, and relies heavily on legalese. Consequently, careful analysis of the source text must be undertaken to ensure complete comprehension.

4.2.2 WHO IS THE TARGET AUDIENCE

A good place to start analyzing the source text is to have a thorough understanding of the target audience for our SL₂ text. An appropriate anecdote of this process can be found in the preface to the SEC Handbook, where Warren Buffet describes how he envisions his target audience:

One unoriginal but useful tip: Write with a specific person in mind. When writing Berkshire Hathaway’s annual report, I pretend that I’m talking to my sisters. I have no trouble

picturing them: Though highly intelligent, they are not experts in accounting or finance. They will understand plain English, but jargon may puzzle them. My goal is simply to give them the information I would wish them to supply me if our positions were reversed. To succeed, I don't need to be Shakespeare; I must, though, have a sincere desire to inform (SEC, p. 2).

Mr. Buffet's approach to writing a plain language document has foremost in concern the audience to whom he is writing, followed closely by providing just the necessary information, and finally, by actually wanting to convey the information.

The SEC Handbook has an entire chapter devoted to this point entitled "Knowing Your Audience." The first sentence of the chapter: "Knowing your audience is the most important step in assuring that your document is understandable to your current or prospective investors" (SEC, p. 9). This aligns with Nord's exhortation that "...the information about the addressee (his socio-cultural background, his expectations towards the text, the extent to which he may be influenced, etc.) is of particular importance (Nord, 1991, p. 9).

What does the target audience for a plain language prospectus look like? The following questions appeared in the section introducing the relevant sections of the SEC Handbook, and were used there to draw parallels between plain language and translation. Here, these questions take on a more specific role, namely to help determine who are the people that make up the target audience?

Table 7	Questions for determining target audience
	<ul style="list-style-type: none"> • What are their demographics – age, income level of education, and job experience? • How familiar are they with investments and financial terminology? • What investment concepts can you safely assume they understand? • How will they read the document for the first time? Will they read it straight through or skip around to the sections that interest them? • Will they read your document and your competitors' side by side? • How will they use the document after they have purchased the security? What information will they be looking for later, and is it easy to find?

Source: The SEC Handbook, Chapter 3.

The answers to these questions are used in determining the text function, which is based on the “situation in which the text serves as an instrument of communication” (Nord, 1991, p. 9). In our example, this situation is an investor, one who may or may not be well-versed in finance – remember Warren Buffet’s troubles understanding prospectuses, and who is reading a prospectus in order to determine whether or not to buy the securities being issued by the company that prepared the prospectus.

4.2.3 SOURCE TEXT ANALYSIS

In this section we consider several of Nord’s factors of source text analysis in the context of intralingual translation of a prospectus into plain language. Text analysis for translating applies to the source text (ST) and

should not only ensure full comprehension and correct interpretation of the text or explain its linguistic and textual structures and their relationship with the system and norms of the source language (SL), but it should also provide a reliable foundation for each and every decision which the translator has to make in a particular translation process (Nord 1).

Nord breaks down her long list of the various factors that may be considered in the due diligence of source text analysis into two main categories:

extratextual and intratextual factors. For the sake of brevity, only those factors that provided the richest opportunity for examination were considered. However, for contextualization, the table below provides a list of all the factors addressed by Nord.

Table 8 Factors in Text Analysis	
Extratextual Factors	Intratextual Factors
<ul style="list-style-type: none"> • Sender • Senders intention • Recipient • Medium/channel • Place of communication • Time of communication • Motive for communication • Text function 	<ul style="list-style-type: none"> • Subject matter • Content • Presuppositions • Text composition • Non-verbal elements • Lexic • Sentence Structure • Suprasegmental features

(Nord, 1991)

For our purposes here we will provide examples of various extratextual factors from Nord's list. We will focus mainly on extratextual factors rather than intratextual ones because they are the factors that distinguish the target, situational, skopos-oriented approach that is most amenable to plain language translation, in the creation of prospectuses. They are also most immediately accessible for analysis. Our research does consider as well certain intratextual factors such as non-verbal elements and sentence structure. Nord defines her concept of extratextual factors as follows:

The extratextual factors are analysed before reading the text, simply by observing the situation in which the text is used. In this way, the recipient builds up a certain expectation as to the intratextual characteristics of the text, but it is only when, through reading, he contrasts this expectation with the actual features of the text that he experiences the particular effect the text has on him. (Nord 37).

Nord tells us that extratextual factors should be considered before reading the text. The implication here is that the translator can learn how the recipient will expect to be able to use the text simply from the situation in which the text is to be used, and then determine text function by the interaction between the expectation and the reality once the text is read. For our purposes, applying *ceteris paribus* to this element of text analysis would be very useful at this point, as the vastly different situations of each investor would be impossible to capture. Instead, we will make the assumption that all of the recipients of the text have the same expectations and the same reality when they read the text, thereby providing for the same text function across audiences. The remaining factors for source-text analysis discussed below are more concrete in application.

Nord's notion of the commissioner, initiator and text producer and his or her intention are closely-linked elements of source-text analysis that it is important to sort out at this point. Per Nord, the initiator launches the translation process by giving it a purpose, while she is inspired by Holz Mantari (1984) to explain that the commissioner is the agent requesting the translation (Nord, 1997, p. 20). Nord distinguishes between the sender, who may not be the actual producer of the text, and the text producer (not the translator), highlighting that the two may not have the same purposes. For example, in translating a prospectus into plain language, the sender's intention is simply to provide the required financial and descriptive information where the text producer's intention is to provide said information in a coherent, understandable fashion, either voluntarily or by mandate. In our context, the sender is the company issuing the

securities, and the sender's intention is to make the prescribed information available to the target in compliance with the requirements. In the context where plain language is a legal requirement, the sender's intention extends the mandate to include "providing the prescribed information in plain language."

Other extratextual factors we consider significant in our text analysis for plain language translation are medium/channel, place, time, and motive. The medium or channel for prospectuses is most typically a booklet or brochure, designed according to certain specifications, then printed and bound; however, these documents are also increasingly being made available electronically. Place is a factor that deals with where the communication was created and where it will be received. For plain language translation, these factors have little effect on the text analysis (it matters not that the text was produced in cubicles and offices or that it will be read by the recipient on a commuter train or in the next city over) and therefore little effect on plain language translation. The factor of time is generally considered to address the natural evolution of language over time (i.e. was the text to be translated produced at a point in time where language was used differently or had different features?). The very strict timelines within which a prospectus must be produced renders this element of text analysis irrelevant. The motive for producing a text is often provided in the answer to the question "Why has the text been produced?" In our case, a prospectus is produced to alert potential investors of the issuance of a new security.

A last extratextual factor we must consider involves the text's function. Nord borrows and elaborates on Roman Jakobson's proposal of four functions of

communication: referential, emotive, operative and phatic (42). In short, Nord sees these functions as follows:

- Referential – concerned with the context referred to by the text
- Emotive – concerned with the sender
- Operative – concerned with the text’s orientation to the recipient
- Phatic – to paraphrase her quote of Jakobson: communicating in such a way as to attract or confirm the interlocutor’s continued attention

Since it can be argued that plain language prospectuses are designed with a focus on the “orientation of the text towards the recipient,” we believe the function of prospectuses aligns most with the operative function Nord borrows from Jakobson (1991, 42). In short, the driving focus in the crafting of the text (through $S_1 \rightarrow S_2$ translation or otherwise) of a plain language prospectus is the recipient. The recipient is contextualized situationally, and is functionally less dependent on translated communication that would hinge on a notion of text type, as differentiated by Nord:

the notion of text function is related to the situational aspect of communication, whereas the notion of text type is related to the structural aspect of the text-in-function. It is like looking at two sides of a coin: they cannot be separated, but they are not the same thing (Nord 70).

In sum, Nord’s concept of text function is linked with the way a translation represents its source text, identifiable either as: documentary or instrumental. A documentary translation is one that “serves as a document of [source culture] communication between the author and the [source text] recipient” (72). The translation clearly acts and is perceived as a representation of the SL text. On

the other hand, an instrumental translation "is a communicative instrument in its own right, conveying a message directly from the [source text] author to the [target text] recipient" (72). The translation's communicative function is decisively activated. Plain language translation of a prospectus would fall into the category of instrumental translation, as the translation is intended to stand autonomously and communicate directly to the recipient, namely potential investors, including those who are not conversant in legalese or highly technical financial jargon.

Mutual fund prospectuses are intended to communicate key information that potential investors will use to make their decisions on whether or not to purchase a company's securities. The information includes a description of the securities being offered, a description of the company's main operating activities, a summary of any litigation activities affecting the company, a description of what the company intends to do with the capital raised by issuing the securities, to name just some of the main items contained in a prospectus. A non-plain language prospectus would typically be written using an overly regimented style that heavily employs technical terms and legalese over ease of comprehension.

As we proceed through the following examples, the original texts will be analyzed for their deficiencies in adherence to plain language principles. The translations will then be analyzed comparatively to demonstrate if the plain language principles have been successfully implemented. The analyses and evaluation will rely on the conceptual frameworks and categories of the skopos and relevance theoretical considerations we have just discussed.

To begin, we must briefly establish the foundation for our text analysis, which Nord calls the “constituents” of the translation. The following table present Nord’s list of general constituents alongside a list of constituents that correspond best for the plain language translation of prospectuses.

Table 9 Constituents of Translation	
Initiators usually request the translation.	Corporate Communications
Translators usually perform the translation.	Translator/Plain Language Specialist
The initiator provides the source text (i.e. the text for translation).	Prospectus written in legalese and using highly technical language
The translator provides the target text after the translation process.	The plain language translation of the source text.
The audience of the target text is the target audience .	Potential and existing investors
The language into which the source text is translated is called the target language .	Plain language
The language of the source text is called the source language .	Legalese/Highly Technical Language
The source text producer and the sender may not be the same person (e.g., the CEO is the sender, but many individuals contribute to writing the disclosure document).	The source text producer may be from various departments within the corporation (i.e. marketing, communications, finance, administration, etc.) while the sender would be the department within the corporation that compiles all the pieces of the prospectus for production and dissemination to the public.

Since words and the senses given to a particular use of them in the SL₁ are also important for plain language translation, our basis for determining whether these words adhere to plain language principles will be the *Canadian Oxford Dictionary*, 2nd Edition, (Barber, 2004) (“COD”). It is used as an objective source to support the determination that the sense of word used in the original

may or may not be in violation of plain language principles. As such, a brief detour to highlight the methodology employed in creating the COD is in order.

As of writing this thesis, the 2nd edition of the COD was the most recent edition available. However, since a second edition is largely built on the work of the first edition, we turn to the preface of the first edition to draw out the relevant methodological approaches taken. The main reason for this approach is that the preface to the second edition focuses mainly on the differences (additions, deletions, etc.) with the first edition, so any explanation of methodological reasoning is still found in the first edition preface. To create the first edition five lexicographers reviewed “almost twenty million words of Canadian text held in databases representing over 8,000 different Canadian publications” (Barber, p. ix). This review was undertaken “to ensure that the vocabulary recorded in this dictionary is the vocabulary of Canadians’ everyday life” (p. ix). In addition to this vast review, the authors of the dictionary also set out the methodology by which the information they gathered is presented. For our purposes, the methodology for presenting definitions is most relevant:

6. DEFINITION

Definitions are listed in a numbered sequence in order of comparative familiarity and importance, with the most current and important senses first. They are subdivided into lettered senses (**a**, **b**, etc.) when these are closely related or call for collective treatment.

pan¹ • **noun** **1 a** a container of metal, earthenware, heat-resistant glass, etc. used for cooking. **b** the contents of this. **2 a** panlike vessel in which substances are heated etc. **3** any similar shallow container such as the bowl of a pair of scales or that used for washing gravel etc. to separate gold. **4 N. Amer.** = ICE PAN. **5** part of the lock that held the priming in old guns. **6** a hollow in the ground (*salt pan*). **7 US slang** the face. **8** a hard substratum of soil. **9 a** a metal drum in a steel band. **b** steel-band music and the

associated culture. • **verb** (**panned**, **pan*ning**) **1 transitive informal** criticize severely. **2 transitive slang** hit or punch (a person). **3 a transitive** (often foll. by *off*, *out*) wash (gold-bearing gravel) in a pan. **b intransitive** search for gold by panning gravel. **c intransitive** (foll. by *out*) (of gravel) yield gold. □ **pan out** (of an action etc.) turn out well or in a specified way. □ **pan*ful noun** (pl. **-fuls**). **Pan*like adjective** [Old English *panne*, perhaps ultimately from Latin *patina* ‘dish’]

COD, xvi

As set out in the quotation above, the definitions for the words contained in the dictionary are presented “in order of comparative familiarity and importance, with the most current and important senses first” (Barber, p. xvi). In this context, we take “comparative familiarity” and “most current” and the notion of “important” as aligning with the general idea that plain language seeks to use common, everyday words that are understood by the wider public. Therefore, we propose that most of the senses for words used in non-plain language texts would appear later on in the list of definitions, while the more plain language-compliant senses would be associated with the first or second definitions listed.

4.2.4 BEFORE AND AFTER EXAMPLES

With the previous section setting out the various parameters for our source text analysis, we are now ready to analyze specific examples of plain language translation taken from the SEC Handbook. These examples are provided “to illustrate the principles of plain English” and to demonstrate “how aspects of the plain English rule apply to specific documents” (SEC, 1998, p. 69). The elements that are addressed by plain language translation in these examples include:

- Using all capital letters, which comes across as shouting, aggressive
- The lack of an agent
- Sentence length
- Use of legalese
- Use of abstractions
- Use of superfluous words
- Shotgunning
- Using traditional sentence structure/natural word order
- Using negative construction

Accordingly, we intend to identify the changes that were made to the “after” texts and apply the relevant aspects of skopos and relevance theories to determine whether the translation successfully upholds the principles of plain language. Finally, you may notice a shift in tone in this section, which is intended to invoke the spirit of plain language

Example 3 below is one of the first examples provided in the SEC Handbook and is “a common sentence found in prospectuses” (SEC, p. 18). It is provided as a general example of typical non-plain language text found in prospectuses.

Example 3

Original NO PERSON HAS BEEN AUTHORIZED TO GIVE ANY INFORMATION OR MAKE ANY REPRESENTATION OTHER THAN THOSE CONTAINED OR INCORPORATED BY REFERENCE IN THIS JOINT PROXY STATEMENT/PROSPECTUS, AND, IF GIVEN OR MADE, SUCH INFORMATION OR REPRESENTATION MUST NOT BE RELIED UPON AS HAVING BEEN AUTHORIZED.

Translation You should rely only on the information contained in this document or that we have referred you to. We have not authorized anyone to provide you with information that is different.

(SEC, 1998, p. 18)

The first element in this example that contravenes the plain language principle is the use of all capital letters in the original text. While this may at first seem to be more of a design issue than strictly a translation issue, it remains a feature of the text that influences comprehension. In addition to being more difficult to read, text in all capital letters has come to represent “shouting” in electronic communication¹⁶, which can easily carry over into other forms of communication. This risk in this derives from the tone appearing aggressive or the message being perceived as intimidating even when it is not intended to be. The second instance of textual deviation from the plain language principle is that no agent has been identified to perform the actions described in the text. Without identifying who exactly is supposed to be performing the actions discussed, unnecessary processing effort is required which may result in confusion or, to the extreme, the audience halting its effort to understand what is trying to be communicated. The third issue deals with length. The text is encapsulated in one

¹⁶ Fonts.com website consulted on August 5, 2012, <http://www.fonts.com/content/learning/fyti/situational-typography/all-caps>

sentence that is forty-five words long. According to plain language principles, an intralingual translation would break this information into two shorter sentences. The shift from passive to active voice introduces an agent to perform the actions, which helps focus the reader, particularly when the reader is also an agent in the action.

Recalling that intralingual plain language translation has as its goal to translate a text so that it can function in its particular situation and be used by its target audience in the way they want to use it, the translation in Example 3 appears to satisfy the skopos of the translation. Of the four Skopos elements (aim, purpose, intention and function), this example most clearly demonstrates that the purpose requirement has been satisfied, as the translation provides the information in a straightforward manner. In addition, it is clear to the audience of this translation who the agents are and what their responsibilities are. Further, dividing the text into two short sentences sharpens the focus on the two points being made: only information in the document should be used, and no one else is allowed to provide information to the audience.

From Gutt's relevance theory perspective, the text succeeds on that level as well. First, all of the words used in the translation are from a generally accessible vocabulary. Accordingly, minimal processing effort should be required to determine the meaning intended for each of the words, which in turn means the overall message is more likely to be delivered intact. This represents successful adherence with relevance theory's requirement that there should be

many “contextual effects” (Gutt, p. 30).¹⁷ Second, the use of such common vocabulary means the ideas being conveyed are more readily accessible in the minds of the target audience than they would be if more arcane or technical vocabulary were used.

The text in Example 4 is presented in the SEC Handbook as a demonstration of the clarity that is brought to the text through the use of personal pronouns.

Example 4

Original This Summary does not purport to be complete and is qualified in its entirety by the more detailed information contained in the Proxy Statement and the Appendices hereto, all of which should be carefully reviewed.

Translation Because this is a summary, it does not contain all the information that may be important to you. You should read the entire proxy statement and its appendices carefully before you decide how to vote.

(SEC, 1998, p. 22)

The original text makes no reference to an agent, leaving the answer to “who should do the careful reading?” unspecified. While this is not necessarily incomprehensible, and a minimum amount of common sense should prevail to make this original text understood, there is no compelling reason to leave out the agent. The words “purport,” “qualified in its entirety,” and “hereto” all resonate with legalese. The word “purport” offers an interesting point of analysis. The first definition in the COD, 2ed. is “profess; be intended to seem,” which is how the word is used in the original text. However, since the original text is referring to a

¹⁷ Contextual effects “consist in the derivation of *contextual implications*, in the *strengthening*, or confirmation, of assumptions already held, or in the *elimination* of assumptions due to a contradiction” (Gutt, 27).

document (the prospectus), the second definition would seem to apply: “(of a document, speech, etc.) have as its meaning; state,” which does not seem to fit the context in any way (1,256). Therefore, any reader member who is not familiar with the word “purport” is immediately faced with the choice of going to extra effort to process the meaning or giving up on trying to understand. Assuming the audience member makes the extra effort, which definition from the dictionary is likely to make sense? Context would normally come to play, but can it truly be said that the context provided in the original text would be enough to determine if it is the first definition of purport that is being employed? This is doubtful. So, seeing that the second definition applies to a document, and seeing that the text is referring to a document, the audience member may very likely select the second definition of purport, which would lead to further confusion, as the sentence would then read “This Summary does not have as its meaning to be complete...” Seeing that this makes no sense, the intrepid audience member would return to the dictionary and continue to plug in the various definitions until one seemed to make sense. This is an immense effort to process the text to achieve understanding, which indicates that there is little relevance to the use of the word “purport” in this text.

