The Ontario Securities Commission

OSC Bulletin

January 30, 2004

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The Ontario Securities Commission Administers the
Securities Act of Ontario (R.S.O. 1990, c.S.5) and the
Commodity Futures Act of Ontario (R.S.O. 1990, c.C.20)

The Ontario Securities Commission
Cadillac Fairview Tower
Suite 1903, Box 55
20 Queen Street West
Toronto, Ontario
M5H 3S8

416-593-8314 or Toll Free 1-877-785-1555

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416-609-3800 or 1-800-387-5164

Contact Centre - Inquiries, Complaints:	Fax: 416-593-8122
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One Corporate Plaza
2075 Kennedy Road
Toronto, Ontario
M1T 3V4

Customer Relations
Toronto 1-416-609-3800
Elsewhere in Canada/U.S. 1-800-387-5164
World wide Web: http://www.carswell.com
Email: carswell.orders@thomson.com

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Chapter 1

Notices / News Releases

1.1 Notices

1.1.1 Current Proceedings Before The Ontario Securities Commission

JANUARY 30, 2004

CURRENT PROCEEDINGS

BEFORE

ONTARIO SECURITIES COMMISSION

- -

Unless otherwise indicated in the date column, all hearings will take place at the following location:

The Harry S. Bray Hearing Room
Ontario Securities Commission
Cadillac Fairview Tower
Suite 1700, Box 55
20 Queen Street West
Toronto, Ontario
M5H 3S8

Telephone: 416-597-0681 Telecopier: 416-593-8348

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- -

THE COMMISSIONERS

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Robert W. Davis, FCA	—	RWD
Harold P. Hands	—	HPH
Robert W. Korthals	—	RWK
Mary Theresa McLeod	—	MTM
H. Lorne Morphy, Q.C.	—	HLM
Robert L. Shirriff, Q.C.	—	RLS
Suresh Thakrar	—	ST
Wendell S. Wigle, Q. C.	—	WSW

SCHEDULED OSC HEARINGS

DATE: TBA — **Ricardo Molinari, Ashley Cooper, Thomas Stevenson, Marshall Sone, Fred Elliott, Elliott Management Inc. and Amber Coast Resort Corporation**

s. 127

E. Cole in attendance for Staff

Panel: TBA

DATE : TBA — **Patrick Fraser Kenyon Pierrepont Lett, Milehouse Investment Management Limited, Pierrepont Trading Inc., BMO Nesbitt Burns Inc.*, John Steven Hawkyard+ and John Craig Dunn**

s. 127

K. Manarin in attendance for Staff

Panel: HLM/MTM/ST

* BMO settled Sept. 23/02
\+ April 29, 2003

March 8 & 9
10am – 4pm

March 10, 2004
10am – 2 pm

ATI Technologies Inc., Kwok Yuen Ho, Betty Ho, JoAnne Chang, David Stone, Mary de La Torre, Alan Rae and Sally Daub

s. 127

M. Britton in attendance for Staff

Panel: PMM/MTM/PKB

May 2004 — **Gregory Hyrniw and Walter Hyrniw**

s. 127

Y. Chisholm in attendance for Staff

Panel: TBA

ADJOURNED SINE DIE

Buckingham Securities Corporation, Lloyd Bruce, David Bromberg, Harold Seidel, Rampart Securities Inc., W.D. Latimer Co. Limited, Canaccord Capital Corporation, BMO Nesbitt Burns Inc., Bear, Stearns & Co. Inc., Dundee Securities Corporation, Caldwell Securities Limited and B2B Trust

Global Privacy Management Trust and Robert Cranston

Philip Services Corporation

Robert Walter Harris

Andrew Keith Lech

S. B. McLaughlin

Livent Inc., Garth H. Drabinsky, Myron I. Gottlieb, Gordon Eckstein, Robert Topol

1.1.2 Notice of Request for Comment - Proposed Amendments to National Instrument 44-101 Short Form Prospectus Distributions, Form 44-101F3 Short Form Prospectus and Companion Policy 44-101CP

NOTICE OF REQUEST FOR COMMENT

AMENDMENTS TO NATIONAL INSTRUMENT 44-101 SHORT FORM PROSPECTUS DISTRIBUTIONS AND FORM 44-101F3 SHORT FORM PROSPECTUS

AND

AMENDMENTS TO NATIONAL INSTRUMENT 44-101 SHORT FORM PROPSECTUS DISTRIBUTIONS COMPANION POLICY 44-101CP

Request for Public Comment

The Commission is publishing for a 90-day comment period the following material in today's Bulletin:

- Amendments to National Instrument 44-101 *Short Form Prospectus Distributions* and Form 44-101F3 Short Form Prospectus
- Amendments to National Instrument 44-101 *Short Form Prospectus Distributions* Companion Policy 44-101CP

The materials are published in Chapter 6 of the Bulletin. We request comments on the proposed materials by **April 29, 2004**.

1.1.3 Notice of Commission Approval – Repeal of CNQ Policy 10 – Fees

CANADIAN TRADING AND QUOTATION SYSTEM INC. (CNQ)

REPEAL OF POLICY 10 - FEES

NOTICE OF COMMISSION APPROVAL

On January 23, 2004, the Commission approved the Repeal of Policy 10 - Fees. The notice and request for comment was published on October 10, 2003 at (2003) 26 OSCB 6873. No comment letters were received.