Now take “qualified” as it is used in the original text. It is not necessarily obvious which definition represents the intended use of the word; to be sure, the first understanding qualified is likely to have for the general public is probably something along the lines of “to meet the requirements for admission to something,” yet this is clearly not the way the word is used in the original text.

Resorting to the COD, 2nd Ed., we find ourselves making a choice between two possible definitions: is it the 4th definition – “add reservations to; modify or make less absolute (a statement or assertion)” or is it the 6th – “moderate, mitigate; make less severe or extreme” (1,263)?

Example 5 is used to illustrate how abstractions inhibit comprehension and undermine the function of the text.

Example 5

Original No **consideration** or **surrender** of Beco Stock will be required of shareholders of Beco in return for the shares of Unis Common Stock **issued pursuant to the Distribution**.

Translation You will not have to turn in your shares of Beco stock or pay any money to receive your shares of Unis common stock from the spin-off.

(SEC, 1998, p. 24)

Consumers of this text who have not received specialist training in finance or who have not been regularly exposed to the traditional language used in finance, very well may stumble while reading this text when they come upon the words “consideration” and “surrender” used in this way. Take “consideration:” the most commonly understood definitions of this word have to do with thinking in general or being thoughtful of someone, yet its usage here has to do with a payment. In fact, the definition of consideration as another way of saying payment is the fourth definition listed in *Canadian Oxford Dictionary*, Second Edition. “Surrender” is another case of using a common-enough word but with another meaning that is largely used in the narrow confines of finance.

Example 6 contains a very common issue that plain language is meant to address, namely the use of superfluous words.

Example 6

Original Machine Industries and Great Tools, Inc. are each subject to the information requirements of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), and in accordance therewith file reports, proxy statements and other information with the Securities and Exchange Commission (the “Commission”).

Translation We file annual, quarterly, and special reports, proxy statements, and other information with the Securities and Exchange Commission (SEC).

(SEC, 1998, p. 25)

The SEC Handbook highlights a very common occurrence in technical writing called “shotgunning” which is described as “letting loose a blast of words hoping at least one conveys your intended meaning” (SEC, 1998, p. 25). Information that is conveyed through shotgunning is not likely to fulfill the purpose or function of the communication. We propose that if the purpose is to convey information to an investor and the function is that the information is usable to the investor, shotgunned information fails on both points. Investors cannot be expected to pick and choose the information that is intended to be communicated from a variety of possibilities that in fact are being communicated. As for purpose, how can investors be expected to use the information if they cannot discern which information is being conveyed?

Example 7 illustrates the importance of following traditional structures in a given language and how non-plain language often disregards that the “natural word order of English speakers is subject-verb-object” ((SEC, p. 32).

Example 7**Original**

Holders of the Class A and Class B-1 certificates will be entitled to receive on each payment Date, to the extent monies are available therefore (but not more than the Class A Certificate Balance or Class B-1 Certificate Balance then outstanding), a distribution.

Translation

Class A and Class B-1 certificate holders will receive a distribution on each payment date if cash is available on those dates for their class.

(SEC, 1998, p. 32)

What is implied when the SEC Handbook makes reference to “natural word order” is that the target audience already has in mind an expectation of how the communication will be structured. We propose, based on our reading of relevance and skopos theories, that when this expectation is not met, the target audience is forced into efforts to first identify that something is wrong (the text does not follow the “natural word order” of the language) and then spend further processing effort trying understand the information, likely by attempting to place the information into the “subject-verb-object” order that was expected. When the communication is constructed in such a way that the natural order is interrupted, it decreases the usability of the communication, which in turn compromises the purpose.

This example also supports the position that plain language translation does not require a high level of subject-matter specialization. Here we have an original text that uses almost entirely common words (only “therefore” is used in a potentially confusing way) but is nonetheless obtuse. Accordingly, heightened knowledge of the particular subject matter is not required to successfully translate this text into plain language, rather a basic understanding of the natural

word order of the language and an understanding of the target audience composition is all that is needed.

Up to this point we have looked at a few short examples of plain language translation taken from the various chapters of the SEC Handbook. In the next portion of this section, we turn our focus to a more comprehensive example of plain language translation – the cover page of an actual prospectus.

Example 8 shows the original cover page of an MBNA prospectus for asset backed certificates. This cover page was written in non-plain language and embraced the use of legalese and the previously-mentioned shotgunning, both of which betray the skopos of the text. It is important to note, as we analyze Example 8, that it was produced following “the SEC rules that were in effect at the time” which means that in the translation we will see that some information from the original is not carried over. This is not a question of plain language translation; rather it is a result that reflects elements of the plain language rules dictating what information is required to be presented on the cover page.

A first reading of the text in Example 8 shows significant usage of words that are almost exclusively associated with legalese: there are four instances where “herein” is used, seven instances where “hereby” is used, four instances where “with respect to” is used, and individual instances where “pursuant to,” “in respect of” and “thereof” are used. The use of legalese is not compliant with the plain language rule for prospectus writing, and therefore must be addressed in the translation. In addition, there are two instances of sentences of lengths of fifty

words or more. These sentence lengths certainly do not exemplify the spirit set forth by the statement that plain language writing "...uses words economically..." (SEC, p. 5). It would truly be understandable, even forgivable, if readers had forgotten what was stated at the beginning of the sentence by the time they reached the end of the sentence, some fifty or more words later!

Example 8 MBNA Cover Page - Original

The Asset Backed Certificates (collectively, the “Certificates”) described herein may be sold from time to time in one or more series (each, as “Series”), in amounts, at prices and on terms to be determined at the time of sale and to be set forth in a supplement to this Prospectus (a “Prospectus Supplement”). The Certificates of each Series will represent an undivided interest in MBNA Master Credit Card Trust II (the “Trust”). The Trust has been formed pursuant to a pooling and servicing agreement between MBNA America Bank, National Association (“MBNA”), as seller and servicer, and The Bank of New York, as trustee. The property of the Trust will include receivables (the “Receivables”) generated from time to time in a portfolio of consumer revolving credit card accounts (the “Accounts”), all monies due in payment of the Receivables and certain other property, as more fully described herein and, with respect to any Series, in the related Prospectus Supplement. MBNA initially will own the remaining undivided interest in the Trust not represented by the Certificates issued by the Trust and will service the Receivables.

Each Series will consist of one or more classes of Certificates (each, a “Class”), one or more of which may be fixed rate Certificates, floating rate Certificates or other type of Certificates, as specified in the related Prospectus Supplement. Each Certificate will represent an undivided interest in the Trust and the interest of the Certificateholders of each Class or Series will include the right to receive a varying percentage of each month’s collections with respect to the Receivables of the Trust at the times, in the manner and to the extent described herein and, with respect to any Series offered hereby, in the related Prospectus Supplement. Interest and principal payments with respect to each Series offered hereby will be made as specified in the related Prospectus Supplement. One or more Classes of a Series offered hereby may be entitled to the benefits of a cash collateral account or guaranty, a collateral interest, a letter of credit, a surety bond, an insurance policy or other form of enhancement as specified in the Prospectus Supplement relating to such Series. In addition, any Series offered hereby may include one or more Classes which are subordinated in right and priority to payment of principal of, and/or interest on, one or more other Classes of such Series or another Series, in each case to the extent described in the related Prospectus Supplement. Each Series of Certificates or Class thereof offered hereby will be rated in one of the four highest rating categories by at least one nationally recognized rating organization.

While the Specific terms of any Series in respect of which this Prospectus is being delivered will be described in the related Prospectus Supplement, the terms of such Series will not be subject to prior review by, or consent of, the Certificateholders of any previously issued Series.

Potential investors should consider, among other things, the information set forth in the “Risk Factors” beginning on page 19 herein.

THE CERTIFICATES WILL REPRESENT INTERESTS IN THE TRUST ONLY AND WILL NOT REPRESENT INTERESTS IN OR OBLIGATIONS OF MBNA AMERICA BANK, NATIONAL ASSOCIATION OR ANY AFFILIATE THEREOF. A CERTIFICATE IS NOT A DEPOSIT AND NEITHER THE CERTIFICATES NOR THE UNDERLYING ACCOUNTS OR RECEIVABLES ARE INSURED OR GUARANTEED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER GOVERNMENTAL AGENCY.

THESE SECURITIES HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION OR ANY STATE SECURITIES COMMISSION NOR HAS THE COMMISSION OR ANY STATE SECURITIES COMMISSION PASSED UPON THE ACCURACY OR ADEQUACY OF THIS PROSPECTUS. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

Certificates may be sold by MBNA directly to purchasers, through agents designated from time to time, through underwriting syndicates led by one or more managing underwriters or through one or more underwriters acting along. If underwriters or agents are involved in the offering of the Certificates of any Series offered hereby, the name of the managing underwriter or underwriters or agents will be set forth in the related Prospectus Supplement. If an underwriter, agent or dealer is involved in the offering of the Certificates of any Series offered hereby, the underwriter's discount, agent's commission or dealer's purchase price will be set forth in, or may be calculated from, the related Prospectus Supplement, and the net proceeds to MBNA from such offering will be of such Certificates less such commission in the case of an agent or the purchase price of such Certificates in the case of a dealer, and less, in each case, the other expenses of MBNA associated with the issuance and distribution of such Certificates. See "Plan of Distribution."

This Prospectus may not be used to consummate sales of any Series of Certificates unless accompanied by the related Prospectus Supplement.

The date of this Prospectus is September 2, 1997.

(SEC, 1998, pp. 70-71)

Example 9 MBNA Cover Page - Translation

Consider carefully the risk factors beginning on page 10 in this prospectus.

A certificate is not a deposit and neither the certificates nor the underlying accounts or receivables are insured or guaranteed by the Federal Deposit Insurance Corporation or any other governmental agency.

The certificates will represent interests in the trust only and will not represent interests in or obligations of MBNA or any MBNA affiliate.

This prospectus may be used to offer and sell any series of certificates only if accompanied by the prospectus supplement for that series.

The Trust-

- may periodically issue asset back certificates in one or more series with one or more classes; and
- will own-
 - receivables in a portfolio of consumer revolving credit card accounts;
 - payments due on those receivables; and other property described in this prospectus and in the accompanying prospectus supplement.

The Certificates-

- will represent interests in the trust and will be paid only from the trust assets;
- offered with this prospectus will be rated in one of the four highest rating categories by at least one nationally recognized rating organization;
- may have one or more forms of enhancement; and
- will be issued as part of a designated series which may include one or more classes of certificates and enhancement.

The Certificateholders-

- will receive interest and principal payments from a varying percentage of credit card account collections.

(SEC, 1998, pp. 70-71)

Example 9 provides the plain language translation of the prospectus text shown in Example 8. It is immediately evident that the plain language translation takes

up less space than the original. This results from paring down those fifty-plus word sentences to use an economy of words wherever possible. If we look at the last paragraph in the panel on the left side, we note that it corresponds to the next to last paragraph of the text in Example 8. This translation into plain language is interesting for two reasons: the change from a negative construction to a positive construction and the plain language replacement for the word “consummate.”

One of the tenets of writing in plain language is to “[w]rite in the ‘positive’” because “[p]ositive sentences are shorter and easier to understand than their negative counterparts” (SEC, 1998, p. 27). Accordingly, when the source text presents information using a negative construction, as in the case of this text in Example 8, then the plain language translation must aim to comply with this tenet and find a way to craft a translated text that does not employ the negative. This is successfully achieved in Example 9 by replacing the “not...unless” construction with the “may...only” construction. As for the word “consummate,” true plain language translation has transpired.

The word “consummate” is used in Example 8 as a verb. This word is defined in the Canadian Oxford Dictionary, Second Edition as follows:

consummate **transitive verb** **1** complete; make perfect. **2a** make (a marriage) legally complete by having sex. **b** give sexual expression to (love, a non-marital union, etc.) **adjective** **1** complete, perfect, of the highest level **2** perfectly skilled

Using the word “consummate” in this sentence has the effect of distancing the reader from the actual act that is being discussed, namely the act of selling a

security. This distance has the effect of adding to the processing burden required for the reader to gain a full understanding of the information conveyed in the sentence. In the plain language translation, the message is expressed directly, with the use of the verb “sell.”

The final example, taken from the body of a prospectus, highlights the effectiveness of how shorter sentences clarify the message and enhance comprehension.

Example 10 Baltimore Gas & Electric Company

Original	Translation
<p>The applicable Pricing Supplement relating to a Fixed Rate Note will designate a fixed rate of interest per annum payable on such Note. Unless otherwise indicated in the applicable Pricing Supplement, interest with respect to Fixed Rate Notes will be paid semi-annually each May and November 1 and at Stated Maturity or, if applicable, upon redemption.</p>	<p>The applicable pricing supplement will designate the fixed rate of interest payable on a note. Interest will be paid May 1 and November 1, and upon maturity, redemption or repurchase.</p>
<p>If any Interest Payment Date or the Stated Maturity (or, if applicable, the date of redemption) of a Fixed Rate Note falls on a day that is not a Business Day, payment of principal, premium, if any, or interest will be made on the next Business Day as if it were made on the date such payment was due, and no interest will accrue on the amount so payable for the period from and after such Interest Payment Date or the Stated Maturity (or the date of redemption), as the case may be.</p>	<p>If any payment date falls on a day that is not a Business Day, payment will be made on the next Business Day and no additional interest will be paid.</p>
<p>The Record Dates for such notes will be the April 15 and October 15 next preceding the May 1 and November 1 Interest Payment Dates.</p>	<p>The record dates for such notes will be April 15 (for interest to be paid on May 1) and October 15 (for interest to be paid on November 1).</p>
<p>Unless otherwise indicated in the applicable Pricing Supplement, interest Payments for Fixed Rate Notes shall be the amount of interest accrued to, but excluding, the relevant Interest Payment Date. Interest on such notes will be computed on the basis of a 360-day year of twelve 30-day months.</p>	<p>Interest payments will be the amount of interest accrued to, but excluding, each May 1 and November 1. Interest will be computed using a 360-day year of twelve 30-day months.</p>

(SEC, 1998, pp. 76-77)

The sample text of the original contains around 100 more words than the translation. What are these words and how can the same message be conveyed in almost half the count? Looking through the example, we see that the original makes use of repetition so extensively that simply removing repeated notions lightens the text immensely. Take the first sentence, which has 56 words in the original and 30 in the translation. Repetitions have been removed where context can be relied upon to make meaning clear (e.g. no need to repeat “Fixed Rate Note” as the heading introducing this section contextualizes the text). The original also makes use of Latin terms (*per annum*) and unnecessary turns of phrase (“no interest will accrue on the amount so payable” versus “no additional interest will be paid”).

From a relevance theory perspective, this is a successful translation on two counts. First, in general, the processing effort to understand the notion is reduced by virtue of the fact that there are few concepts to confirm or discredit, or to confuse. Second, the likelihood of relevance being achieved is great since fewer repetitions mean the contextual effects will be greater; or in other words, the meaning to the reader will be more significant. From the skopos theory perspective, the translation is successful as it maintains the function of the text in the translation. In fact, given the more direct access the reader has to the message communicated simply by virtue of having fewer words to wade through to get to the message, one could argue that the function has been prioritized in the translation.

The previous examples have been selected and analyzed to demonstrate how translation theory can intervene in a pragmatic setting. Imagine a situation where a translator was handed the original texts and asked to translate them into plain language. Further imagine that the translator is a qualified plain language expert who is not a specialist in economic/financial translation. The translator can rely on adapted elements of skopos and relevance theory to confirm that the translations into plain language are successful.

4.2.5 SUMMARY

In this section we have examined examples of plain language translations of various sections of prospectuses. These examples have served to illustrate two points: what is not considered plain language (the SL₁ text) and what is considered plain language (Example 3 the SL₂ text). We have seen examples where format is called into question (using all capital letters), or examples where no agent is specified or where the meaning of words used are not the most common meanings (Example 5's use of the words consideration and surrender). We have seen examples where sentences were over 100 words (Example 10). All of these examples of "what not to do" have been accompanied with examples of "what to do" supported by the application of adapted elements of skopos and relevance theory

5 CONCLUSION

As stated at the outset, this research has two objectives: to provide a comprehensive historical contextualization and history of the development of plain language, and to look at translation theoretical considerations in a

pragmatic setting defined by translating SL_1 into SL_2 , ie. from non-plain language into plain language. In addition to these two goals, this research has given rise to other questions that may be investigated in the future. Before looking at new questions, we will summarize our efforts regarding the stated purposes of the research.

In terms of looking at the historical context and development, it has been shown that plain language has a history spanning decades, if not centuries, and throughout that time its main purpose has been clear communication. Plain language communication was addressed in ancient times (Cicero), and makes subsequent appearances throughout history (Shakespeare and Paine) up to modern times. Widespread literacy was perhaps the trigger that ushered in the more recent, historically speaking, urgency for plain language communication, as more and more people began dealing with the written word first hand, giving rise to the desire to understand and not be deceived. Plain language communication has evolved from the rallying cry of activists to relatively mundane policies of corporations and governments, which arguably makes it more, not less, of an interesting topic for research. As more and more communicators are turning to plain language, either of their own volition or through prescription, the opportunities for studying this communication approach are multiplied.

In terms of looking at theoretical considerations in a clearly pragmatic setting, our focus on plain language used in the relatively narrow field of prospectus communication was twofold: it is a prescribed form of communication and it readily provided duly sanctioned “before” and “after” examples for analysis. On

the first point, we were able to use a set of criteria to adhere to, while the before and after examples allowed looking at how theory could be applied in pragmatic translation. Since the before and after examples, were provided in the guidance, which itself was created by the regulating authority (the SEC) based on the regulation, it can be safely assumed that the “after” examples are in fact successful plain language communication.

Skopos and relevance theories were determined to be the theories best suited for application to plain language translation. While the SEC Handbook provided the purpose and criteria for the translation, skopos and relevance theory were employed to show how a translator could confirm that the translation decisions made successfully achieved the purpose and met the criteria. Against the disparity between theory and application, this research has attempted to show that theory and application can go hand-in-hand, at least within the context of plain language translation.

In addition to the objectives set for this research, other interesting points arose which could not be addressed in any sufficiently thorough manner, but which should nonetheless be noted for potential future research. What follows is a short sketching of some of these points.

Intralingual/Interlingual. Our research looked at intralingual translation, treating the non-plain language as a source language and the plain language as the target language (designated throughout as SL₂), all within the same language. While this provides a neat and tidy subject for analysis, the reality of

working translators is likely to be very different. We can easily envision a situation where a translator is faced with translating a technical or otherwise non-plain language document in language A into language B, using plain language. How does the translator approach such work? Assuming that time constraints allow it, is the correct approach to translate from technical language A into technical language B, which is then translated into plain language B? Chances are high that a translator would not be granted the budget or timeframe to perform the work in this way. Would the specific domain of the text enter into play to make this decision? Perhaps a non-specialized translator would benefit from the two-step approach represented by translating from technical language A to technical language B then to plain language B.

Specialization. Does plain language translation necessitate specialization in a specific field? Our research looked at plain language translation within the world of financial securities, so the question arises whether the translator needs to be specialized in financial translation in order to successfully carry out plain language translation. This research did not address this question as it is a topic that would have extended the research boundaries too far away from its main focus, but it remains an interesting question. We believe that specialization in the particular field cannot hinder, but also expect that plain language should be achievable without specialization.

On a final note, I would point out that it is curious that the plain language promoted in the SEC Handbook does not mention any testing that may have been done with regards to the consumer. As the ostensible beneficiary of the

plain language being used, this oversight seems particularly out of character.

Perhaps the focus was so squarely on the producers of the plain language and assisting the adoption of plain language by the producers that the consumer aspect and reception was overlooked. In any event, this is a point that could be addressed in future research.

6 BIBLIOGRAPHY

Arrêté du 2 juillet 2001. (2001, July 2). Journal officiel de la République française.

Asprey, M. (2003). *Plain Language for Lawyers*. TBD: Federation Press.

Barber, K. (2004). *Canadian Oxford Dictionary* (2nd ed.). (K. Barber, Ed.) Don Mills, Ontario: Oxford University Press.

Byrne, J. (2006). *Technical Translation: Usability Strategies for Translating Technical Documentation*. Dordrecht, The Netherlands: Springer.

Canadian Bankers Association. (2000, March 7). *Plain Language Mortgage Documents CBA Commitment*. Retrieved April 2, 2009, from Canadian Bankers Association:
http://www.cba.ca/contents/files/misc/vol_20040929_plainlanguagemortgagedocument_en.pdf

Canadian Securities Administrators. (n.d.). *Overview*. Retrieved 05 28, 2009, from <http://www.securities-administrators.ca/aboutcsa.aspx?id=45>

Catford, J. (1965). *A Linguistic Theory of Translation*. London: OUP.

Center for Plain Language: About Plain Language. (n.d.). Retrieved November 23, 2007, from <http://www.centerforplainlanguage.org/index.html>

Clinton, P. W. (1998, June 1). Memorandum for the Heads of Executive Departments and Agencies. Washington, D.C.

Cutts, M. (1996). *The Plain English Guide*. Oxford: Oxford University Press.

- Cutts, M. (1998). Unspeakable acts revisited. *information design journal*, 9(1), 39-43.
- Fukari, M. W. (2007). *Constructing a sociology of translation*. Amsterdam: John Benjamins Publishing Company.
- Gutt, E.-A. (1991). *Translation and Relevance: Cognition and Context*. Oxford, U.K.: Basil Blackwell Ltd.
- Hausman, D. M. (2008, September 21). "Philosophy of Economics" , *Stanford Encyclopedia of Philosophy*. Retrieved 02 08, 2010, from <http://plato.stanford.edu/entries/economics/#2>
- Locke, J. (Ed.). (2004). *A History of Plain Language in the United States Government*. Retrieved November 13, 2007, from PlainLanguage.gov: <http://www.plainlanguage.gov/>
- Maher, C. (n.d.). Born to Crusade: One woman's battle to wipe out gobbledygook and legalese. Plain English Campaign (http://www.plainenglish.co.uk/about_us/born_to_crusade.html).
- Milne, S. (2000). Plain language at Clarica. *Clarity*, 19-21.
- Myers, J. G. (1998). *Plain language in government writing: a step-by-step guide*. Vienna, Virginia: Management Concepts, Inc.
- Nida, E. (1964). *Toward a Science of Translating: With Special Reference to Principles and Procedures Involved in Bible Translating*. Leiden: E.J. Brill.

Nord, C. (1991). *Text Analysis in Translation: Theory, Methodology, and Didactic Application of a Model for Translation-Oriented Text Analysis*. (C. Nord, & P. Shaw, Trans.) Atlanta: Rodopi.

Nord, C. (1997). *Translating as a Purposeful Activity: Functional Approaches Explained*. Manchester: St. Jerome.

Orwell, G. (1946). "Politics and the English Language". *Horizon*. London.

Plain English Campaign: FAQ. (n.d.). Retrieved 03 11, 2009, from <http://www.plainenglish.co.uk/faqs.html#Anchor-Wha-44708>

Pöchhacker, F. (2004). *Introducing interpreting studies*. New York: Routledge.

Pym, A. (2010). *Exploring Translation Theories*. New York: Routledge.

SEC. (1998). A Plain English Handbook: How to create clear SEC disclosure documents. *A Plain English Handbook: How to create clear SEC disclosure documents*. United States Securities and Exchange Commission. Office of Investor Education and Assistance.

SEC. (1998, September 4). Staff Legal Bulletin No. 7 (CF). U.S. Securities and Exchange Commission.

Snell-Hornby, M. (1988/1995). *Translation Studies: An Integrated Approach*. Amsterdam & Philadelphia: John Benjamins Publishing Company.

Steinberg, E. (1991). *Plain language: Principles and Practice*. Detroit, MI: Wayne State University Press.

- Sue Ellen Wright and Leland Wright, J. (1993). *Scientific and technical translation*. Amsterdam and Philadelphia: John Benjamins Publishing Company.
- Toury, G. (1980). *In Search of a Theory of Translation*. Tel Aviv: The Porter Institute for Poetics and Semiotics.
- Toury, G. (1995). *Descriptive translation studies and beyond*. Amsterdam & Philadelphia: John Benjamins Publishing Company.
- Trosborg, A. (1997). *Text typology and translation*. Amsterdam and Philadelphia: John Benjamins Publishing Company.
- Venuti, L. (1994). *The Translator's Invisibility*. New York: Routledge.

7 APPENDIX A – THE SEC HANDBOOK

⋮ A Plain English
⋮ Handbook
⋮ *How to create clear*
⋮ *SEC disclosure documents*

By the Office of Investor Education and Assistance
U.S. Securities and Exchange Commission
450 5th Street, N.W.
Washington, DC 20549
August 1998

This handbook shows how you can use well-established techniques for writing in plain English to create clearer and more informative disclosure documents. We are publishing this handbook only for your general information. Of course, when drafting a document for filing with the SEC, you must make sure it meets all legal requirements.

Acknowledgments

Nancy M. Smith
*Director, Office of Investor
Education and Assistance*

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Corporate officials and lawyers enthusiastically helped us to breathe life into our plain English initiatives and this handbook. The Society of Corporate Secretaries, the American Bar Association, and The Bond Market Association invited us to conduct workshops where we tested much of the information in the handbook. Kathleen Gibson, Peggy Foran, Susan Wolf, Bruce Bennett, Jim McKenzie, Jeff Klauder, Fred Green, Mark Howard, Pierre de Saint Phalle, Richard M. Phillips, and Alan J. Davis contributed mightily to our efforts.

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And finally, many thanks to Chairman Arthur Levitt, who made it all possible by putting plain English at the top of his agenda so that investors might better understand their investments. •

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Preface

by Warren E. Buffett

This handbook, and Chairman Levitt's whole drive to encourage "plain English" in disclosure documents, are good news for me. For more than forty years, I've studied the documents that public companies file. Too often, I've been unable to decipher just what is being said or, worse yet, had to conclude that nothing was being said. If corporate lawyers and their clients follow the advice in this handbook, my life is going to become much easier.

There are several possible explanations as to why I and others sometimes stumble over an accounting note or indenture description. Maybe we simply don't have the technical knowledge to grasp what the writer wishes to convey. Or perhaps the writer doesn't understand what he or she is talking about. In some cases, moreover, I suspect that a less-than-scrupulous issuer doesn't want us to understand a subject it feels legally obligated to touch upon.

Perhaps the most common problem, however, is that a well-intentioned and informed writer simply fails to get the message across to an intelligent, interested reader. In that case, stilted jargon and complex constructions are usually the villains.

This handbook tells you how to free yourself of those impediments to effective communication. Write as this handbook instructs you and you will be amazed at how much smarter your readers will think you have become.

One unoriginal but useful tip: Write with a specific person in mind. When writing Berkshire Hathaway's annual report, I pretend that I'm talking to my sisters. I have no trouble picturing them: Though highly intelligent, they are not experts in accounting or finance. They will understand plain English, but jargon may puzzle them. My goal is simply to give them the information I would wish them to supply me if our positions were reversed. To succeed, I don't need to be Shakespeare; I must, though, have a sincere desire to inform.

No siblings to write to? Borrow mine: Just begin with "Dear Doris and Bertie." •

Introduction

by Arthur Levitt
*Chairman, U.S. Securities
and Exchange Commission*

Investors need to read and understand disclosure documents to benefit fully from the protections offered by our federal securities laws. Because many investors are neither lawyers, accountants, nor investment bankers, we need to start writing disclosure documents in a language investors can understand: plain English.

The shift to plain English requires a new style of thinking and writing, whether you work at a company, a law firm, or the U.S. Securities and Exchange Commission. We must question whether the documents we are used to writing highlight the important information investors need to make informed decisions. The legalese and jargon of the past must give way to everyday words that communicate complex information clearly.

The good news is that more and more companies and lawyers are using plain English and filing documents with the SEC that others can study, use, and improve upon. With the SEC's plain English rules in place, every prospectus will have its cover page, summary, and risk factors in plain English.

The benefits of plain English abound. Investors will be more likely to understand what they are buying and to make informed judgments about whether they should hold or sell their investments. Brokers and investment advisers can make better recommendations to their clients if they can read and understand these documents quickly and easily.

Companies that communicate successfully with their investors form stronger relationships with them. These companies save the costs of explaining legalese and dealing with confused and sometimes angry investors. Lawyers reviewing plain English documents catch and correct mistakes more easily. Many companies have switched to plain English because it's a good business decision. They see the value of communicating with their investors rather than sending them impenetrable documents. And as we depend more and more on the Internet and electronic delivery of documents, plain English versions will be easier to read electronically than legalese.

The SEC's staff has created this handbook to help speed and smooth the transition to plain English. It includes proven tips from those in the private sector who have already created plain English disclosure documents. This handbook reflects their substantial contributions and those of highly regarded experts in the field who were our consultants on this project, Dr. William Lutz at Rutgers University and the firm of Siegel & Gale in New York City.

But I hasten to add that the SEC has not cornered the market on plain English advice. Our rules and communications need as strong a dose of plain English as any disclosure document. This handbook gives you some ideas on what has worked for others, but use whatever works for you.

No matter what route you take to plain English, we want you to produce documents that fulfill the promise of our securities laws. I urge you—in long and short documents, in prospectuses and shareholder reports—to speak to investors in words they can understand. Tell them plainly what they need to know to make intelligent investment decisions. •



What Is a “Plain English” Document?

We’ll start by dispelling a common misconception about plain English writing. It does not mean deleting complex information to make the document easier to understand. For investors to make informed decisions, disclosure documents must impart complex information. Using plain English assures the orderly and clear presentation of complex information so that investors have the best possible chance of understanding it.

Plain English means analyzing and deciding what information investors need to make informed decisions, before words, sentences, or paragraphs are considered. A plain English document uses words economically and at a level the audience can understand. Its sentence structure is tight. Its tone is welcoming and direct. Its design is visually appealing. A plain English document is easy to read and looks like it’s meant to be read.

This handbook's purpose

This handbook gives you practical tips on how to create plain English documents. All of these were born of experience. They come from experts and those who have already written or rewritten their documents in plain English.

As with all the advice in this handbook, feel free to tailor these tips to your schedule, your document, and your budget. Not all of the tips will apply to everyone or to every document. Pick and choose the ones that make sense for you.

Some of our tips cover very basic mechanical issues, like how to photocopy your working draft. We've included them because they were learned the hard way and have saved people time, money, and aggravation. You'll see them listed in Chapter 8, titled "Time-Saving Tips."

This handbook is by no means the last word on plain English. We expect to change it and add more tips as we learn more about writing securities documents in plain English. So please keep notes on your experiences and copies of your original and rewritten language. We want to hear from you and include your tips and rewrites in the next edition.

Finally, we encourage you to give this handbook out freely. It is not copyrighted, so you can photocopy it without fear of penalty. •

2

Getting Started

Assemble the team or move ahead on your own

As with a lot of things in life, it's the preparation that often determines the success or failure of an effort to write documents in plain English. Many of you routinely select a team to think and talk about how to write a document from scratch or rewrite an existing document. Or you may do it on your own. In that case, rest assured that one person can do it alone.

The list below describes the types of people who have participated in successful plain English teams. *We're not suggesting that you need to select everyone listed.* Some will not apply to your company or your situation. The people you select, and the point at which you involve them in your plain English project, will depend on your document, your schedule, and your budget.

- **A team leader** who has the authority to make decisions that keep the project moving forward and bring it to a successful conclusion. (More than one plain English project has faltered because the team leader has not had this level of authority.) The team leader may be a company's or an underwriter's lawyer.
- **A lead writer** who ensures the document uses a logical structure and simple, clear language. If more than one person is drafting sections of the document, the lead writer makes sure the final draft has a consistent tone and the individual parts form a coherent whole.
- **Lawyers for the company or the underwriter** who know what information must be included and why.

- **An investor relations expert** who knows firsthand the financial sophistication of your investors. Investor relations people know which questions investors typically ask and where past disclosure documents have failed to make information clear.
- **A compliance officer** who can lend guidance to the writer and who knows, along with your lawyers, what information must be included.
- **A production and operations person** who understands the mechanics and costs of printing and mailing your document, so that your improved document doesn't get ahead of your in-house capabilities or budget.
- **A marketing person** who may have market survey research or polls on your investors. Also, the marketing department is usually attuned to the terminology that your investors can readily understand.
- **An information designer** who is a graphic designer trained to work closely with the writers and to think about how to present complex information visually.

Select documents

You may want to consider these issues as you start writing in plain English:

- How long is the document?
- Will you write all of it, or only sections of it, in plain English?
- How much time do you have before you need to file your document?

You will also want to gather and distribute other documents that your company has written for investors. It's likely that your company has already used plain English in its glossy annual reports and other communications prepared especially for investors. These documents may save you time by showing you the type of language your company is already comfortable using. •

3

Knowing Your Audience

Knowing your audience is the most important step in assuring that your document is understandable to your current or prospective investors. To write understandable documents, you need to gauge the financial sophistication of your investors.

Through polls and other market survey research tools, some companies know the demographics of their investors well. Other companies rely on their investor relations staff or their underwriters to describe who has bought, or is likely to buy, their securities.

Using whatever information is available, you can create a profile of your investors or prospective investors based on the following questions:

- What are their demographics—age, income, level of education, and job experience?
- How familiar are they with investments and financial terminology?
- What investment concepts can you safely assume they understand?
- How will they read the document for the first time? Will they read it straight through or skip around to the sections that interest them?
- Will they read your document and your competitors' side by side?
- How will they use the document while they own the security?
What information will they be looking for later, and is it easy to find?

Your investors or prospective investors may include individuals and institutions with varying degrees of financial sophistication. While your audience will include analysts and other industry experts, you may want to keep in mind that your least sophisticated investors have the greatest need for a disclosure document they can understand. Some companies have faced the differing needs of their investors and other audiences by making basic educational information visually distinctive from the rest of the text so that sophisticated investors can easily recognize and scan it.

Once you've drawn a profile of your investors, keep it constantly in mind. Some writers keep a photo of a typical investor to make sure they don't lose sight of their readers.

After analyzing who your investors are, you can turn to the document you want to write or rewrite. •



“One must consider also the audience...the reader is the judge.”

Aristotle
Rhetoric

4

Knowing the Information You Need to Disclose

The steps outlined in this section have been used successfully by others who have written disclosure documents in plain English. As we said earlier, feel free to tailor these steps to your own schedule and team. This is one approach if you are rewriting an existing document, but others may work equally well.

Read and outline the current document

Read the entire document once without making any notes or comments on the text. This should give you a general understanding of the information covered in the document and make your next read more productive.

When you read it the second time, make notes on what information is covered and any questions you have. Your notes will also help you to assess if information flows through your document in a logical order.

As you read, consider the following:

- Will the investors understand the language?
- Does the document highlight information that is important to investors?
- Is any important information missing?
- Does the document include information that is not legally required and will not help investors make informed decisions?

For time-saving tips on how to outline and reorganize your document, read Chapter 8 on page 55.

Meet to resolve questions

Meet with the authors of the original document or others who understand it and any members of the team who can help to answer the questions you wrote in the margins. Besides the obvious reason for the meeting, another more important goal is

to question the need for everything that appears in the document.

“Because it’s always been there” is not reason enough to keep it in your draft. Since much of the language in these documents is recycled from older (or another company’s) documents, often no one knows who initially wrote it or why it is needed now. If you’ve done your legal research and no one knows why the information is important or required, consider taking it out.

Eliminate redundant information

Question the need for repeating any information. Reading the same material two or three times can bore and even trouble readers. Most readers skip over paragraphs if they think they’ve read them before. If you cut down on repetitious paragraphs or sentences, you’ll not only earn the gratitude of your reader, you’ll reduce printing and mailing costs.