1.1.4 RS Amendment to the Universal Market Integrity Rules 7.4, 10.3 and 10.7 - Notice of Commission Approval

MARKET REGULATION SERVICES INC.
AMENDMENT TO THE UNIVERSAL MARKET INTEGRITY RULES
AMENDMENTS TO RULES 7.4, 10.3 AND 10.7

NOTICE OF COMMISSION APPROVAL

The Ontario Securities Commission has approved amendments to the Universal Market Integrity Rules (UMIR) 7.4, 10.3 and 10.7. In addition, the Alberta Securities Commission, the British Columbia Securities Commission, the Manitoba Securities Commission and the Commission des valeurs mobilieres du Quebec have also approved the amendments. The amendments correct a number of drafting errors and provide clarification to the interpretation of several sections. A copy of the amendments were published for comment on October 11, 2002 at (2002), 25 OSCB 6773. No comments were received. The final version of the amendments is published in Chapter 13 of this Bulletin.

1.1.5 OSC Request for Comment Notice #33–901 – The Fair Dealing Model: Concept Paper of the Ontario Securities Commission – January 2004

ONTARIO SECURITIES COMMISSION
REQUEST FOR COMMENT NOTICE #33–901

The Fair Dealing Model:
Concept Paper of the Ontario Securities Commission – January 2004

The Ontario Securities Commission (the "OSC") is requesting comment on *The Fair Dealing Model: Concept Paper of the Ontario Securities Commission, January 2004*.

The Fair Dealing Model (FDM) is the OSC's proposal for renewing and refocusing our regulatory regime to bring it into line with the industry's current advice-driven business model, and ensure that consumer expectations match the services provided. It is not intended to impose another layer of regulation. We hope the model will contribute to healthier competition, strengthened client-adviser relationships, improved investor decision-making, and fewer disputes.

The FDM has two components: a single "financial services provider" license for all financial services providers whether firms, conglomerates, or individuals; and a set of business conduct standards. These standards are the subject of the present FDM Concept Paper, the first of two papers which read together will cover all aspects of the model. The business conduct standards aim to achieve understandable disclosure, meaningful communication of expectations, and effective management of conflicts of interest. They are based in many cases on observed best practices, and were developed in consultation with people with a wide range of experience in the financial services industry.

Under the FDM three fundamental principles are proposed to govern the regulatory framework: clear allocation of responsibilities between client and service provider, transparency in all dealings and conflicts managed to avoid self-serving outcomes. The FDM would base regulatory requirements on the relationships people and firms form, rather than the products they buy and sell.

In addition to a detailed description of the FDM and examples of how it might apply in practice, the Concept Paper includes a number of Appendices dealing with special subjects, including:

- model account opening and account reporting documents;
- sample investor education documents, and transaction information templates;
- approaches to risk disclosure;
- a detailed exploration of the problem of compensation biases, including case studies and review of comparable initiatives in other jurisdiction;
- the results of the stakeholder survey that formed part of our interactive FDM website at www.fairdealingmodel.ca.

Request for Comment

We welcome your comments on *The Fair Dealing Model: Concept Paper of the Ontario Securities Commission, January 2004*. Please submit your comments in writing on or before Friday, April 30, 2004. If you are not sending your comments by email, please forward a diskette containing the submissions (in Windows format, preferably Word).

Please address your submission to the Ontario Securities Commission, as follows:

John Stevenson, Secretary
Ontario Securities Commission
20 Queen Street West
19th Floor, Box 55
Toronto, Ontario M5H 3S8
jstevenson@osc.gov.on.ca

We cannot keep submissions confidential because securities legislation requires us to publish a summary of written comments received during the comment period.

Questions may be referred to:

Julia Dublin
Senior Legal Counsel, Capital Markets Branch
Ontario Securities Commission
20 Queen Street West, 19th Floor, Box 55
Toronto, Ontario M5H 3S8
Tel: 416-593-8103
E-mail: jdublin@osc.gov.on.ca

January 29, 2004.

[The Fair Dealing Model is being published in a Supplement to the OSC Bulletin on January 30, 2004.]

1.2 Notices of Hearing

1.2.1 Mark Edward Valentine - s. 127

IN THE MATTER OF
THE SECURITIES ACT
R.S.O. 1990, C. S.5, AS AMENDED

AND

IN THE MATTER OF
MARK EDWARD VALENTINE

NOTICE OF HEARING
(Section 127)

TAKE NOTICE that the Commission will hold a hearing pursuant to section 127 of the *Securities Act*, at the offices of the Ontario Securities Commission, 20 Queen Street West, 17th Floor Hearing Room on Monday, February 2, 2004 at 2:30 p.m. or as soon thereafter as the hearing can be held:

TO CONSIDER whether, pursuant to section 127 of the Act, it is in the public interest for the Commission:

(a) to extend the temporary order dated July 28, 2003 pending further order of the Commission; and

(b) to make such other order as the Commission considers appropriate.

BY REASON OF the allegations set out in the amended Statement of Allegations dated January 7, 2003 and such additional allegations as counsel may advise and the Commission may permit;

AND TAKE FURTHER NOTICE that any party to the proceeding may be represented by counsel at the hearing;

AND TAKE FURTHER NOTICE that upon failure of any party to attend at the time and place aforesaid, the hearing may proceed in the absence of that party and such party is not entitled to any further notice of the proceeding.

January 26, 2004.