Discuss the cover page and the summary

A cover page should be an introduction, an inviting entryway into your document, giving investors some key facts about your offering, but not telling everything all at once. If it looks dense and overgrown with thorny details, no one will want to pick it up and start reading. If it looks like a legal document written *by* lawyers and *for* lawyers, many investors will not even attempt to read it.

To create an inviting cover page, you’ll need to strip away much of what is conventionally placed there, but which is not required.



“Writers must therefore constantly ask: What am I trying to say? Surprisingly often they don’t know. They must look at what they have written and ask: Have I said it?”

William Zinsser
On Writing Well

As you review your cover page, question why each item of information is there. It may be important, but does it have to be on the cover page? You usually have a substantial document following the cover page—let some of those other pages carry the information load in logical order.

What would be helpful for investors to see on this page? Look through your investors' eyes and you'll make better decisions about where to place information.

The same goes for the summary. A summary should orient the reader, highlighting the most important points that are presented in greater detail in the prospectus. Many summaries now seem as long as the document itself and consist merely of paragraphs copied straight from the body of the document.

Use defined terms sparingly

Although customary, introducing defined terms on the cover page and in the summary discourages many readers from getting beyond the first pages. Overwhelmed with memorizing a new and unnatural vocabulary, and bothered by constantly having to flip back and hunt for the first time a defined term's definition appears, many an investor will not stick with the document. One plain English expert has advised, don't let a shortcut for the writer become a roadblock for the reader. •

5

Reorganizing the Document

A few principles of good organization apply universally.

First, present the big picture before the details. Prospectuses routinely start with a detailed description of the securities. You may read pages before you find out what the company produces, or why it is merging or spinning off a subsidiary. It's hard to absorb the details if you don't know why they are being given to you. Imagine trying to put together a complicated jigsaw puzzle without first seeing the picture of the completed puzzle. An individual piece of information means more to your readers if they know how it fits into the big picture.

Second, use descriptive headers and subheaders to break your document up into manageable sections. Prospectuses impart a lot of information. If you present the information in bite-sized pieces, it's easier to digest. Make sure your headings tell the reader what the upcoming sections will cover. Headings like "general" or "background" aren't especially helpful.

Third, always group related information together. This helps you identify and eliminate repetitious information.

Fourth, your audience's degree of investment expertise will affect how you organize the document. If you are writing for financially unsophisticated investors, your document's overall organization may take an educational approach. You may need to explain industry terms or concepts where they first appear.

Fifth, review your document by taking a good look at the flow of information from beginning to end. Start making decisions on how the content should be moved around into a new and logical order based on:

- the audience profile
- the notes you made in the margins
- the decisions you've made on your cover page and summary
- the information you've learned in answering your questions

Once you have finished physically reorganizing the document, you may want to write an outline of your new organization. Your outline can later become your table of contents.

You're now ready to start rewriting your document in plain English.

And, speaking of writing... •

6

Writing in Plain English

We thought it would be helpful to list the most common problems we've encountered with disclosure documents.

Common problems

- Long sentences
- Passive voice
- Weak verbs
- Superfluous words
- Legal and financial jargon
- Numerous defined terms
- Abstract words
- Unnecessary details
- Unreadable design and layout

In the following pages we offer some ways to fix these problems.

For example, here's a common sentence found in prospectuses:

: NO PERSON HAS BEEN AUTHORIZED TO GIVE ANY
: INFORMATION OR MAKE ANY REPRESENTATION OTHER
: THAN THOSE CONTAINED OR INCORPORATED BY REFER-
: ENCE IN THIS JOINT PROXY STATEMENT/PROSPECTUS,
: AND, IF GIVEN OR MADE, SUCH INFORMATION OR REPRESENTATION MUST NOT BE RELIED UPON AS HAVING BEEN
: AUTHORIZED.

Here's one possible plain English rewrite:

: You should rely only on the information contained in this document
: or that we have referred you to. We have not authorized anyone to
: provide you with information that is different.

We've listed just some of the many books on how to write clearly in Chapter 11. We urge you to consult them, too.

The plain English rewrite uses everyday words, short sentences, active voice, regular print, and personal pronouns that speak directly to the reader.

Do you think the rewrite captures the meaning of the original? Would you write it differently?

Throughout this chapter, you'll find "before" examples from disclosure documents with plain English "after" examples to illustrate specific principles of plain English. Since some of the "before" examples contain ambiguities that can be successfully resolved only by studying their context in a particular document, we did not attempt to provide rewrites to cover every interpretation. We encourage you to write your own plain English versions to fit your views and your needs. We don't want to create a new generation of plain English "boilerplate."

Although the principles that follow may sound deceptively simple, if you use them, your writing will improve dramatically.

“

“Straightforward sentences sound unimpressive to many writers, and officialese, creating tin ears, perpetuates itself.”

Claire Kehrwald Cook
Line by Line

Use the active voice with strong verbs

The plodding verbosity of most disclosure documents makes readers yearn for clear words and short sentences. The quickest fix lies in using the active voice with strong verbs. Strong verbs are guaranteed to liven up and tighten any sentence, virtually causing information to spring from the page. When you start to rewrite or edit your work, highlighting all the verbs can help. You may be surprised by the number of weak verbs, especially forms of “to be” or “to have” that you’ll find.

The time you spend searching for a precise and strong verb is time well spent. When a verb carries more meaning, you can dispense with many of the words used to bolster weak verbs.

Weak verbs keep frequent company with two more grammatical undesirables: passive voice and hidden verbs. In tandem, they add unnecessary length and confusion to a sentence.

The active and passive voices

If you need it, here’s a quick refresher on the active and passive voice.

• **active**

• The investor buys the stock.

In the active voice, the subject of the sentence, the investor, performs the action, buying the stock.

• **passive**

• The stock is bought by the investor.

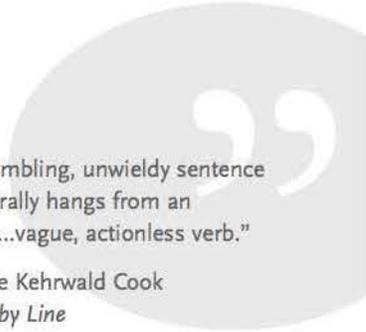
In the passive voice the subject, the stock, is acted upon. The person or the thing doing the action is introduced with “by.” But sometimes, the person or thing doing the action is deleted, leading to...

• **passive with agent deleted**

• The stock is bought.

You don’t know who bought the stock. You’ll find many examples of the “passive with agent deleted” in disclosure documents.

Readers understand sentences in the active voice more quickly and easily because it follows how we think and process information. Many times the passive voice forces readers to take extra mental steps as they convert the passive into the active.



“A rambling, unwieldy sentence generally hangs from an inert...vague, actionless verb.”

Claire Kehrwald Cook
Line by Line



“When you make all the verbs active, other economies suggest themselves.”

Claire Kehrwald Cook
Line by Line

To recognize the passive voice, ask yourself:

Does the sentence use a form of the verb “to be” with:

- another verb in the past tense; and
- a prepositional phrase beginning with “by”?

Remember that it’s harder to recognize the passive voice when the object (the phrase introduced with “by”) is left out. When you rewrite the sentence in the active voice, use a strong verb. These examples show how strong verbs and the active voice transform sentences, making them shorter and easier to understand.

: **before**

: The foregoing Fee Table **is intended** to assist investors in understanding the costs and expenses that a shareholder in the Fund will
: bear directly or indirectly.

The before example uses the passive with agent deleted. We don’t know who “intended” to assist investors. Note how long it took to get to the meat of the sentence—the costs and expenses. Dispensing with the filler words “...to assist investors in understanding...” moves the reader more quickly to the important points.

: **after**

: This table describes the fees and expenses that you may pay if you
: buy and hold shares of the fund.

Here’s another example:

: **before**

: The proxies solicited hereby for the Heartland Meeting **may be
: revoked**, subject to the procedures described herein, at any time
: up to and including the date of the Heartland Meeting.

: **after**

: You may revoke your proxy and reclaim your right to vote up to
: and including the day of the meeting by following the directions
: on page 10.

The plain English version tells you who may revoke a proxy and where to find the information on how to do it. It replaces the abstract “subject to the procedures described herein” with concrete, everyday words, “by following the directions on page 10.” It’s not enough merely to translate existing texts—the key is to add useful information.

Don't ban the passive voice, use it sparingly

As with all the advice in this handbook, we are presenting guidelines, not hard and fast rules you must always follow. The passive voice may make sense when the person or thing performing the action is of secondary importance to another subject that should play the starring role in sentence. Use the passive voice only when you have a very good reason for doing so. When in doubt, choose the active voice.

Find hidden verbs

Does the sentence use any form of the verbs “to be,” “to have,” or another weak verb, with a noun that could be turned into a strong verb? In these sentences, the strong verb lies hidden in a nominalization, a noun derived from a verb that usually ends in *-tion*. Find the noun and try to make it the main verb of the sentence. As you change nouns to verbs, your writing becomes more vigorous and less abstract.

: before	after
: We made an application ...	We applied ...
: We made a determination ...	We determined ...
: We will make a distribution ...	We will distribute ...

: before
: We will provide appropriate **information** to shareholders concerning...

: after
: We will **inform** shareholders about...

: before
: We will have no stock **ownership** of the company.

: after
: We will not **own** the company's stock.

: before
: There is the possibility of prior Board **approval** of these investments.

: after
: The Board might **approve** these investments in advance.



“Thanks to the existence of pronouns, we are spared a soporific redundancy in literature, speech, and songs.”

Karen Elizabeth Gordon
The Transitive Vampire

Try personal pronouns

No matter how sophisticated your audience is, if you use personal pronouns the clarity of your writing will dramatically improve. Here’s why.

First, personal pronouns aid your reader’s comprehension because they clarify what applies to your reader and what applies to you.

Second, they allow you to “speak” directly to your reader, creating an appealing tone that will keep your reader reading.

Third, they help you to avoid abstractions and to use more concrete and everyday language.

Fourth, they keep your sentences short.

Fifth, first- and second-person pronouns aren’t gender-specific, allowing you to avoid the “he or she” dilemma. The pronouns to use are first-person plural (we, us, our/ours) and second-person singular (you, your/yours).

Observe the difference between these two examples:

⋮ **before**

⋮ This Summary does not purport to be complete and is qualified
⋮ in its entirety by the more detailed information contained in the
⋮ Proxy Statement and the Appendices hereto, all of which should
⋮ be carefully reviewed.

⋮ **after**

⋮ Because this is a summary, it does not contain all the information
⋮ that may be important to you. You should read the entire proxy
⋮ statement and its appendices carefully before you decide how
⋮ to vote.

Bring abstractions down to earth

Abstractions abound in the financial industry. What pictures form in your mind when you read these phrases: mutual fund, the Dow Jones Industrial Average, zero coupon bond, call option, or foreign currency trading? Most people don't have an image in their minds when they hear abstract words like these. And yet, it's far easier to comprehend a concept or a situation when your mind can form images.

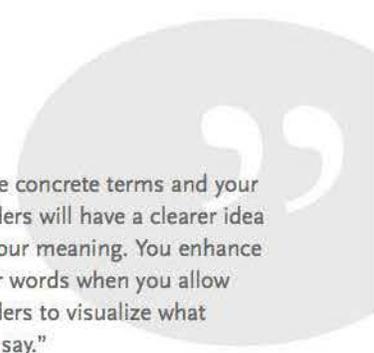
In a study conducted at Carnegie-Mellon University, a cognitive psychologist and an English professor discovered that readers faced with complex written information frequently resorted to creating "scenarios" in an effort to understand the text. That is, they often made an abstract concept understandable by using it in a hypothetical situation in which *people performed actions*.

You can make complex information more understandable by giving your readers an example using one investor. This technique explains why "question and answer" formats often succeed when a narrative, abstract discussion fails.

Here is an example of how this principle can be used to explain an abstract concept—call options:

: For example, you can buy an option from Mr. Smith that gives you
: the right to buy 100 shares of stock X from him at \$25.00 per share
: anytime between now and six weeks from now. You believe stock
: X's purchase price will go up between now and then. He believes it
: will stay the same or go down. If you exercise this option before it
: expires, Mr. Smith must sell you 100 shares of stock X at \$25.00
: per share, even if the purchase price has gone up. Either way,
: whether you exercise your option or not, he keeps the money you
: paid him for the option.

Although it is impossible to eliminate all abstractions from writing, always use a more concrete term when you can.



"Use concrete terms and your readers will have a clearer idea of your meaning. You enhance your words when you allow readers to visualize what you say."

Bryan A. Garner
The Elements of Legal Style

Read this list of progressively less abstract terms and consider how you might make abstract concepts you write about more concrete:

: Asset ➔ Investment ➔ Security ➔ Equity ➔ Stock ➔
: ➔ Common stock ➔ One share of IBM common stock

The following examples show how you can replace abstract terms with more concrete ones and increase your reader's comprehension:

: **before**
: Sandyhill Basic Value Fund, Inc. (the "Fund") seeks **capital appreciation** and, secondarily, income by investing in securities, primarily equities, that management of the Fund believes are **undervalued** and therefore represent **basic investment value**.

: **after**
: At the Sandyhill Basic Value Fund, we will strive to increase the value of your shares (capital appreciation) and, to a lesser extent, to provide income (dividends). We will invest primarily in undervalued stocks, meaning those selling for low prices given the financial strength of the companies.

: **before**
: No **consideration** or **surrender** of Beco Stock will be required of shareholders of Beco in return for the shares of Unis Common Stock issued pursuant to the Distribution.

: **after**
: You will not have to turn in your shares of Beco stock or pay any money to receive your shares of Unis common stock from the spin-off.



"Language that is more concrete and specific creates pictures in the mind of [your] listener, pictures that should come as close as possible to the pictures in your mind."

William Lutz
*The New Doublespeak:
Why No One Knows What
Anyone's Saying Anymore*

Omit superfluous words

Words are superfluous when they can be replaced with fewer words that mean the same thing. Sometimes you can use a simpler word for these phrases:

superfluous	simpler
in order to	to
in the event that	if
subsequent to	after
prior to	before
despite the fact that	although
because of the fact that	because, since
in light of	because, since
owing to the fact that	because, since

Another source of superfluous words is “shotgunning”: letting loose a blast of words hoping at least one conveys your intended meaning. The simplest solution here is to replace your laundry list of adjectives with a single word or phrase that adequately expresses your intended meaning.

Omitting superfluous words is one of the easiest ways to improve your disclosure document because it doesn’t require you to revise sentence structure.

before
The following summary **is intended only** to highlight certain information **contained elsewhere** in this Prospectus.

after
This summary highlights some information from this Prospectus.

before
Machine Industries and Great Tools, Inc. **are each subject to the information requirements of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), and in accordance therewith** file reports, proxy statements and other information with the Securities and Exchange Commission (the “Commission”).

after
We file annual, quarterly, and special reports, proxy statements, and other information with the Securities and Exchange Commission (SEC).

“...the most valuable of all talent, that of never using two words where one will do.”

Thomas Jefferson

For an expanded explanation of “shotgunning,” see Richard Wydick’s *Plain English for Lawyers*.



"Vigorous writing is concise. A sentence should contain no unnecessary words...for the same reason that a drawing should have no unnecessary lines and a machine no unnecessary parts."

Strunk and White
The Elements of Style

: **before**

: Drakecorp has **filed** with the Internal Revenue Service a **tax ruling request concerning, among other things**, the tax consequences of the Distribution to the United States holders of Drakecorp Stock. It is expected **that the Distribution of Beco Common Stock to the shareholders of Drakecorp** will be tax-free to such shareholders for federal income tax **purposes**, except to the **extent** that cash is received for fractional share **interests**.

: **after**

: While we expect that this transaction will be tax free for U.S. shareholders at the federal level (except for any cash paid for fractional shares), we have asked the Internal Revenue Service to rule that it is.

Write in the “positive”

Positive sentences are shorter and easier to understand than their negative counterparts. For example:

- **before**
• Persons other than the primary beneficiary may not receive these dividends.
- **after**
• Only the primary beneficiary may receive these dividends.

Also, your sentences will be shorter and easier to understand if you replace a negative phrase with a single word that means the same thing. For example:

• negative compound	single word
• not able	unable
• not accept	reject
• not certain	uncertain
• not unlike	similar, alike
• does not have	lacks
• does not include	excludes, omits
• not many	few
• not often	rarely
• not the same	different
• not ... unless	only if
• not ... except	only if
• not ... until	only when



“There’s not much to be said about the period except that most writers don’t reach it soon enough.”

William Zinsser
On Writing Well

Use short sentences

No one likes to read a sentence that’s two pages long. And yet, lengthy, information-packed sentences choke many prospectuses today. To complicate matters further, these sentences are filled with jargon and legalese. The longer and more complex a sentence, the harder it is for readers to understand any single portion of it.

before

The following description encompasses all the material terms and provisions of the Notes offered hereby and supplements, and to the extent inconsistent therewith replaces, the description of the general terms and provisions of the Debt Securities (as defined in the accompanying Prospectus) set forth under the heading “Description of Debt Securities” in the Prospectus, to which description reference is hereby made. The following description will apply to each Note unless otherwise specified in the applicable Pricing Supplement.

If you really want to root out the problem with this paragraph, you need to think of the deeper reasons why it doesn’t work. If you look beyond the language used, you’ll find that it presents complex information without first providing a context for the reader.

The rewrites that follow show two ways to provide the context, with and without tabulation.

after

We provide information to you about our notes in three separate documents that progressively provide more detail: 1) the prospectus, 2) the prospectus supplement, and 3) the pricing supplement. Since the terms of specific notes may differ from the general information we have provided, in all cases rely on information in the pricing supplement over different information in the prospectus and the prospectus supplement; and rely on this prospectus supplement over different information in the prospectus.

or

We provide information to you about our notes in three separate documents that progressively provide more detail:

1 The Prospectus

General information that may or may not apply to each note.

2 The Prospectus Supplement

More specific than the prospectus, and to the extent information differs from the prospectus, rely on the different information in this document.

3 The Pricing Supplement

Provides final details about a specific note including its price. To the extent information differs from the prospectus or the prospectus supplement, rely on the different information in this document.