"John Stevenson"

1.3 News Releases

1.3.1 OSC Refuses Request by Open Access Limited for an Exemption from the Requirement to Join the Mutual Fund Dealers Association

FOR IMMEDIATE RELEASE
January 21, 2004

OSC REFUSES REQUEST BY OPEN ACCESS LIMITED FOR AN EXEMPTION FROM THE REQUIREMENT TO JOIN THE MUTUAL FUND DEALERS ASSOCIATION

TORONTO – Open Access Limited ("Open Access") is registered in Ontario as a mutual fund dealer, an investment counsel/portfolio manager and a limited market dealer. Open Access sought an exemption from Rule 31 – 506 which requires Open Access to join the Mutual Fund Dealers Association. That request was denied by a Director of the Ontario Securities Commission.

Open Access then brought an application before the Commission seeking to have the decision of the Director set aside. A hearing to consider the application was held on November 13, 2003 and December 9, 2003. The Commission denied Open Access' request for a permanent exemption from the requirement to join the MFDA. The Commission granted Open Access an exemption from MFDA membership until March 31, 2004 in order to permit it to apply for membership in the appropriate self-regulatory organization as required by the *Securities Act*. Reasons for decision are pending.

Open Access has filed a Notice of Appeal with the Divisional Court.

For Media Inquiries: Eric Pelletier
Manager, Media Relations
416-595-8913

For Investor Inquiries: OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.3.2 OSC Confirms Investigation in Hollinger Matter

FOR IMMEDIATE RELEASE
January 22, 2004

ONTARIO SECURITIES COMMISSION CONFIRMS INVESTIGATION IN HOLLINGER MATTER

TORONTO – The Ontario Securities Commission (OSC) confirmed that it has an investigation underway into matters relating to Hollinger Inc. and related companies. The investigation, underway for some time now, is primarily focused on the companies for which the OSC has lead jurisdiction, while regulators in the United States are primarily focused on the companies over which they have lead jurisdiction. The regulators are each interested in one another's investigations and are sharing information on a regular and on-going basis.

In its investigation, the OSC has gathered a substantial amount of information from a variety of sources, and is interviewing people related to the matter.

As in any OSC investigation, any violations of securities law unveiled could lead to disciplinary action and sanctions. As well, the OSC will move swiftly if it becomes apparent that action is required to protect investors. The OSC will issue more information about this investigation when there are developments to report.

While the OSC does not usually disclose ongoing investigations, the regulator does, in limited circumstances, disclose investigations when public confirmation is needed to reassure the public and to maintain the integrity of Ontario's capital markets.

For Media Inquiries: Eric Pelletier
Manager, Media Relations
416-595-8913

For Investor Inquiries: OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.3.3 Notice of the Office of the Secretary in the Matter of Mark Edward Valentine

FOR IMMEDIATE RELEASE
January 26, 2004

NOTICE OF THE OFFICE OF THE SECRETARY

IN THE MATTER OF
THE SECURITIES ACT
R.S.O. 1990, C. S.5, AS AMENDED

AND

IN THE MATTER OF
MARK EDWARD VALENTINE

TORONTO – A Hearing in this matter is scheduled to commence on Monday, February 2, 2004 at 2:30 p.m., at the offices of the Commission, in the Large Hearing Room, 17th Floor, 20 Queen Street West, Toronto.

A copy of the Notice of Hearing and the Amended Statement of Allegations dated January 7, 2003 is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

For Media Inquiries: Eric Pelletier
Manager, Media Relations
416-595-8913

For Investor Inquiries: OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.3.4 OSC to Launch Fair Dealing Model Concept Paper

FOR IMMEDIATE RELEASE
January 28, 2004

OSC TO LAUNCH FAIR DEALING MODEL CONCEPT PAPER

TORONTO – The Ontario Securities Commission will host a media briefing session to discuss the concept paper it is releasing on its proposed Fair Dealing Model at 10 a.m. on Thursday, January 29, 2004.

The paper provides, for the first time, the details and background analyses underlying the Fair Dealing Model, including 35 specific proposals explaining how the model would work in practice.

Individuals on hand to discuss the project will include:

- Paul Bates, OSC Commissioner and former CEO, Charles Schwab Canada
- Charlie Macfarlane, Executive Director, OSC
- Julia Dublin, Senior Legal Counsel, OSC

When: 10:00 – 11:00 am
Thursday, January 29, 2004

Where: OSC Offices
22nd Floor
20 Queen Street West

The doors will open at 9:30am, and embargoed copies of the concept paper will be made available to members of the media at that time.

The concept paper will be available at 10 a.m. on January 27th on the "What's New" section of the OSC's web site (**www.osc.gov.on.ca**) and print copies will be available from the OSC mail room, 19th Floor, 20 Queen Street West, Toronto.

For Media Inquiries: Eric Pelletier
Manager, Media Relations
416-595-8913

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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 AXA Rosenberg Investment Management LLC - ss. 6.1(1) of MI 31-102 and s. 6.1 of OSC Rule 13-502

Headnote

International adviser exempted from the electronic funds transfer requirement pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 National Registration Database and activity fee contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 Fees waived in respect of this discretionary relief, subject to certain conditions.

Rules Cited

Multilateral Instrument 31-102 National Registration Database (2003) 26 O.S.C.B. 926, s. 6.1.
Ontario Securities commission Rule 13-502 Fees (2003) 26 O.S.C.B. 867, ss. 4.1 and 6.1.