Information-packed sentences leave most investors scratching their heads. So many of these sentences have become “boilerplate” that writers cut and paste them into new documents without thinking about how they can be improved. Since these sentences can be a little intimidating, we thought we’d tackle another one:

before

The Drake Capital Corporation (the “Company”) may offer from time to time its Global Medium-Term Notes, Series A, Due from 9 months to 60 Years From Date of Issue, which are issuable in one or more series (the “Notes”), in the United States in an aggregate principal amount of up to U.S. \$6,428,598,500, or the equivalent thereof in other currencies, including composite currencies such as the European Currency Unit (the “ECU”) (provided that, with respect to Original Issue Discount Notes (as defined under “Description of Notes—Original Issue Discount Notes”), the initial offering price of such Notes shall be used in calculating the aggregate principal amount of Notes offered hereunder).

after

The Drake Capital Corporation may offer at various times up to U.S. \$6,428,598,500 worth of Global Medium-term notes. These notes will mature from 9 months to 60 years after the date they are purchased. We will offer these notes in series, starting with Series A, and in U.S., foreign, and composite currencies, like the European Currency Unit. If we offer original issue discount notes, we will use their initial offering prices to calculate when we reach \$6,428,598,500.

“A subject may have so many qualifications that readers forget what it is before they find out what it does.”

Claire Kehrwald Cook
Line by Line

As you can see, one long sentence became four shorter sentences. The paragraph moves from the general to the specific, contains short, common words, and is written in the active voice. You only need to read the paragraph once to understand it.

Replace jargon and legalese with short, common words

Ruthlessly eliminate jargon and legalese. Instead, use short, common words to get your points across. In those instances where there is no plain English alternative, explain what the term means when you first use it.

If you have been in the financial or legal industry for awhile, it may be hard to spot jargon and legalese in your writing. Consider asking someone outside the industry to check your work for incomprehensible words.

Last, don't create new jargon that's unique to your document in the form of acronyms or other words. It's asking too much of your readers to memorize a new vocabulary while they are trying to understand complicated concepts. This holds true for individual and institutional investors. Note the following, which is the first sentence on the cover page of an exchange offer:

: NLR Insured Mortgage Association, Inc., a Delaware corporation
: (“NLR MAE”), which is an actively managed, infinite life, New York
: Stock Exchange-listed real estate investment trust (“REIT”), and
: PAL Liquidating REIT, Inc., a newly formed, finite life, self-liquidat-
: ing Delaware corporation which intends to qualify as a REIT (“PAL
: Liquidating REIT”), hereby jointly offer, upon the terms and subject
: to the conditions set forth herein and in the related Letters of
: Transmittal (collectively, the “Offer”), to exchange (i) shares of NLR
: MAE’s Common Stock, par value \$.01 per share (“NLR MAE
: Shares”), or, at the option of Unitholders, shares of PAL Liquidating
: REIT’s Common Stock, par value \$.01 per share (“PAL Liquidating
: REIT Shares”), and (ii) the right to receive cash payable 60 days
: after closing on the first of any Acquisitions (as defined below) but
: in no event later than 270 days (nine months) following consumma-
: tion of the Offer (the “Deferred Cash Payment”), for all outstanding
: Limited Partnership Interests and Depository Units of Limited
: Partnership Interest (collectively, “Units”) in each of PAL Insured
: Mortgage Investors, a California limited partnership (“PAL 84”),
: PAL Insured Mortgage Investors - Series 85, A California Limited
: Partnership, a California limited partnership (“PAL 85”), and PAL
: Insured Mortgage Investors L.P. - Series 86, a Delaware limited
: partnership (“PAL 86”). See “THE OFFER.”



“Clearness is secured by using the words...that are current and ordinary.”

Aristotle
Rhetoric

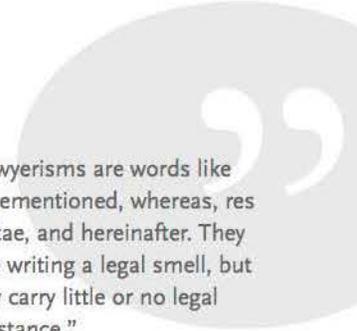
This sentence suffers from many shortcomings. It's long and laden with defined terms and other data that mask the fundamental information: the two companies are offering to exchange their stock for the investors' limited partnership holdings. Some of the information, such as par value and places of incorporation, can be moved to another part of the document. Much of the language modifies the subjects and the objects: this language, too, can be moved to a separate sentence or another section of the prospectus.

This example shows the hazards of creating unfamiliar acronyms. They provide false economies, especially when they are introduced on the cover page and in the first pages of the prospectus. They may save a few words, but they may also frustrate and force the reader to take more time and effort to understand the document. Where acronyms, such as REIT, are widely understood to the investing public, they can safely be used without creating confusion.

Occasionally, it's necessary to assign a shorter word to a long proper noun and use this word throughout the rest of the document. In these rare instances, try to choose a word that has an intuitive, logical relationship to the one it's replacing. This reduces the number of new words or phrases the reader needs to memorize to understand the document.

Choose the simpler synonym

Surround complex ideas with short, common words. For example, use *end* instead of *terminate*, *explain* rather than *elucidate*, and *use* instead of *utilize*. When a shorter, simpler synonym exists, use it.



“Lawyerisms are words like aforementioned, whereas, res gestae, and hereinafter. They give writing a legal smell, but they carry little or no legal substance.”

Richard C. Wydick
Plain English for Lawyers

Keep the subject, verb, and object close together

Short, simple sentences enhance the effectiveness of short, common words. We've covered a number of guidelines for writing shorter sentences, but there are a few more you can use to streamline your writing further.

To be clear, sentences must have a sound structure. Here are a few ways to ensure yours do.

The natural word order of English speakers is *subject-verb-object*. Your sentences will be clearer if you follow this order as closely as possible. In disclosure documents, this order is frequently interrupted by modifiers. For example:

Modifiers are words or phrases that describe or limit the subject, verb, or object.

: **before**

: **Holders** of the Class A and Class B-1 certificates **will be entitled to receive** on each Payment Date, to the extent monies are available therefor (but not more than the Class A Certificate Balance or Class B-1 Certificate Balance then outstanding), **a distribution**.

: **after**

: Class A and Class B-1 certificate **holders will receive a distribution** on each payment date if cash is available on those dates for their class.

: **before**

: **The following description** of the particular terms of the Notes offered hereby (referred to in the accompanying Prospectus as the "Debt Securities") **supplements, and** to the extent inconsistent therewith **replaces, the description** of the general terms and provisions of the Debt Securities set forth **in the Prospectus**, to which description reference is hereby made.

: **after**

: This document describes the terms of these notes in greater detail than our prospectus, and may provide information that differs from our prospectus. If the information does differ from our prospectus, please rely on the information in this document.

Write using “if-then” conditionals

Conditional statements are very common in disclosure documents—although they are rarely written that way. When we rewrote the last example as a conditional, we followed the natural English word order very closely. That’s why the sentence is easier to read.

Here are four rules of thumb to help you write conditional statements effectively:

- **One “if,” one “then”** When there is only one *if* and one *then*, starting with the *if* may spare some of your readers from having to read the rest of the sentence. In these cases, the *if* clause defines who or what the “then” clause applies to.

If you invested in Class A shares, then...

- **One “if,” multiple “thens”** When there is only one *if* and more than one *then*, start with the *if* and tabulate the *thens*.
- **Multiple “ifs,” one “then”** When there is only one *then* and more than one *if*, start with the *then* and tabulate the *ifs*.
- **Multiple “ifs” and “thens”** When there is more than one *if* and more than one *then*, you’ll probably need to break it down into more than one sentence, taking care to specify which *ifs* apply to which *thens*. If the information is still unclear, consider presenting the information in a table.



“Parallelism reinforces grammatically equal elements, contributes to ease in reading, and provides clarity and rhythm.”

Horner/Webb/Miller
Harbrace College Handbook

Keep your sentence structure parallel

A long sentence often fails without a parallel structure. Parallelism simply means ensuring a list or series of items is presented using parallel parts of speech, such as nouns or verbs. Note the quotation in the margin.

In this section, we’ve shown each parallel structure we’ve used in bold.

Here’s an example from a mutual fund prospectus that lacks parallel structure:

• **before**

• If you want to buy shares in Fund X by mail, **fill out** and **sign** the Account Application form, **making** your check payable to “The X Fund,” and **put** your social security or taxpayer identification number on your check.

• **after**

• If you want to buy shares in Fund X by mail, **fill out** and **sign** the Account Application form, **make** your check payable to “The X Fund,” and **put** your social security or taxpayer identification number on your check.

Here is a more subtle example from another mutual fund prospectus:

• **before**

• We invest the Fund’s assets in short-term money market securities **to provide** you with **liquidity, protection** of your investment, and **high** current income.

This sentence is unparallel because its series is made up of two nouns and an adjective before the third noun. It’s also awkward because the verb *provide* is too closely paired with the nominalization *protection*.

One logical revision to the original sentence is to change the noun series to a verb series.

• **after**

• We invest in short-term money market securities **to provide** you with liquidity, **to protect** your investment, and **to generate** high current income.

All writers, regardless of their degree of expertise, occasionally write unparallel sentences. The best way to rid your document of them is to read through it once solely to find these mistakes. Reading your document aloud can make unparallel constructions easier to spot.

Steer clear of “respectively”

How easy is it to read the following sentence once and understand what it means?

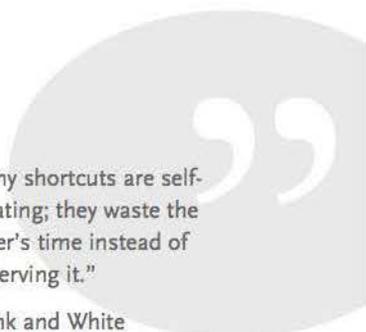
⋮ **before**

⋮ The Senior Notes and the guarantee (the “Guarantee”) of the
⋮ Senior Notes by Island Holdings will constitute unsecured senior
⋮ obligations of the Issuer and Island Holdings, respectively.

⋮ **after**

⋮ The senior notes are an unsecured senior obligation of the issuer,
⋮ while the guarantee of the senior notes is an unsecured senior
⋮ obligation of Island Holdings.

Whenever you use “respectively,” you force your reader to go back and match up what belongs to what. You may be saving words by using “respectively,” but your reader has to use more time and read your words twice to understand what you’ve written. •



“Many shortcuts are self-defeating; they waste the reader’s time instead of conserving it.”

Strunk and White
The Elements of Style

7

Designing the Document

A plain English document reflects thoughtful design choices. The right design choices make a document easier to read and its information easier to understand. The wrong design choices can make even a well-written document fail to communicate.

Some documents suffer because no one knew how basic design decisions, like typeface selection, dramatically determine whether or not a document is easy to read. Other documents suffer because expensive design features give them artistic appeal, but at the cost of obscuring the text. In a plain English document, design serves the goal of communicating the information as clearly as possible.

Beginning the design process

Check with your in-house printing or graphics department—your company may have already dealt with design issues in other documents or may have skilled designers who can help you with your document. If your company or underwriter has a style manual, it typically will define a required “look” that specifies typefaces and layouts.

Since some standards or guidelines in your style manual may have been adopted when plain English was not a concern, review them to ensure they contribute to good design and ease of reading.

If you are using a designer, keep the following in mind:

- Good design requires clear communication between the writer and the designer. Keep the lines of communication open and flowing.
- Take the time to explain the nuances of your document to your designer.
- Don’t move into the design phase until your text is final. Once the document is put into page layout software, or once it is at the printer, making text changes can be tedious and expensive.

If you don’t have a design professional, fear not. You can apply many of the simple concepts discussed in this chapter to produce a readable, visually appealing document.

While the field of design extends broadly, this chapter covers five basic design elements and how they contribute to creating a plain English document:

- hierarchy or distinguishing levels of information
- typography
- layout
- graphics
- color

Hierarchy

Much like an outline, a document's hierarchy shows how you've organized the information and helps the reader to understand the relationship between different levels of information.

A typical hierarchy in the prospectus might include:

- the document title
- section headings (first level)
- subsection headings (second level)
- paragraph headings (third level)
- general text (fourth level)

Designers use different typefaces in the headings to distinguish these levels for the reader. As a rule of thumb, there should be no more than six levels in the document, excluding the document's title.

You can signal a new level by varying the same typeface or by using a different typeface. Here's a demonstration of how we've used different typefaces to distinguish levels in this handbook:

- **Section headings**
- **Subsection headings**
- General text
- **Example headings**

Typography

Although it may seem like a minor decision, your typeface selection will be one of the elements that most strongly defines the design and readability of your document.

Kinds of typefaces

Typefaces come in two varieties: serif and sans serif.

: serif	sans serif
: N	N

All serif typefaces have small lines at the beginning or ending strokes of each letter. Virtually all newspapers and many magazines use some form of serif type for their general text because serif fonts are easier to read than sans serif. This handbook uses a serif typeface called Scala for general text. Other popular serif typefaces are: Caslon, Century Schoolbook, Garamond, and Times. Here are some examples:

: serif
: This is an example of Scala.
: **This is an example of Caslon.**
: This is an example of Century Schoolbook.
: This is an example of Garamond.
: This is an example of Times.

Sans serif typefaces lack those small connective lines. The type used for most headings throughout this document is a sans serif typeface, Scala Sans. Franklin Gothic, Frutiger, Helvetica, and Univers are examples of sans serif typefaces.

: sans serif
: This is an example of Franklin Gothic.
: This is an example of Frutiger.
: This is an example of Helvetica.
: This is an example of Univers.

Generally, serif typefaces are easier to read in documents like this than sans serif because the small connective lines of serif help to lead your eye more quickly and smoothly over text. It is best to use sans serif typefaces in small quantities—for emphasis or headings, but not for general text. Both serifs and sans serifs work well for headings.

“

“Serif type is more readable and is best for text; sans serif type is more legible and is best used for headlines.”

Robin Williams

The Mac Is Not a Typewriter

Selecting the right typeface

When choosing a typeface, think carefully about where the typeface will appear in the document. For example, will it be general text, or will it apply to information that needs to be highlighted? Will it introduce a section?

Some typefaces are harder to read than others and were never intended for text. Typefaces like Bodoni Poster or other bold, italic, or condensed typefaces were designed for headlines or for large display type. These examples show how difficult it is to read text in these typefaces.

Bodoni Poster

Justified text was the style for many years—we grew up on it. But there has been a great deal of research on readability (how easy something is to read) and it shows that those disruptive, inconsistent gaps between the words inhibit the flow of reading. Besides, they look dumb. Keep your eyes open as you look at professionally-printed work... and you'll find there's a very strong trend now to align type on the left and leave the right ragged.

Robin Williams, *The Mac Is Not a Typewriter*

Franklin Gothic Condensed

Justified text was the style for many years—we grew up on it. But there has been a great deal of research on readability (how easy something is to read) and it shows that those disruptive, inconsistent gaps between the words inhibit the flow of reading. Besides, they look dumb. Keep your eyes open as you look at professionally-printed work...and you'll find there's a very strong trend now to align type on the left and leave the right ragged.

Robin Williams, *The Mac Is Not a Typewriter*

You can mix different typefaces, but do so with discretion; not all typefaces work well together. Mixing a serif and sans serif, as we have done in this handbook, can look good and create a clear contrast between your levels. Mixing two serif or two sans serif typefaces can look like a mistake. As a general rule, do not use more than two typefaces in any document, not including the bold or italic versions of a typeface.

Type measurement

All typefaces are measured in points (pts). But don't assume that different typefaces in the same point size are of equal size. For example, here are four typefaces set in 11pt:

- : This is an example in 11pt. Franklin Gothic
- : This is an example in 11pt. Century Schoolbook
- : This is an example in 11pt. Garamond
- : This is an example in 11pt. Helvetica
- : This is an example in 11pt. Times

Choose a legible type size

A point size that is too small is difficult for everyone to read. **A point size that is too large is also hard to read.** Generally, type in 10pt–12pt is most common. But as you can see from the examples above, some typefaces in 11pt will strain some readers. If you have special concerns about legibility, especially for an elderly audience, you should consider using 12pt or larger.

Emphasizing text

It's common in disclosure documents to see blocks of text in bold and uppercase letters. The capitalization and bold type attempt to catch the reader's attention. Unfortunately, those capitals make the text difficult to read. All uppercase sentences usually bring the reader to a standstill because the shapes of words disappear, causing the reader to slow down and study each letter. Ironically, readers tend to skip sentences written in all uppercase.

To highlight information and maintain readability, use a different size or weight of your typeface. Try using extra white space, bold type, shading, rules, boxes, or sidebars in the margins to make information stand out. In this handbook we use dotted rules to highlight the examples. Whatever method you choose to highlight information, use it consistently throughout your document so your readers can recognize how you flag important information.

: before

: THE SECURITIES AND EXCHANGE COMMISSION HAS
: NOT APPROVED OR DISAPPROVED THESE SECURITIES
: OR DETERMINED IF THIS PROSPECTUS IS TRUTHFUL OR
: COMPLETE. ANY REPRESENTATION TO THE CONTRARY
: IS A CRIMINAL OFFENSE.

: after

: *The Securities and Exchange Commission has not approved or*
: *disapproved these securities or determined if this prospectus is truthful*
: *or complete. Any representation to the contrary is a criminal offense.*

: after

: **The Securities and Exchange Commission has not approved**
: **or disapproved these securities or determined if this prospectus**
: **is truthful or complete. Any representation to the contrary is a**
: **criminal offense.**

“...words consisting of only capital letters present the most difficult reading—because of their equal height, equal volume, and, with most, their equal width.”

Josef Albers
Interaction of Color

Layout

“...when *everything* (background, structure, content) is emphasized, *nothing* is emphasized; the design will often be noisy, cluttered, and informationally flat.”

Edward Tufte
Visual Explanations

Designers think carefully about white space, column width, linespacing, and paragraph length. These design elements determine whether reading is easy or becomes too much of a physical or mental chore.

Use white space effectively

Generous use of white space on the page enhances readability, helps to emphasize important points, and lightens the overall look of the document. White space especially affects the readers of disclosure documents because these documents usually feature dense blocks of impenetrable text.

You should fight the impulse to fill up the entire page with text or graphics. A wide left or right margin can make the document easier to read. The use of white space between sections or subsections helps readers recognize which information is related.

Use left justified, ragged right text

Research shows that the easiest text to read is left justified, ragged right text. That is, the text is aligned, or flush, on the left with a loose, or ragged, right edge. The text in this handbook is set left justified, ragged right.