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, CHAPTER S.5, AS AMENDED

AND

IN THE MATTER OF
AXA ROSENBERG INVESTMENT MANAGEMENT LLC

DECISION
(Subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* and section 6.1 of Rule 13-502 *Fees*)

UPON the Director having received the application of AXA Rosenberg Investment Management LLC (the Applicant) for an order pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* (MI 31-102) granting the Applicant relief from the electronic funds transfer requirement contemplated under MI 31-102 and for relief from the activity fee requirement contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 *Fees* (Rule 13-502) in respect of this discretionary relief;

AND UPON considering the application and the recommendation of the staff of the Ontario Securities Commission (the Commission);

AND UPON the Applicant having represented to the Director as follows:

1. The Applicant is incorporated under the laws of the State of Delaware. The Applicant is not a reporting issuer. The Applicant is registered under the Act as an international adviser. The head office of the Applicant is located in Orinda, California.

2. MI 31-102 requires that all registrants in Canada enrol with CDS Inc. (CDS) and use the national registration database (NRD) to complete certain registration filings. As part of the enrolment process, registrants are required to open an account with a member of the Canadian Payments Association from which fees may be paid with respect to NRD by electronic pre-authorized debit (electronic funds transfer or, the EFT Requirement).

3. The Applicant has encountered difficulties in setting up a Canadian based bank account for purposes of fulfilling the EFT Requirement.

4. The Applicant confirms that it is not registered in another category to which the EFT Requirement applies and that Ontario is the only jurisdiction in which it is registered.

5. Staff of the Canadian Securities Administrators has indicated that, with respect to applications from international dealers and international advisers (or applicants in equivalent categories of registration) for relief from the EFT Requirement, it is prepared to recommend waiving the fee normally required to accompany applications for discretionary relief (the Application Fee).

6. For Ontario registrants, the requirement for payment of the Application Fee is set out in section 4.1 of Rule 13-502.

AND UPON the Director being satisfied that to do so would not be prejudicial to the public interest;

IT IS THE DECISION of the Director, pursuant to subsection 6.1(1) of MI 31-102 that the Applicant is granted relief from the EFT Requirement for so long as the Applicant:

A. makes acceptable alternative arrangements with CDS for the payment of NRD fees;

B. pays its participation fee under the Act to the Commission by cheque, draft, money order or other acceptable means at the time of filing its application for annual

renewal, which shall be no later than the first day of December in each year;

C. pays any applicable activity fees, or other fees that the Act requires it to pay to the Commission, by cheque, draft, money order or other acceptable means at the appropriate time; and

D. is not registered in any Jurisdiction in another category to which the EFT Requirement applies;

PROVIDED THAT the Applicant submits a similar application in any other Canadian jurisdiction where it becomes registered as an international dealer or international adviser or in an equivalent registration category;

AND IT IS THE FURTHER DECISION of the Director, pursuant to section 6.1 of Rule 13-502, that the Application Fee will be waived in respect of the application for this Decision.

September 30, 2003.

"David M. Gilkes"

2.1.2 SPP Capital Partners, LLC - ss. 6.1(1) of MI 31-102 and s. 6.1 of OSC Rule 13-502

Headnote

International dealer exempted from the electronic funds transfer requirement pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 National Registration Database and activity fee contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 Fees waived in respect of this discretionary relief, subject to certain conditions.

Rules Cited

Multilateral Instrument 31-102 National Registration Database (2003) 26 O.S.C.B. 926, s. 6.1.
Ontario Securities Commission Rule 13-502 Fees (2003) 26 O.S.C.B. 867, ss. 4.1 and 6.1.

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, CHAPTER S.5, AS AMENDED

AND

IN THE MATTER OF
SPP CAPITAL PARTNERS, LLC

DECISION
(Subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* and section 6.1 of Rule 13-502 *Fees*)

UPON the Director having received the application of SPP Capital Partners, LLC (the Applicant) for an order pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* (MI 31-102) granting the Applicant relief from the electronic funds transfer requirement contemplated under MI 31-102 and for relief from the activity fee requirement contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 *Fees* (Rule 13-502) in respect of this discretionary relief;

AND UPON considering the application and the recommendation of the staff of the Ontario Securities Commission (the Commission);

AND UPON the Applicant having represented to the Director as follows:

1. The Applicant is incorporated under the laws of the State of Delaware in the United States of America. The Applicant is not a reporting issuer. The Applicant is registered under the Act as an international dealer. The head office of the Applicant is located in New York, New York.

2. MI 31-102 requires that all registrants in Canada enrol with CDS Inc. (CDS) and use the national registration database (NRD) to complete certain registration filings. As part of the enrolment process, registrants are required to open an

account with a member of the Canadian Payments Association from which fees may be paid with respect to NRD by electronic pre-authorized debit (electronic funds transfer or, the EFT Requirement).

3. The Applicant has encountered difficulties in setting up a Canadian based bank account for purposes of fulfilling the EFT Requirement.

4. The Applicant confirms that it is not registered in another category to which the EFT Requirement applies and that Ontario is the only jurisdiction in which it is registered.

5. Staff of the Canadian Securities Administrators has indicated that, with respect to applications from international dealers and international advisers (or applicants in equivalent categories of registration) for relief from the EFT Requirement, it is prepared to recommend waiving the fee normally required to accompany applications for discretionary relief (the Application Fee).