Fully justified text means both the right and left edges are flush, or even. When you fully justify text, the spacing between words fluctuates from line to line, causing the eye to stop and constantly readjust to the variable spacing on each line. Currently, most disclosure documents are fully justified. This, coupled with a severe shortage of white space, makes these documents visually unappealing and difficult to read.

Be especially wary of centering text, or using text to form a shape or design. Uneven margins may make a visual impact, but they make reading extremely difficult.

recommended: left justified, ragged right

Justified text was the style for many years—we grew up on it. But there has been a great deal of research on readability (how easy something is to read) and it shows that those disruptive, inconsistent gaps between the words inhibit the flow of reading. Besides, they look dumb. Keep your eyes open as you look at professionally-printed work...and you'll find there's a very strong trend now to align type on the left and leave the right ragged.

not recommended: fully justified text

Justified text was the style for many years—we grew up on it. But there has been a great deal of research on readability (how easy something is to read) and it shows that those disruptive, inconsistent gaps between the words inhibit the flow of reading. Besides, they look dumb. Keep your eyes open as you look at professionally-printed work...and you'll find there's a very strong trend now to align type on the left and leave the right ragged.

not recommended: centered text

Justified text was the style for many years—we grew up on it. But there has been a great deal of research on readability (how easy something is to read) and it shows that those disruptive, inconsistent gaps between the words inhibit the flow of reading. Besides, they look dumb. Keep your eyes open as you look at professionally-printed work...and you'll find there's a very strong trend now to align type on the left and leave the right ragged.

Use linespacing to lighten the page

Linespacing, or “leading” (rhymes with sledding), refers to the amount of space between lines of text. Leading controls the density and readability of the text. Just as type is measured in points, so is leading.

A type description of 12/16 means that 12pt type has been set with 4pts of additional leading between the lines. Generous leading can give a long paragraph a lighter, “airier” feeling and make it easier to read.

Avoid setting type without any additional leading (such as 10/10 or 12/12), sometimes referred to as being “set solid.” Typically, you should allow *at least* 2pts of leading between lines of type. You may want to add more leading, depending on the “airiness” you would like the document to have. In this document, for ease of reading, the general text has been set at 11/16, and most examples have been set at 10/12. Review the following examples to see how leading affects readability.

11/11

Justified text was the style for many years—we grew up on it. But there has been a great deal of research on readability (how easy something is to read) and it shows that those disruptive, inconsistent gaps between the words inhibit the flow of reading. Besides, they look dumb. Keep your eyes open as you look at professionally-printed work...and you’ll find there’s a very strong trend now to align type on the left and leave the right ragged.

11/13

Justified text was the style for many years—we grew up on it. But there has been a great deal of research on readability (how easy something is to read) and it shows that those disruptive, inconsistent gaps between the words inhibit the flow of reading. Besides, they look dumb. Keep your eyes open as you look at professionally-printed work...and you’ll find there’s a very strong trend now to align type on the left and leave the right ragged.

11/15

Justified text was the style for many years—we grew up on it. But there has been a great deal of research on readability (how easy something is to read) and it shows that those disruptive, inconsistent gaps between the words inhibit the flow of reading. Besides, they look dumb. Keep your eyes open as you look at professionally-printed work...and you’ll find there’s a very strong trend now to align type on the left and leave the right ragged.

Keep lines to a reasonable length

A comfortable line length for most readers is 32 to 64 characters. Any longer than that, and your readers will lose their place when they read from line to line. A safe rule to follow is: the smaller the type size, the shorter the line length. This is why when you pick up any newspaper, magazine, or large book, you'll rarely see text that goes from one side of the page clear to the other, as you do in disclosure documents.

Columns also help your readers to move quickly and easily through large amounts of text. An average column width can vary from 25–40 characters. Remember to use ample white space between columns, too.

don't

Justified text was the style for many years—we grew up on it. But there has been a great deal of research on readability (how easy something is to read) and it shows that those disruptive, inconsistent gaps between the words inhibit the flow of reading. Besides, they look dumb. Keep your eyes open as you look at professionally-printed work...and you'll find there's a very strong trend now to align type on the left and leave the right ragged.

do

Justified text was the style for many years—we grew up on it. But there has been a great deal of research on readability (how easy something is to read) and it shows that those disruptive, inconsistent gaps between the words inhibit the flow of reading. Besides, they look dumb. Keep your eyes open as you look at professionally-printed work...and you'll find there's a very strong trend now to align type on the left and leave the right ragged.

do

Justified text was the style for many years—we grew up on it. But there has been a great deal of research on readability (how easy something is to read) and it shows that those disruptive, inconsistent gaps between the words inhibit the flow of reading.

Besides, they look dumb. Keep your eyes open as you look at professionally-printed work...and you'll find there's a very strong trend now to align type on the left and leave the right ragged.

Sidebars, like this one, are a handy way to convey information that might muddy the general text. Try to keep your sidebars to “snippets” of information.

Keep paragraph length relatively short

To reduce dense text, keep paragraphs as short as possible. Even though paragraph length is determined by content, here are some design tips that can help to lighten a long paragraph.

Use bullets to list information wherever possible. This makes information easier to absorb in one quick glance, as the following illustrates:

before

The funds invest mainly in the stocks of U.S. and foreign companies that are showing improved earnings and that sell at low prices relative to their cash flows or growth rates. The Fund also invests in debt, both investment grade and junk bonds, and U.S Treasury securities.

after

We invest the fund’s assets in:

- stocks of U.S. and foreign companies that
 - show improved earnings, and
 - sell at low prices relative to their cash flows or growth rates;
- debt, both investment grade and junk bonds; and
- U.S. Treasuries.

Use tables to increase clarity

Use tables to increase clarity and cut down text. Tables often convey information more quickly and clearly than text. The information in this table is more easily grasped in a table than in narrative form:

before

Our investment advisory agreements cover the Growth Fund, International Fund, Muni Fund, Bond Fund, and the Money Market Fund. The effective date for agreements for the Growth Fund and the International Fund is June 1, 1993, and for the Muni Fund, Bond Fund and Money Market Fund, June 1, 1994.

after

Our Investment Advisory Agreement covers these funds:

Investment Advisory Agreement effective date	Fund name
June 1, 1993	Growth Fund International Fund
June 1, 1994	Muni Fund Bond Fund Money Market Fund

Graphics

Graphics often illuminate information more clearly and quickly than text. This section introduces some basic guidelines about using graphics in your document. To learn more, books and articles cover the topic in rich and rewarding detail. The best known work, *The Visual Display of Quantitative Information*, by Edward R. Tufte, provides practical advice on creating graphics. In the introduction of his book, he writes about the importance and value of graphics:

At their best, graphics are instruments for reasoning about quantitative information. Often the most effective way to describe, explore, and summarize a set of numbers—even a very large set—is to look at pictures of those numbers. Furthermore, of all methods for analyzing and communicating statistical information, well-designed data graphics are usually the simplest and at the same time the most powerful.

On page 51 of his book, Tufte formulates a number of basic principles to follow in creating excellent graphics. Among them are these:

Graphical excellence is that which gives to the viewer the greatest number of ideas in the shortest time with the least ink in the smallest space.

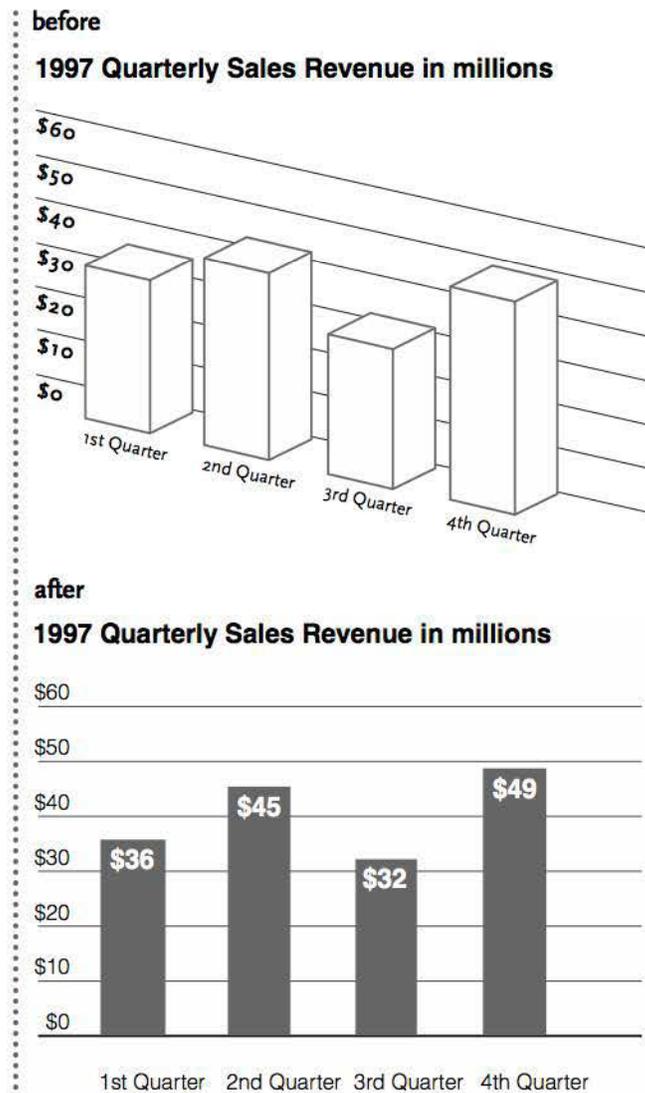
And graphical excellence requires telling the truth about data.

A few experts have studied the use of graphics in securities documents, isolating the areas presenting the most problems. We can boil down their advice to these guidelines.

Keep the design simple

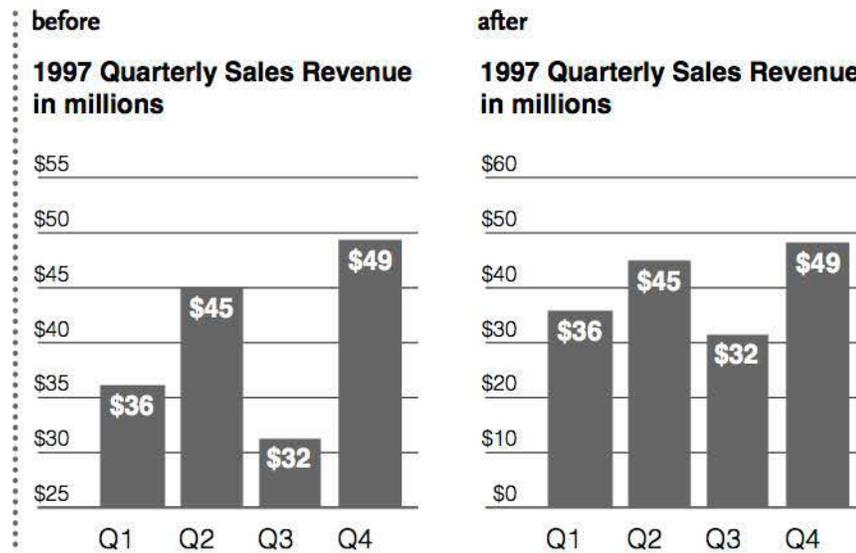
Keep the design of any graphic as simple as possible. Pare away any non-essential design elements so the data stands out. Think of it this way: as much of the ink as possible in a graphic should deal with a data point and not decoration. Some of the worst mistakes occur when design elements interfere with the clear presentation of information, such as needless 3-D effects, drop shadows, patterns, and excessive grid lines. Don't let a design element turn into what Tufte calls "chartjunk."

These examples show how a 3-D bar graph provides initial visual appeal, but is harder to read and understand than a straightforward presentation of the same information. The multiple lines of the 3-D bars confuse some readers because the front of the bars appear to have a lower value than the back of the bars.



Check proportions of visuals

Generally, you should avoid graphics that start at a non-zero baseline, because they distort differences by destroying correct proportions. Compare these two bar charts to see how the non-zero baseline can mislead the reader as to the magnitude of change from quarter to quarter.



Draw graphics to scale

Any graphic should be proportionately correct or drawn to scale. For example, if you are showing an increase in oil production through a series of oil barrels in ever-increasing sizes, make sure a barrel isn't represented as 50% bigger when production only went up 25% that year.

Be consistent when grouping graphics

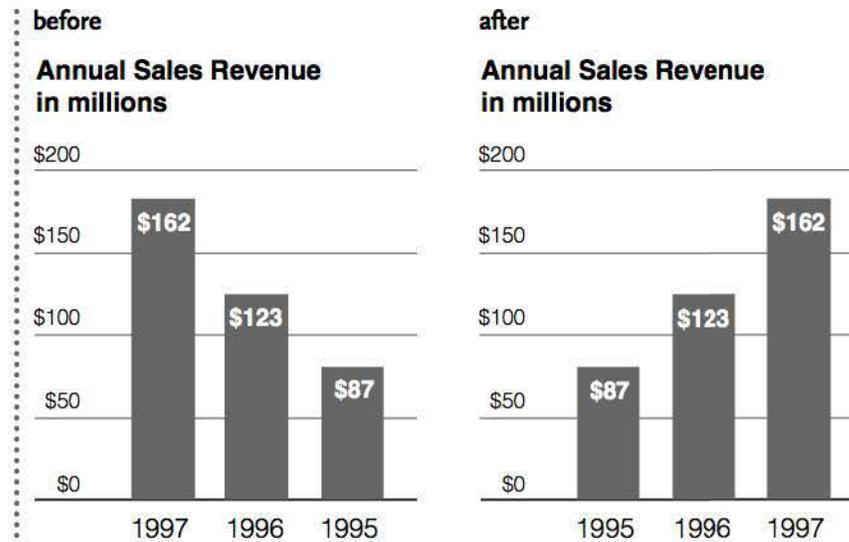
If you group graphics side-by-side, avoid changing your scale from one graphic to another, as in the examples above. Also, lining up three graphics that present data in billions, millions, then dollars can mislead the reader.

“Extensive studies of annual reports of major corporations in the United States and the United Kingdom have shown that about 25 percent of the graphs they contain are distorted substantially.”

Alan J. Davis
*Graphical Information:
Where to Draw the Line*

Don't reverse time

In graphics showing information over time, time should flow forward, not backward. In these examples, even though the first graphic is clearly labeled, it gives a false visual impression that earnings are going down over time rather than up.



Organize data to hasten insights

Choose an organization that helps the reader grasp information and comparisons quickly. For instance, if you have a list of foreign stock markets showing their returns in one year, list them in descending order by the magnitude of their returns instead of in alphabetical order.

before		after	
1994 Foreign Markets Total Returns in U.S. dollars		1994 Foreign Markets Total Returns in U.S. dollars	
Argentina	-23.6 %	Brazil	+64.3 %
Brazil	+64.3	Singapore	+ 5.8
Greece	+ 0.6	Greece	+ 0.6
Hong Kong	-28.9	Philippines	- 10.1
Indonesia	-26.3	Malaysia	-20.2
Malaysia	-20.2	Argentina	-23.6
Mexico	-39.7	Indonesia	-26.3
Philippines	- 10.1	Hong Kong	-28.9
Singapore	+ 5.8	Mexico	-39.7
Turkey	- 50.5	Turkey	- 50.5

Integrate text with graphics

A graphic and its text should be together. You don't want to break your reader's concentration by separating the two, forcing your reader on a detour to another page in search of the graphic that goes with the text.

Think twice about pie charts

According to Tufte, "...the only worse design than a pie chart is several of them...." Pie charts can be useful in illustrating parts of a whole, but not when you divide the pie into more than 5 or 6 slices. Most readers find it difficult to draw accurate comparisons between pie slices or between multiple pie charts because the slices form irregular shapes. Showing the same information in a table can often be clearer.

Don't forget your typography

When choosing a typeface for text such as axis labels, consider using a sans serif typeface if the type is small and the text is short in length. If you want to insert a note or explanation directly on the graphic, use a serif font if the text is long. Continue to use upper and lower-case type for increased legibility. The guidelines for good typography we discussed earlier still apply when creating graphics.

Trust your eye

Finally, one guideline rises above all others in importance and rests squarely with you. Cultivate an appreciation of graphics and then trust your eye. If a graphic seems unclear or unhelpful to you, no matter how many "guidelines" it follows, it probably is.

Graphics communicate numbers and concepts visually. You turn to graphics when they stimulate a deeper or quicker understanding and appreciation of a situation than words alone. To create a good graphic, you must study the design critically and assess whether it conveys information honestly, accurately, and efficiently.

Color

Black is a color

The majority of your documents will be produced in black and white. When designing these documents, it's easy to forget that you are using a color: black. Since black is such a powerful color, balancing it on the page can be a tightrope act: too little emphasis can grey-out the page, too much can blacken it.

If you are using only black, your use of type is usually the way you balance the page's color. Some typefaces are heavier or lighter than others, and most type families are available in varying weights. For example:

: heavy: Times Extra Bold
: less heavy: Times Bold
: lighter: Times **Semi Bold**
: lighter still: Times Regular
:
: **heavy: Univers Black**
: **less heavy: Univers Bold**
: lighter: Univers Regular
: lighter still: Univers Light

Choosing the proper combinations of type weights will help to make your document look more inviting.

Some additional ways to introduce visual appeal to a one-color document are through:

- shading
- graphics
- rules or lines
- colored paper stocks

Again, your use of these elements should not overwhelm or distract from the legibility of your text. •

8

Time-Saving Tips

Following are some tips that have saved time for those who routinely rewrite documents in plain English:

Photocopy the document, single sided, on 11" x 17" paper (ledger paper) to 120% of its original size. This gives you room to make notes in the margins and helps to save your eyesight. Keep your original document handy. You'll use it again later.

Read through the ledger-sized copy and take notes. In the margin of each paragraph, jot down the main and supporting points. (We suggest using a pencil unless you're one of those people who does crossword puzzles in ink.) If you can't find these points too easily, it may mean the paragraph is a hodgepodge of unrelated topics.

This stage of the process can be "space-consuming." In your workspace or in a conference room, tape or tack the pages of your document to the wall. If it's too long, you may want to spread out just your outline and summary.

Then, thinking of your investors, physically move the pages into the order that makes the most sense. If only parts of pages need to be moved, cut them out and move just the parts. Remember to group like information together.

When you start to reorder your document by moving pages or parts of pages, write on the page or section:

- where it appeared in the original document (the page number and paragraph, if applicable); and
- a number or letter to indicate its place in the new draft.

It's a good idea to keep the notes and questions you wrote in the margins distinct from your cross-reference marks by writing them in a different color. Use colored pencils, since it's likely you'll move sections around more than once.

Once you have finished physically reorganizing the document, you may want to outline the new organization. On a separate piece of paper, write the names for the new sections you created. Under each section name, write down its major elements. This is the outline of your plain English draft and, with some revisions, will become your table of contents.

Keep in mind that the most effective outlines are more like sketches—just detailed enough to set priorities and create logical relationships.

Next to each entry on your outline, be sure to note where this information appeared in the original document. This is very important. Cross-referencing accurately now may save you hours of backtracking later.

Tape your reordered sections on blank pieces of ledger size paper and photocopy them. This will be the master document from which you'll rewrite. As you rewrite, each time you complete a sentence or paragraph, draw a line through it in pencil. This way you'll be sure to account for all the original content in your rewrite. •

9

Using Readability Formulas and Style Checkers

Readability formulas determine how difficult a piece of writing is to read. However, you should be aware of a major flaw in every readability formula.

No formula takes into account the content of the document being evaluated. In other words, no formula can tell you if you have conveyed the information clearly. For the most part, they count the numbers of syllables and words in a sentence and the number of sentences in the sample. Of course, if you applied a readability formula to a traditional disclosure document, it would fail miserably. But keep in mind that by some formulas' calculations, Einstein's theory of relativity reads at a 5th grade level.

Some computerized style checkers analyze your grammar and identify the passive voice. They may suggest ways to make your writing more "readable." Take their suggestions as just that—suggestions. The final test of whether any piece of writing meets its goal of communicating information comes when humans read it. •

Evaluating the Document

You can evaluate your document by testing it with a focus group. Experts call this “audience-centered” testing because it focuses on the interaction between a particular document and a representative sample of its readers. While the results are reliable, focus groups require time and money.

Focus group testing tends to work better with shorter documents or portions of longer ones. You can also test the portions of your document that you plan to use repeatedly. At the very least, you’ll have helpful feedback on the sections that investors are most likely to read and on the language that appears most frequently in your disclosure documents. Based on the test results, you can isolate the parts that cause the most confusion and fix them.

If you don’t have the budget to test your document formally through focus groups, improvise. Ask individuals in your office who most closely resemble your investors to read your draft document and listen closely to their reactions. Ask others who have some distance from the project to read it. A fresh pair of eyes often picks up the “obvious” problems that those who have worked with the document miss. •

Reading List

If you want more information on how to write in plain English, we've listed just a few of the many resources available, including those from the SEC. You may want to visit your local library to review these books or a broader selection. Goldstein and Lieberman's book, *The Lawyer's Guide to Writing Well*, includes a comprehensive list of books about legal writing. We are not endorsing any of these books, but have included them as a resource for your convenience.

Claire Kehrwald Cook, *Line by Line*
(Houghton Mifflin, 1985).

Alan J. Davis, *Graphs and Doublespeak*, *Quarterly Review of Doublespeak*,
Volume XVIII, Number 4, July 1992.

Bryan A. Garner, *The Elements of Legal Style*
(Oxford University Press, 1991).

_____, *A Dictionary of Modern Legal Usage*
(Oxford University Press, 2nd ed., 1995).

Tom Goldstein and Jethro K. Lieberman, *The Lawyer's Guide
to Writing Well*
(University of California Press, 1989).

Karen Elizabeth Gordon, *The Transitive Vampire: A Handbook
of Grammar for the Innocent, the Eager, and the Doomed*
(Times Books, 1984).

_____, *The New Well-Tempered Sentence, A Punctuation Handbook
for the Innocent, the Eager, and the Doomed*
(Ticknor & Fields, 1993).

William Lutz, *The New Doublespeak: Why No One Knows What Anyone's Saying Anymore* (HarperCollins, 1996).

David Mellinkoff, *Legal Writing: Sense & Nonsense* (West Publishing Company, 1982).

William Strunk, Jr., and E.B. White, *Elements of Style* (Macmillan, 3rd rev. ed., 1981).

Edward R. Tufte, *The Visual Display of Quantitative Information* (Graphics Press, 1983).

Robin Williams, *The Mac Is Not a Typewriter* (Peachpit Press, 1990).

Richard C. Wydick, *Plain English for Lawyers* (Carolina Academic Press, 2nd ed., 1985).

William Zinsser, *On Writing Well* (Harper & Row, 4th ed., 1988).

SEC publications

Before & After Plain English Examples and Sample Analyses (SEC Division of Corporation Finance, April 4, 1998).

Plain English Pilot Program: Selected Plain English Samples (SEC Division of Corporation Finance, January 28, 1998).

Securities Act Release No. 33-7380, Plain English Disclosure, proposing release, (January 14, 1997) 62 FR 3512 (January 21, 1997).

Securities Act Release No. 33-7497, Plain English Disclosure, adopting release, (January 28, 1998) 63 FR 6370 (February 6, 1998). •

Keeping in Touch with Us

We hope that this handbook will prove useful to you in drafting and creating plain English documents. Although we have drawn the suggestions in the handbook from those who have written plain English documents and from experts in the field, we realize that much more will be learned along the way that can benefit all of us.

We would appreciate receiving your suggestions on how we can improve this handbook. We would also like to collect as many examples of “befores” and their plain English “afters” as possible, as well as any tips that helped you save time and energy.

Please forward your suggestions and “before” and “after” examples to:

Nancy M. Smith
Director
Office of Investor Education and Assistance
SEC
450 5th Street, N.W.
Washington, D.C. 20549 •

Plain English at a Glance

Appendix A

Plain English means creating a document that is

- visually inviting,
- logically organized, and
- understandable on the first reading.

You create a plain English document by

- knowing your readers, and
- presenting information your readers need in an order they'll understand.

Summary of the plain English rules

Rule 421(b)

Entire Prospectus

Clear, concise, and understandable

- short sentences whenever possible
- bullet lists whenever possible
- descriptive headers and sub-headers
- avoid relying on glossaries and defined terms
- avoid legal and highly technical business terms

Note

Avoid:

- legalistic, overly complex presentations
- vague boilerplate
- excerpts from legal documents
- repetition

This is a summary, so please read the entire rule to make sure you comply with every aspect of it.

Rule 421(d)

Cover and Back Pages, Summary, and Risk Factors

Use plain English principles in the organization, language, and design of documents

Substantially use:

- short sentences
- definite, concrete, everyday words
- active voice
- tables and bullet lists
- no legal jargon, highly technical business terms
- no multiple negatives

Entire Prospectus—Design

In designing the entire prospectus:

- may use pictures, logos, charts, graphs, or other design elements
- encouraged to use tables, schedules, charts, and graphics for financial data
- must draw graphs and charts to scale
- cannot use misleading design and information

§230.421 Presentation of information in prospectuses

• • • • •

- (b) You must present the information in a prospectus in a clear, concise and understandable manner. You must prepare the prospectus using the following standards:
- (1) Present information in clear, concise sections, paragraphs, and sentences. Whenever possible, use short, explanatory sentences and bullet lists;
 - (2) Use descriptive headings and subheadings;
 - (3) Avoid frequent reliance on glossaries or defined terms as the primary means of explaining information in the prospectus. Define terms in a glossary or other section of the document only if the meaning is unclear from the context. Use a glossary only if it facilitates understanding of the disclosure; and
 - (4) Avoid legal and highly technical business terminology.

Note to §230.421(b):

In drafting the disclosure to comply with this section, you should avoid the following:

1. Legalistic or overly complex presentations that make the substance of the disclosure difficult to understand;
2. Vague “boilerplate” explanations that are imprecise and readily subject to different interpretations;
3. Complex information copied directly from legal documents without any clear and concise explanation of the provision(s); and
4. Disclosure repeated in different sections of the document that increases the size of the document but does not enhance the quality of the information.

• • • • •

- (d) (1) To enhance the readability of the prospectus, you must use plain English principles in the organization, language, and design of the front and back cover pages, the summary, and the risk factors section.
- (2) You must draft the language in these sections so that at a minimum it substantially complies with each of the following plain English writing principles:
- (i) Short sentences;
 - (ii) Definite, concrete, everyday words;
 - (iii) Active voice;
 - (iv) Tabular presentation or bullet lists for complex material, whenever possible;
 - (v) No legal jargon or highly technical business terms; and
 - (vi) No multiple negatives.
- (3) In designing these sections or other sections of the prospectus, you may include pictures, logos, charts, graphs, or other design elements so long as the design is not misleading and the required information is clear. You are encouraged to use tables, schedules, charts and graphic illustrations of the results of operations, balance sheet, or other financial data that present the data in an understandable manner. Any presentation must be consistent with the financial statements and non-financial information in the prospectus. You must draw the graphs and charts to scale. Any information you provide must not be misleading.

Instruction to §230.421

You should read Securities Act Release No. 33-7497 (January 28, 1998) for information on plain English principles. •

Plain English Examples

This appendix contains “before” and “after” examples from participants in the Division of Corporation Finance’s plain English pilot. The Division’s staff added marginal notes to show how aspects of the plain English rules apply to specific documents.

These annotated examples are excerpted from the booklet, *Before & After Plain English Examples and Sample Analyses*, prepared by the Division of Corporation Finance. Although we revised the presentation and wording of the marginal notes in this appendix, the filings remain identical to those from the booklet. To get a complete copy of the booklet, please call the SEC’s public reference room at (202) 942-8090.

Differences between the proposed and final amendments to Item 501

When the issuers prepared these documents, they relied on staff interpretations for filings in the plain English pilot and the proposed amendments to Item 501.

The following information was not required under Item 501 as *proposed*, but this information is required under Item 501 as *adopted*:

- the market(s) and the trading symbol;
- the underwriter’s over-allotment or similar option, if applicable;
- a prominent cross-reference to the risk factors section including the page number;
- the following on a total and per share basis, if applicable:
 - the price to the public;
 - the underwriter’s discounts and commissions; and
 - the net proceeds the issuer and selling shareholders receive.

Examples for illustration purposes only

We are providing these examples and marginal notes only to illustrate the principles of plain English. We have not made any determination as to whether the filings are accurate or complete. You are responsible for the substance in your plain English filings. To understand the plain English rules fully, you must read the proposing and adopting releases:

- the proposing release—Release no. 33-7380; and
- the adopting release—Release no. 33-7497.

Both releases are available from the SEC’s Public Reference Room and our web site at www.sec.gov.

We collected many filings from the Division’s plain English pilot in one book. You can get a photocopy of this 756-page book, *Plain English Pilot Program: Selected Plain English Samples*, from the SEC’s Public Reference Room or a printed copy from Bowne Publishing in New York City. (The SEC does not endorse Bowne, nor do we have a business relationship with them.)

Before

MBNA cover page, core prospectus

Note: When MBNA filed this disclosure document, they relied on the SEC rules that were in effect at that time.

Fully-justified text and lengthy paragraphs give page a dense, block-like appearance.

Abstract terms and legal jargon prevalent

A lot of passive voice, adding to sentence length

Eliminate defined terms from the cover page.

Long sentence—60+ words

Why capitalize these common terms?

Long sentence—50+ words

Many long sentences—40+ words

Centered text and all capital letters are hard to read.

Legends are in legalese.

Legalistic tone—does Item 501 require all this information?

All information is presented the same way: What does this page focus my attention on?

Sans serif font is hard to read.

Text runs in long lines across the page.

PROSPECTUS

MBNA Master Credit Card Trust II

Asset Backed Certificates

MBNA America Bank, National Association

Seller and Servicer

The Asset Backed Certificates (collectively, the "Certificates") described herein may be sold from time to time in one or more series (each, a "Series") in amounts, at prices and on terms to be determined at the time of sale and to be set forth in a supplement to this Prospectus (a "Prospectus Supplement"). The Certificates of each Series will represent an undivided interest in MBNA Master Credit Card Trust II (the "Trust"). The Trust has been formed pursuant to a pooling and servicing agreement between MBNA America Bank, National Association ("MBNA"), as seller and servicer, and The Bank of New York, as trustee. The property of the Trust will include receivables (the "Receivables") generated from time to time in a portfolio of consumer revolving credit card accounts (the "Accounts"), all monies due in payment of the Receivables and certain other property, as more fully described herein and, with respect to any Series, in the related Prospectus Supplement. MBNA initially will own the remaining undivided interest in the Trust not represented by the Certificates issued by the Trust and will service the Receivables.

Each Series will consist of one or more classes of Certificates (each, a "Class"), one or more of which may be fixed rate Certificates, floating rate Certificates or other type of Certificates, as specified in the related Prospectus Supplement. Each Certificate will represent an undivided interest in the Trust and the interest of the Certificateholders of each Class or Series will include the right to receive a varying percentage of each month's collections with respect to the Receivables of the Trust at the times, in the manner and to the extent described herein and, with respect to any Series offered hereby, in the related Prospectus Supplement. Interest and principal payments with respect to each Series offered hereby will be made as specified in the related Prospectus Supplement. One or more Classes of a Series offered hereby may be entitled to the benefits of a cash collateral account or guaranty, a collateral interest, a letter of credit, a surety bond, an insurance policy or other form of enhancement as specified in the Prospectus Supplement relating to such Series. In addition, any Series offered hereby may include one or more Classes which are subordinated in right and priority to payment of principal of, and/or interest on, one or more other Classes of such Series or another Series, in each case to the extent described in the related Prospectus Supplement. Each Series of Certificates or Class thereof offered hereby will be rated in one of the four highest rating categories by at least one nationally recognized rating organization.

While the specific terms of any Series in respect of which this Prospectus is being delivered will be described in the related Prospectus Supplement, the terms of such Series will not be subject to prior review by, or consent of, the Certificateholders of any previously issued Series.

Potential investors should consider, among other things, the information set forth in "Risk Factors" beginning on page 19 herein.

THE CERTIFICATES WILL REPRESENT INTERESTS IN THE TRUST ONLY AND WILL NOT REPRESENT INTERESTS IN OR OBLIGATIONS OF MBNA AMERICA BANK, NATIONAL ASSOCIATION OR ANY AFFILIATE THEREOF. A CERTIFICATE IS NOT A DEPOSIT AND NEITHER THE CERTIFICATES NOR THE UNDERLYING ACCOUNTS OR RECEIVABLES ARE INSURED OR GUARANTEED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER GOVERNMENTAL AGENCY.

THESE SECURITIES HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION OR ANY STATE SECURITIES COMMISSION NOR HAS THE COMMISSION OR ANY STATE SECURITIES COMMISSION PASSED UPON THE ACCURACY OR ADEQUACY OF THIS PROSPECTUS. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

Certificates may be sold by MBNA directly to purchasers, through agents designated from time to time, through underwriting syndicates led by one or more managing underwriters or through one or more underwriters acting alone. If underwriters or agents are involved in the offering of the Certificates of any Series offered hereby, the name of the managing underwriter or underwriters or agents will be set forth in the related Prospectus Supplement. If an underwriter, agent or dealer is involved in the offering of the Certificates of any Series offered hereby, the underwriter's discount, agent's commission or dealer's purchase price will be set forth in, or may be calculated from, the related Prospectus Supplement, and the net proceeds to MBNA from such offering will be the public offering price of such Certificates less such discount in the case of an underwriter, the purchase price of such Certificates less such commission in the case of an agent or the purchase price of such Certificates in the case of a dealer, and less, in each case, the other expenses of MBNA associated with the issuance and distribution of such Certificates. See "Plan of Distribution."

This Prospectus may not be used to consummate sales of any Series of Certificates unless accompanied by the related Prospectus Supplement.

The date of this Prospectus is September 2, 1997.

Prospectus

MBNA Master Credit Card Trust II
Issuer

MBNA America Bank, National Association
Seller and Servicer

Asset Backed Certificates

Consider carefully the risk factors beginning on page 10 in this prospectus.

A certificate is not a deposit and neither the certificates nor the underlying accounts or receivables are insured or guaranteed by the Federal Deposit Insurance Corporation or any other governmental agency.

The certificates will represent interests in the trust only and will not represent interests in or obligations of MBNA or any MBNA affiliate.

This prospectus may be used to offer and sell any series of certificates only if accompanied by the prospectus supplement for that series.

The Trust—

- may periodically issue asset backed certificates in one or more series with one or more classes; and
- will own—
 - receivables in a portfolio of consumer revolving credit card accounts;
 - payments due on those receivables; and
 - other property described in this prospectus and in the accompanying prospectus supplement.

The Certificates—

- will represent interests in the trust and will be paid only from the trust assets;
- offered with this prospectus will be rated in one of the four highest rating categories by at least one nationally recognized rating organization;
- may have one or more forms of enhancement; and
- will be issued as part of a designated series which may include one or more classes of certificates and enhancement.

The Certificateholders—

- will receive interest and principal payments from a varying percentage of credit card account collections.

Neither the SEC nor any state securities commission has approved these certificates or determined that this prospectus is accurate or complete. Any representation to the contrary is a criminal offense.

February 27, 1998

Ample white space surrounds key information and makes page visually inviting.

Page layout highlights cross reference to risk factors.

Clear sentences are in active voice with concrete, everyday language.

No lengthy, block-like paragraphs

Information presented in three main categories:

- the trust
- the certificates
- the certificateholders

No defined terms

Common terms, like *classes*, are not capitalized.

Long sentences are put into bullet lists.

Left justified text and shorter line lengths are easy to read.

Serif typeface is easier to read than sans serif.

Legends in plain English and lowercase are easier to read than all capital letters.

Before

Premium Cigars International, cover page

Fully justified text creates a dense, block-like appearance.

Eliminate defined terms from cover page.

Is *no par value* helpful information for investors?

Key information, such as price per share, is not distinguished from general text.

Cross reference draws readers' attention away from key information.

All capital letters are hard to read.

Legend is in legalese.

Some legalese is used, like *set forth* and *when, as and if delivered*.

Offering table, references to footnotes, and paragraph following the table are legalistic.

Legalistic tone—does Item 501 require all this information?

PROSPECTUS
SUBJECT TO COMPLETION DATED JUNE 25, 1997

PREMIUM CIGARS INTERNATIONAL, LTD.