6. For Ontario registrants, the requirement for payment of the Application Fee is set out in section 4.1 of Rule 13-502.

AND UPON the Director being satisfied that to do so would not be prejudicial to the public interest;

IT IS THE DECISION of the Director, pursuant to subsection 6.1(1) of MI 31-102 that the Applicant is granted relief from the EFT Requirement for so long as the Applicant:

A. makes acceptable alternative arrangements with CDS for the payment of NRD fees;

B. pays its participation fee under the Act to the Commission by cheque, draft, money order or other acceptable means at the time of filing its application for annual renewal, which shall be no later than the first day of December in each year;

C. pays any applicable activity fees, or other fees that the Act requires it to pay to the Commission, by cheque, draft, money order or other acceptable means at the appropriate time; and

D. is not registered in any Jurisdiction in another category to which the EFT Requirement applies;

PROVIDED THAT the Applicant submits a similar application in any other Canadian jurisdiction where it becomes registered as an international dealer or international adviser or in an equivalent registration category;

AND IT IS THE FURTHER DECISION of the Director, pursuant to section 6.1 of Rule 13-502, that the Application Fee will be waived in respect of the application for this Decision.

September 30, 2003.

"David M. Gilkes"

2.1.3 Sterling Capital Management LLC - ss. 6.1(1) of MI 31-102 and s. 6.1 of OSC Rule 13-502

Headnote

International adviser exempted from the electronic funds transfer requirement pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 National Registration Database and activity fee contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 Fees waived in respect of this discretionary relief, subject to certain conditions.

Rules Cited

Multilateral Instrument 31-102 National Registration Database (2003) 26 O.S.C.B. 926, s. 6.1.
Ontario Securities commission Rule 13-502 Fees (2003) 26 O.S.C.B. 867, ss. 4.1 and 6.1.

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, CHAPTER S.5, AS AMENDED

AND

IN THE MATTER OF
STERLING CAPITAL MANAGEMENT LLC

DECISION
(Subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* and section 6.1 of Rule 13-502 *Fees*)

UPON the Director having received the application of Sterling Capital Management LLC (the Applicant) for an order pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* (MI 31-102) granting the Applicant relief from the electronic funds transfer requirement contemplated under MI 31-102 and for relief from the activity fee requirement contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 *Fees* (Rule 13-502) in respect of this discretionary relief;

AND UPON considering the application and the recommendation of the staff of the Ontario Securities Commission (the Commission);

AND UPON the Applicant having represented to the Director as follows:

1. The Applicant is incorporated under the laws of the State of North Carolina in the United States of America. The Applicant is not a reporting issuer. The Applicant is registered under the Act as an international adviser. The head office of the Applicant is located in Charlotte, North Carolina.

2. MI 31-102 requires that all registrants in Canada enrol with CDS Inc. (CDS) and use the national registration database (NRD) to complete certain registration filings. As part of the enrolment process, registrants are required to open an account with a member of the Canadian Payments Association from which fees may be paid with respect to NRD by electronic pre-authorized debit (electronic funds transfer or, the EFT Requirement).

3. The Applicant has encountered difficulties in setting up a Canadian based bank account for purposes of fulfilling the EFT Requirement.

4. The Applicant confirms that it is not registered in another category to which the EFT Requirement applies and that Ontario is the only jurisdiction in which it is registered.

5. Staff of the Canadian Securities Administrators has indicated that, with respect to applications from international dealers and international advisers (or applicants in equivalent categories of registration) for relief from the EFT Requirement, it is prepared to recommend waiving the fee normally required to accompany applications for discretionary relief (the Application Fee).

6. For Ontario registrants, the requirement for payment of the Application Fee is set out in section 4.1 of Rule 13-502.

AND UPON the Director being satisfied that to do so would not be prejudicial to the public interest;

IT IS THE DECISION of the Director, pursuant to subsection 6.1(1) of MI 31-102 that the Applicant is granted relief from the EFT Requirement for so long as the Applicant:

A. makes acceptable alternative arrangements with CDS for the payment of NRD fees;

B. pays its participation fee under the Act to the Commission by cheque, draft, money order or other acceptable means at the time of filing its application for annual renewal, which shall be no later than the first day of December in each year;

C. pays any applicable activity fees, or other fees that the Act requires it to pay to the Commission, by cheque, draft, money order or other acceptable means at the appropriate time; and

D. is not registered in any Jurisdiction in another category to which the EFT Requirement applies;

PROVIDED THAT the Applicant submits a similar application in any other Canadian jurisdiction where it becomes registered as an international dealer or international adviser or in an equivalent registration category;

AND IT IS THE FURTHER DECISION of the Director, pursuant to section 6.1 of Rule 13-502, that the Application Fee will be waived in respect of the application for this Decision.

September 30, 2003.

"David M. Gilkes"

2.1.4 Fairview Securities, Inc. - ss. 6.1(1) of MI 31-102 and s. 6.1 of OSC Rule 13-502

Headnote

International dealer exempted from the electronic funds transfer requirement pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 National Registration Database and activity fee contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 Fees waived in respect of this discretionary relief, subject to certain conditions.

Rules Cited

Multilateral Instrument 31-102 National Registration Database (2003) 26 O.S.C.B. 926, s. 6.1.
Ontario Securities Commission Rule 13-502 Fees (2003) 26 O.S.C.B. 867, ss. 4.1 and 6.1.

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, CHAPTER S.5, AS AMENDED

AND

IN THE MATTER OF
FAIRVIEW SECURITIES, INC.

DECISION
(Subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* and section 6.1 of Rule 13-502 *Fees*)

UPON the Director having received the application of Fairview Securities, Inc. (the Applicant) for an order pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* (MI 31-102) granting the Applicant relief from the electronic funds transfer requirement contemplated under MI 31-102 and for relief from the activity fee requirement contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 *Fees* (Rule 13-502) in respect of this discretionary relief;

AND UPON considering the application and the recommendation of the staff of the Ontario Securities Commission (the Commission);

AND UPON the Applicant having represented to the Director as follows:

1. The Applicant is incorporated under the laws of the State of Connecticut in the United States of America. The Applicant is not a reporting issuer. The Applicant is registered under the Act as an international dealer. The head office of the Applicant is located in Darien, Connecticut.

2. MI 31-102 requires that all registrants in Canada enrol with CDS Inc. (CDS) and use the national registration database (NRD) to complete certain registration filings. As part of the enrolment process, registrants are required to open an

account with a member of the Canadian Payments Association from which fees may be paid with respect to NRD by electronic pre-authorized debit (electronic funds transfer or, the EFT Requirement).

3. The Applicant has encountered difficulties in setting up a Canadian based bank account for purposes of fulfilling the EFT Requirement.

4. The Applicant confirms that it is not registered in another category to which the EFT Requirement applies and that Ontario is the only jurisdiction in which it is registered.

5. Staff of the Canadian Securities Administrators has indicated that, with respect to applications from international dealers and international advisers (or applicants in equivalent categories of registration) for relief from the EFT Requirement, it is prepared to recommend waiving the fee normally required to accompany applications for discretionary relief (the Application Fee).

6. For Ontario registrants, the requirement for payment of the Application Fee is set out in section 4.1 of Rule 13-502.

AND UPON the Director being satisfied that to do so would not be prejudicial to the public interest;

IT IS THE DECISION of the Director, pursuant to subsection 6.1(1) of MI 31-102 that the Applicant is granted relief from the EFT Requirement for so long as the Applicant:

A. makes acceptable alternative arrangements with CDS for the payment of NRD fees;

B. pays its participation fee under the Act to the Commission by cheque, draft, money order or other acceptable means at the time of filing its application for annual renewal, which shall be no later than the first day of December in each year;

C. pays any applicable activity fees, or other fees that the Act requires it to pay to the Commission, by cheque, draft, money order or other acceptable means at the appropriate time; and

D. is not registered in any Jurisdiction in another category to which the EFT Requirement applies;

PROVIDED THAT the Applicant submits a similar application in any other Canadian jurisdiction where it becomes registered as an international dealer or international adviser or in an equivalent registration category;

AND IT IS THE FURTHER DECISION of the Director, pursuant to section 6.1 of Rule 13-502, that the Application Fee will be waived in respect of the application for this Decision.

September 30, 2003.

"David M. Gilkes"

2.1.5 Barclays Capital Inc. - ss. 6.1(1) of MI 31-102 and s. 6.1 of OSC Rule 13-502

Headnote

International dealer exempted from the electronic funds transfer requirement pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 National Registration Database and activity fee contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 Fees waived in respect of this discretionary relief, subject to certain conditions.

Rules Cited

Multilateral Instrument 31-102 National Registration Database (2003) 26 O.S.C.B. 926, s. 6.1.
Ontario Securities Commission Rule 13-502 Fees (2003) 26 O.S.C.B. 867, ss. 4.1 and 6.1.

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, CHAPTER S.5, AS AMENDED

AND

IN THE MATTER OF
BARCLAYS CAPITAL INC.

DECISION
(Subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* and section 6.1 of Rule 13-502 *Fees*)

UPON the Director having received the application of Barclays Capital Inc. (the Applicant) for an order pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* (MI 31-102) granting the Applicant relief from the electronic funds transfer requirement contemplated under MI 31-102 and for relief from the activity fee requirement contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 *Fees* (Rule 13-502) in respect of this discretionary relief;

AND UPON considering the application and the recommendation of the staff of the Ontario Securities Commission (the Commission);

AND UPON the Applicant having represented to the Director as follows:

1. The Applicant is incorporated under the laws of the State of Connecticut in the United States of America. The Applicant is not a reporting issuer. The Applicant is registered under the Act as an international dealer. The head office of the Applicant is located in New York, New York.

2. MI 31-102 requires that all registrants in Canada enrol with CDS Inc. (CDS) and use the national registration database (NRD) to complete certain registration filings. As part of the enrolment process, registrants are required to open an account with a member of the Canadian Payments Association from which fees may be paid with respect to NRD by electronic pre-authorized debit (electronic funds transfer or, the EFT Requirement).

3. The Applicant has encountered difficulties in setting up a Canadian based bank account for purposes of fulfilling the EFT Requirement.

4. The Applicant confirms that it is not registered in another category to which the EFT Requirement applies and that Ontario is the only jurisdiction in which it is registered.

5. Staff of the Canadian Securities Administrators has indicated that, with respect to applications from international dealers and international advisers (or applicants in equivalent categories of registration) for relief from the EFT Requirement, it is prepared to recommend waiving the fee normally required to accompany applications for discretionary relief (the Application Fee).

6. For Ontario registrants, the requirement for payment of the Application Fee is set out in section 4.1 of Rule 13-502.

AND UPON the Director being satisfied that to do so would not be prejudicial to the public interest;

IT IS THE DECISION of the Director, pursuant to subsection 6.1(1) of MI 31-102 that the Applicant is granted relief from the EFT Requirement for so long as the Applicant:

A. makes acceptable alternative arrangements with CDS for the payment of NRD fees;

B. pays its participation fee under the Act to the Commission by cheque, draft, money order or other acceptable means at the time of filing its application for annual renewal, which shall be no later than the first day of December in each year;

C. pays any applicable activity fees, or other fees that the Act requires it to pay to the Commission, by cheque, draft, money order or other acceptable means at the appropriate time; and

D. is not registered in any Jurisdiction in another category to which the EFT Requirement applies;

PROVIDED THAT the Applicant submits a similar application in any other Canadian jurisdiction where it becomes registered as an international dealer or international adviser or in an equivalent registration category;

AND IT IS THE FURTHER DECISION of the Director, pursuant to section 6.1 of Rule 13-502, that the Application Fee will be waived in respect of the application for this Decision.