2,000,000 Shares

Premium Cigars International, Ltd. (“we” or “PCI”), distributes moderately priced premium cigars and other cigars, which are sold from our humidors placed primarily in convenience stores in the United States and Canada. By this Prospectus, we are offering you shares of PCI Common Stock, no par value (“Shares”).

This is our initial public offering, and no public market currently exists for PCI’s Shares. We estimate that the initial public offering price will be \$5.01 per Share. The Offering Price per Share will be determined by negotiations between PCI and the Representative, and may not be indicative of the market price of Shares after the Offering. Factors used to determine the initial public offering price are set forth under “Underwriting.”

We will apply to have our Shares listed on The Nasdaq SmallCap System under the symbol PCIG on completion of the Offering.

THIS INVESTMENT INVOLVES A HIGH DEGREE OF RISK AND IMMEDIATE AND SUBSTANTIAL DILUTION. YOU SHOULD PURCHASE UNITS ONLY IF YOU CAN AFFORD A COMPLETE LOSS. SEE “RISK FACTORS.”

THESE SECURITIES HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION NOR HAS THE COMMISSION PASSED UPON THE ACCURACY OR ADEQUACY OF THIS PROSPECTUS. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

	Price to the Public	Underwriting Discounts and Commissions (1)	Proceeds to the Company (2)
Per Share	\$5.01	\$.50	\$4.51
Total (3)	\$10,020,000	\$1,002,000	\$9,018,000

The Shares are being offered by the Underwriters when, as and if delivered to and accepted by the Underwriter and subject to various prior conditions, including their right to reject orders in whole or in part. W.B. McKee Securities, Inc. will act as representative of the Underwriters (“Representative”). We expect that Share certificates will be delivered in Phoenix, Arizona, on or about _____, 1997.

W.B. MCKEE SECURITIES, INC.
The date of this Prospectus is July __, 1997

Information contained herein is subject to completion or amendment. A registration statement relating to these securities has been filed with the Securities and Exchange Commission. These securities may not be sold nor may offers to buy be accepted prior to the time the registration statement becomes effective. This prospectus shall not constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of these securities in any State in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such State.

**Initial Public Offering
Prospectus**



PREMIUM CIGARS INTERNATIONAL

1,900,000 shares of Common Stock
\$5.25 per share

Premium Cigars International, Ltd.
15651 N. 83rd Way, Suite 3
Scottsdale, Arizona 95260

The Offering

	Per Share	Total
Public Price	\$ 5.25	\$9,975,000
Underwriting discounts	\$.525	\$ 997,500
Proceeds to PCI	\$4.725	\$8,977,500

We distribute moderately priced premium cigars and other cigars, which are sold from our humidors placed primarily in convenience stores in the United States and Canada.

This is our initial public offering, and no public market currently exists for our shares. The offering price may not reflect the market price of our shares after the offering.

Proposed Trading Symbols:
NASDAQ SmallCap MarketSM — PCIG
Boston Stock Exchange — PCI

This Investment Involves a High Degree of Risk. You Should Purchase Shares Only If You Can Afford a Complete Loss. See "Risk Factors" Beginning on Page 5.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved these securities, or determined if this Prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

W.B. MCKEE SECURITIES, INC.
KASHNER DAVIDSON SECURITIES CORP.
August 21, 1997

- Only key information on page
- Offering information is clear and easy to read.
- Ample white space is visually inviting and highlights key information.
- Key information, like price per share, is highlighted.
- Left justified text eliminates block-like appearance.
- Two-column format is easier to read than text running across page.
- Design and layout highlight market and trading symbols.
- Short sentences use concrete, everyday terms.
- Language is free from legalese, technical language, and unnecessary cross references.
- Personal pronouns, while not required, enhance readability.
- Legend is in plain English.

Before

General Motors Corporation, summary

Legalese and technical terms, like *pursuant to the terms and conditions set forth*, and *effected largely pursuant to transactions*, etc.

Cross reference to definition disrupts flow of information; meanings of terms in summary must be clear from context.

Terms like *certain* and *appropriate* are vague, not concrete.

Passive voice—who is completing these transactions?

Parenthetical phrases are legalistic and disrupt flow of information.

Little "i"'s are legalistic; bulleted list would be easier to read.

Organization of information driven by mechanics of transactions rather than by information shareholders need to make a decision.

Transactions' effect on shareholders not discussed until column two.

Is detail about GM amending its certificate of incorporation necessary for the summary?

RAYTHEON

Raytheon is an international, high technology company which operates in four businesses: commercial and defense, engineering and construction, aircraft and major appliances. On July 11, 1997, Raytheon completed its acquisition of the business of Texas Instruments Defense. Immediately after the completion of the Hughes Transactions, Raytheon will merge with Hughes Defense.

For additional information regarding the business of Raytheon, see "Overview of Raytheon Business."

THE HUGHES TRANSACTIONS

Description of the Hughes Transactions

The Hughes Transactions will be completed through two principal steps:

- (1) the Hughes Reorganization (consisting of several transactions which prepare Hughes Defense for the spin-off from General Motors, separate the businesses of Hughes Defense, Delco and Hughes Telecom and effect the transfer of Delco to General Motors); and
- (2) the Spin-Off Merger (a merger transaction which effects the spin-off of Hughes Defense and the recapitalization and conversion of GM Class H Common Stock into New GM Class H Common Stock).

Step 1: The Hughes Reorganization. Pursuant to the Hughes Reorganization, among other things, (i) certain assets and liabilities will be transferred among Hughes Defense, Delco and Hughes Telecom so that each entity will have the appropriate assets and liabilities for its business; (ii) Hughes Telecom will be separated from Hughes Defense (which we refer to as the "Hughes Telecom Spin-Off"); (iii) Delco will be transferred from Hughes Electronics to General Motors; and (iv) Hughes Defense will recapitalize its capital stock into Class A Common Stock and Class B Common Stock. The Hughes Reorganization will be effected largely pursuant to transactions described in the Master Separation Agreement and the agreements contemplated by that agreement. See "Description of the Hughes Transactions—General—Hughes Reorganization" and "Separation and Transition Arrangements."

Step 2: The Spin-Off Merger. Pursuant to the terms and conditions set forth in the Spin-Off Merger Agreement, a wholly owned subsidiary of General Motors formed in order to effect the Spin-Off Merger will merge with General Motors. General Motors will be the surviving corporation of the Spin-Off Merger. See "Description of the Hughes Transactions—General—Spin-Off Merger" and "—Spin-Off Merger Agreement."

As a result of the Spin-Off Merger, the following will occur:

- each outstanding share of GM Class H Common Stock will be recapitalized and converted automatically into one share of New GM Class H Common Stock and each GM Class H Common Stockholder will receive a distribution of the Per Share Class H Distribution (as defined under "Background—The Distribution Ratio") of Class A Common Stock;
- each outstanding share of GM \$1½ Common Stock will remain outstanding and each GM \$1½ Common Stockholder will receive a distribution of the Per Share \$1½ Distribution (as defined under "Background—The Distribution Ratio") of Class A Common Stock; and
- the GM Certificate of Incorporation will be amended to delete provisions relating to the GM Class H Common Stock (including the provisions that require GM Class H Common Stock to be recapitalized into GM \$1½ Common Stock at a 120% exchange ratio under certain circumstances) and to add provisions setting forth the terms of the New GM Class H Common Stock.

For additional information regarding the Hughes Transactions, see "Description of the Hughes Transactions—General."

For a description of the methodology used to determine the allocation of Class A Common Stock between the two classes of GM common stockholders and a description of the post-closing payment to be made between Delco and Hughes Telecom, see "Background—Distribution Ratio."

Class H Common Stock outstanding at any time. For most calculations in this document which use the Class H Fraction, we have used the Class H Fraction as of September 30, 1997 (approximately 25.6%).

INTRODUCTION TO THE HUGHES TRANSACTIONS

THE HUGHES TRANSACTIONS

We are proposing three related transactions to enhance the value of the businesses operated by our Hughes Electronics subsidiary. We need your consent in order to accomplish these "Hughes Transactions."

(1) Hughes Defense

We propose to spin off the defense electronics business of Hughes Electronics to our common stockholders. We call this business "Hughes Defense." Immediately after the spin-off, Hughes Defense will merge with Raytheon Company. Based on the Recent Raytheon Stock Price, these transactions have an indicated value of approximately \$9.5 billion.

The merged company will be the nation's third largest defense company and one of the largest providers of defense electronics in the world. The merger should enable it to compete more effectively in the U.S. defense industry, where significant consolidation has been occurring. We call the merged company "New Raytheon."

GM common stockholders will receive all of the Class A Common Stock of Hughes Defense, representing approximately 30% of the common stock of New Raytheon after the merger. This stock has an indicated value of approxi-

mately \$5.2 billion based on the Recent Raytheon Stock Price. Approximately 58.7% of the Class A Common Stock would be distributed to GM Class H Common Stockholders and approximately 41.3% would be distributed to GM 1/3 Common Stockholders based on the Recent Raytheon Stock Price.

Hughes Defense will be permitted to have approximately \$4.3 billion of debt when it is spun off. Substantially all of the proceeds of this debt will be made available as new capital for Hughes Telecom. The obligation to repay this debt, however, will remain with New Raytheon (in which GM's common stockholders will have an approximately 30% equity interest).

The indicated transaction value of approximately \$9.5 billion consists of the sum of (1) the value of the Class A Common Stock to be distributed to GM's common stockholders and (2) the amount of debt that Hughes Defense is permitted to have at the time of the spin-off. We believe that this amount represents a substantial premium to the enterprise value of Hughes Defense under its current ownership structure.

(2) Delco Electronics

We propose to transfer Delco Electronics, our automotive electronics business, from Hughes

Information organized from shareholders' perspectives—how transactions affect them addressed first.

Active voice helps shareholders follow the steps involved in the transaction more easily.

Summary is free of defined terms.

Concrete, everyday language replaces legalese like pursuant to the terms and conditions set forth and effected largely pursuant to transactions, etc.

Numbers are more reader-friendly than little "i"s.

Easy to read two-column format with left justified margins.

Personal pronouns, although not required, help engage shareholders' attention.

Before

Baltimore Gas & Electric Company

Section from body of prospectus

Paragraphs are lengthy and block-like.

Subheadings are helpful, but more would be better.

Defined below? Where is below?
Cross reference not helpful.

Long sentence—85+ words

Many defined terms with definitions elsewhere.
Can you make meanings clear from context?

Long sentence—90+ words

Lists embedded in text;
complex presentation

Interest Rate

General

Each Note will bear interest from its date of issue at the fixed rate per annum or at the rate per annum determined pursuant to the interest rate formula, stated therein and in the applicable Pricing Supplement, until the principal thereof is paid or made available for payment. Interest will be payable on each Interest Payment Date (as defined below) and at Stated Maturity or, if applicable, upon redemption. Each payment of interest payable at Stated Maturity or, if applicable, upon redemption shall include interest accrued to, but excluding, the date of Stated Maturity or redemption. Interest will be payable generally to the person (which, in the case of Book-Entry Notes, shall be the Depository or its nominee) in whose name a Note (or any predecessor Note) is registered at the close of business on the Record Date (as defined below) next preceding each Interest Payment Date; provided, however, that interest payable at Stated Maturity or, if applicable, upon redemption, will be payable to the person (which, in the case of Book-Entry Notes, shall be the Depository or its nominee) to whom principal shall be payable. The first payment of interest on any Note originally issued between a Record Date and an Interest Payment Date or on an Interest Payment Date will be made on the Interest Payment Date following the next succeeding Record Date to the registered owner on such Record Date. Interest (other than interest payable at Stated Maturity or, if applicable, upon redemption) will be paid, at the Company's option, by check mailed to registered holders or by wire transfer to any holder of record. For additional information with respect to payments of interest on Book-Entry Notes, see "Book-Entry Notes" below. Interest rates, or interest rate formulas, will be subject to change by the Company from time to time, provided that any change in interest rates, or interest rate formulas, will not affect any Note previously issued or which the Company has agreed to sell. The interest rate on the Fixed Rate Notes and the Floating Rate Notes will in no event be higher than the maximum rate permitted by Maryland law, as the same may be modified by United States law of general application.

Fixed Rate Notes

The applicable Pricing Supplement relating to a Fixed Rate Note will designate a fixed rate of interest per annum payable on such Note. Unless otherwise indicated in the applicable Pricing Supplement, interest with respect to Fixed Rate Notes will be paid semi-annually each May 1 and November 1 and at Stated Maturity or, if applicable, upon redemption. If any Interest Payment Date or the Stated Maturity (or, if applicable, the date of redemption) of a Fixed Rate Note falls on a day that is not a Business Day, payment of principal, premium, if any, or interest will be made on the next Business Day as if it were made on the date such payment was due, and no interest will accrue on the amount so payable for the period from and after such Interest Payment Date or the Stated Maturity (or the date of redemption), as the case may be. The Record Dates for such Notes will be the April 15 and October 15 next preceding the May 1 and November 1 Interest Payment Dates. Unless otherwise indicated in the applicable Pricing Supplement, interest payments for Fixed Rate Notes shall be the amount of interest accrued to, but excluding, the relevant Interest Payment Date. Interest on such Notes will be computed on the basis of a 360-day year of twelve 30-day months.

Floating Rate Notes

The applicable Pricing Supplement relating to a Floating Rate Note will designate an interest rate formula for such Floating Rate Note. Such formula may be: (a) the Commercial Paper Rate, in which case such Note will be a Commercial Paper Rate Note, (b) the Prime Rate, in which case such Note will be a Prime Rate Note, (c) the CD Rate, in which case such Note will be a CD Rate Note, (d) the Federal Funds Effective Rate, in which case such Note will be a Federal Funds Effective Rate Note, (e) LIBOR, in which case such Note will be a LIBOR Note, (f) the Treasury Rate, in which case such Note will be a Treasury Rate Note, (g) the CMT Rate, in which case such Note will be a CMT Rate Note, or (h) such other interest rate formula as is set forth in such Pricing Supplement. The applicable Pricing Supplement for a Floating Rate Note also will specify the Spread and/or Spread Multiplier, if any, applicable to each Note. Any Floating Rate Note may also have either or both of the following: (a) a maximum numerical interest rate limitation, or ceiling, on the rate of interest which may accrue during any interest period (the "Maximum Interest Rate"); and (b) a minimum numerical interest rate limitation, or floor, on the rate of interest which may

5

Section from body of prospectus

The interest rate on the notes will either be fixed or floating. The interest paid will include interest accrued to, but excluding, the date of maturity, redemption or repurchase. Interest is generally payable to the person in whose name the note is registered at the close of business on the record date before each interest payment date. However, interest payable at maturity, redemption, or repurchase will be payable to the person to whom principal is payable. The first interest payment on any note originally issued between a record date and interest payment date or on an interest payment date will be made on the interest payment date after the next record date. Interest payable other than at maturity, redemption or repurchase will be paid, at our option, by check or wire transfer.

Fixed Rate Notes

The applicable pricing supplement will designate the fixed rate of interest payable on a note. Interest will be paid May 1 and November 1, and upon maturity, redemption or repurchase. If any payment date falls on a day that is not a Business Day, payment will be made on the next Business Day and no additional interest will be paid. The record dates for such notes will be April 15 (for interest to be paid on May 1) and October 15 (for interest to be paid on November 1). Interest payments will be the amount of interest accrued to, but excluding, each May 1 and November 1. Interest will be computed using a 360-day year of twelve 30-day months.

Floating Rate Notes

General

Each floating rate note will have an interest rate formula. The formula may be based on:

- the commercial paper rate;

- the prime rate;
- the CD rate;
- the federal funds effective rate;
- the LIBOR;
- the Treasury rate;
- the CMT rate; or
- another interest rate index.

The applicable pricing supplement will also indicate the Spread and/or Spread Multiplier, if any. In addition, any floating rate note may have a maximum or minimum interest rate limitation.

Upon request, the Calculation Agent will provide the current interest rate and, if different, the interest rate which will become effective on the next Interest Reset Date.

Date of Interest Rate Change

The interest rate on each floating rate note may be reset daily, weekly, monthly, quarterly, semi-annually, or annually. The Interest Reset Date will be:

- for notes which reset daily, each Business Day;
- for notes (other than Treasury rate notes) which reset weekly, the Wednesday of each week;
- for Treasury rate notes which reset weekly, the Tuesday of each week;
- for notes which reset monthly, the third Wednesday of each month;
- for notes which reset quarterly, the third Wednesday of March, June, September and December;
- for notes which reset semi-annually, the third Wednesday of the two months of each year indicated in the applicable pricing supplement; and
- for notes which reset annually, the third Wednesday of the month of each year indicated in the applicable pricing supplement.

Paragraphs are short and readable.

Short sentences—longest sentence is 36 words.

Two-column format and left justified text, while not required, help make summary more reader-friendly.

More subheadings break up dense text and help readers navigate their way through information easily.

Defined terms are minimized, with meanings of terms clear from context.

Bullet lists help investors read and understand this information more quickly and easily.

8 APPENDIX B

8.1 PLAIN LANGUAGE SECTION OF NATIONAL INSTRUMENT 81-101

PART 4 PLAIN LANGUAGE AND PRESENTATION

4.1 Plain Language and Presentation

- (1) A simplified prospectus and annual information form shall be prepared using plain language and in a format that assists in readability and comprehension.
- (2) A simplified prospectus
 - (a) shall present all information briefly and concisely;
 - (b) shall present the items listed in the Part A section of Form 81-101F1 and the items listed in the Part B section of Form 81-101F1 in the order stipulated in those parts;
 - (c) may, unless the Part B section is being bound separately from the Part A section as permitted by subsection 5.3(1), place the Part B section of the simplified prospectus in any location in the simplified prospectus;
 - (d) shall use the headings and sub-headings stipulated in Form 81-101F1, and may use sub-headings in items for which no sub-headings are stipulated;
 - (e) shall contain only educational material or the information that is specifically mandated or permitted by Form 81-101F1; and
 - (f) shall not incorporate by reference into the simplified prospectus, from any other document, information that is required to be included in a simplified prospectus.

4.2 Preparation in the Required Form - Despite provisions in securities legislation relating to the presentation of the content of a prospectus, the simplified prospectus and annual information form shall be prepared in accordance with this Instrument.