September 30, 2003.

"David M. Gilkes"

2.1.6 HKC Securities, Inc. - ss. 6.1(1) of MI 31-102 and s. 6.1 of OSC Rule 13-502

Headnote

International dealer exempted from the electronic funds transfer requirement pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 National Registration Database and activity fee contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 Fees waived in respect of this discretionary relief, subject to certain conditions.

Rules Cited

Multilateral Instrument 31-102 National Registration Database (2003) 26 O.S.C.B. 926, s. 6.1.
Ontario Securities Commission Rule 13-502 Fees (2003) 26 O.S.C.B. 867, ss. 4.1 and 6.1.

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, CHAPTER S.5, AS AMENDED

AND

IN THE MATTER OF
HKC SECURITIES, INC.

DECISION
(Subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* and section 6.1 of Rule 13-502 *Fees*)

UPON the Director having received the application of HKC Securities, Inc. (the Applicant) for an order pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* (MI 31-102) granting the Applicant relief from the electronic funds transfer requirement contemplated under MI 31-102 and for relief from the activity fee requirement contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 *Fees* (Rule 13-502) in respect of this discretionary relief;

AND UPON considering the application and the recommendation of the staff of the Ontario Securities Commission (the Commission);

AND UPON the Applicant having represented to the Director as follows:

1. The Applicant is incorporated under the laws of the State of New York in the United States of America. The Applicant is not a reporting issuer. The Applicant is registered under the Act as an international dealer. The head office of the Applicant is located in New York, New York.

2. MI 31-102 requires that all registrants in Canada enrol with CDS Inc. (CDS) and use the national registration database (NRD) to complete certain registration filings. As part of the enrolment process, registrants are required to open an

account with a member of the Canadian Payments Association from which fees may be paid with respect to NRD by electronic pre-authorized debit (electronic funds transfer or, the EFT Requirement).

3. The Applicant has encountered difficulties in setting up a Canadian based bank account for purposes of fulfilling the EFT Requirement.

4. The Applicant confirms that it is not registered in another category to which the EFT Requirement applies and that Ontario is the only jurisdiction in which it is registered.

5. Staff of the Canadian Securities Administrators has indicated that, with respect to applications from international dealers and international advisers (or applicants in equivalent categories of registration) for relief from the EFT Requirement, it is prepared to recommend waiving the fee normally required to accompany applications for discretionary relief (the Application Fee).

6. For Ontario registrants, the requirement for payment of the Application Fee is set out in section 4.1 of Rule 13-502.

AND UPON the Director being satisfied that to do so would not be prejudicial to the public interest;

IT IS THE DECISION of the Director, pursuant to subsection 6.1(1) of MI 31-102 that the Applicant is granted relief from the EFT Requirement for so long as the Applicant:

A. makes acceptable alternative arrangements with CDS for the payment of NRD fees;

B. pays its participation fee under the Act to the Commission by cheque, draft, money order or other acceptable means at the time of filing its application for annual renewal, which shall be no later than the first day of December in each year;

C. pays any applicable activity fees, or other fees that the Act requires it to pay to the Commission, by cheque, draft, money order or other acceptable means at the appropriate time; and

D. is not registered in any Jurisdiction in another category to which the EFT Requirement applies;

PROVIDED THAT the Applicant submits a similar application in any other Canadian jurisdiction where it becomes registered as an international dealer or international adviser or in an equivalent registration category;

AND IT IS THE FURTHER DECISION of the Director, pursuant to section 6.1 of Rule 13-502, that the Application Fee will be waived in respect of the application for this Decision.

September 30, 2003.

"David M. Gilkes"

2.1.7 Thomas Weisel Partners LLC - ss. 6.1(1) of MI 31-102 and s. 6.1 of OSC Rule 13-502

Headnote

International dealer exempted from the electronic funds transfer requirement pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 National Registration Database and activity fee contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 Fees waived in respect of this discretionary relief, subject to certain conditions.

Rules Cited

Multilateral Instrument 31-102 National Registration Database (2003) 26 O.S.C.B. 926, s. 6.1.
Ontario Securities Commission Rule 13-502 Fees (2003) 26 O.S.C.B. 867, ss. 4.1 and 6.1.

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, CHAPTER S.5, AS AMENDED

AND

IN THE MATTER OF
THOMAS WEISEL PARTNERS LLC

DECISION
(Subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* and section 6.1 of Rule 13-502 *Fees*)

UPON the Director having received the application of Thomas Weisel Partners LLC (the Applicant) for an order pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* (MI 31-102) granting the Applicant relief from the electronic funds transfer requirement contemplated under MI 31-102 and for relief from the activity fee requirement contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 *Fees* (Rule 13-502) in respect of this discretionary relief;

AND UPON considering the application and the recommendation of the staff of the Ontario Securities Commission (the Commission);

AND UPON the Applicant having represented to the Director as follows:

1. The Applicant is incorporated under the laws of the State of Delaware in the United States of America. The Applicant is not a reporting issuer. The Applicant is registered under the Act as an international dealer and an international adviser. The head office of the Applicant is located in San Francisco, California.

2. MI 31-102 requires that all registrants in Canada enrol with CDS Inc. (CDS) and use the national registration database (NRD) to complete certain registration filings. As part of the enrolment process, registrants are required to open an account with a member of the Canadian Payments Association from which fees may be paid with respect to NRD by electronic pre-authorized debit (electronic funds transfer or, the EFT Requirement).

3. The Applicant has encountered difficulties in setting up a Canadian based bank account for purposes of fulfilling the EFT Requirement.

4. The Applicant confirms that it is not registered in another category to which the EFT Requirement applies and that Ontario is the only jurisdiction in which it is registered.

5. Staff of the Canadian Securities Administrators has indicated that, with respect to applications from international dealers and international advisers (or applicants in equivalent categories of registration) for relief from the EFT Requirement, it is prepared to recommend waiving the fee normally required to accompany applications for discretionary relief (the Application Fee).

6. For Ontario registrants, the requirement for payment of the Application Fee is set out in section 4.1 of Rule 13-502.

AND UPON the Director being satisfied that to do so would not be prejudicial to the public interest;

IT IS THE DECISION of the Director, pursuant to subsection 6.1(1) of MI 31-102 that the Applicant is granted relief from the EFT Requirement for so long as the Applicant:

A. makes acceptable alternative arrangements with CDS for the payment of NRD fees;

B. pays its participation fee under the Act to the Commission by cheque, draft, money order or other acceptable means at the time of filing its application for annual renewal, which shall be no later than the first day of December in each year;

C. pays any applicable activity fees, or other fees that the Act requires it to pay to the Commission, by cheque, draft, money order or other acceptable means at the appropriate time; and

D. is not registered in any Jurisdiction in another category to which the EFT Requirement applies;

PROVIDED THAT the Applicant submits a similar application in any other Canadian jurisdiction where it becomes registered as an international dealer or international adviser or in an equivalent registration category;

AND IT IS THE FURTHER DECISION of the Director, pursuant to section 6.1 of Rule 13-502, that the Application Fee will be waived in respect of the application for this Decision.

September 30, 2003.

"David M. Gilkes"

2.1.8 Dalton, Greiner, Hartman, Maher & Co. - ss. 6.1(1) of MI 31-102 and s. 6.1 of OSC Rule 13-502

Headnote

International adviser exempted from the electronic funds transfer requirement pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 National Registration Database and activity fee contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 Fees waived in respect of this discretionary relief, subject to certain conditions.

Rules Cited

Multilateral Instrument 31-102 National Registration Database (2003) 26 O.S.C.B. 926, s. 6.1.
Ontario Securities commission Rule 13-502 Fees (2003) 26 O.S.C.B. 867, ss. 4.1 and 6.1.

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, CHAPTER S.5, AS AMENDED

AND

IN THE MATTER OF
DALTON, GREINER, HARTMAN, MAHER & CO.

DECISION
(Subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* and section 6.1 of Rule 13-502 *Fees*)

UPON the Director having received the application of Dalton, Greiner, Hartman, Maher & Co. (the Applicant) for an order pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* (MI 31-102) granting the Applicant relief from the electronic funds transfer requirement contemplated under MI 31-102 and for relief from the activity fee requirement contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 *Fees* (Rule 13-502) in respect of this discretionary relief;

AND UPON considering the application and the recommendation of the staff of the Ontario Securities Commission (the Commission);

AND UPON the Applicant having represented to the Director as follows:

1. The Applicant is a partnership registered under the laws of the State of Delaware in the United States of America. The Applicant is not a reporting issuer. The Applicant is registered under the Act as an international adviser. The head office of the Applicant is located in New York, New York.

2. MI 31-102 requires that all registrants in Canada enrol with CDS Inc. (CDS) and use the national registration database (NRD) to complete certain registration filings. As part of the enrolment

process, registrants are required to open an account with a member of the Canadian Payments Association from which fees may be paid with respect to NRD by electronic pre-authorized debit (electronic funds transfer or, the EFT Requirement).

3. The Applicant has encountered difficulties in setting up a Canadian based bank account for purposes of fulfilling the EFT Requirement.

4. The Applicant confirms that it is not registered in another category to which the EFT Requirement applies and that Ontario is the only jurisdiction in which it is registered.

5. Staff of the Canadian Securities Administrators has indicated that, with respect to applications from international dealers and international advisers (or applicants in equivalent categories of registration) for relief from the EFT Requirement, it is prepared to recommend waiving the fee normally required to accompany applications for discretionary relief (the Application Fee).

6. For Ontario registrants, the requirement for payment of the Application Fee is set out in section 4.1 of Rule 13-502.

AND UPON the Director being satisfied that to do so would not be prejudicial to the public interest;

IT IS THE DECISION of the Director, pursuant to subsection 6.1(1) of MI 31-102 that the Applicant is granted relief from the EFT Requirement for so long as the Applicant:

A. makes acceptable alternative arrangements with CDS for the payment of NRD fees;

B. pays its participation fee under the Act to the Commission by cheque, draft, money order or other acceptable means at the time of filing its application for annual renewal, which shall be no later than the first day of December in each year;

C. pays any applicable activity fees, or other fees that the Act requires it to pay to the Commission, by cheque, draft, money order or other acceptable means at the appropriate time; and

D. is not registered in any Jurisdiction in another category to which the EFT Requirement applies;

PROVIDED THAT the Applicant submits a similar application in any other Canadian jurisdiction where it becomes registered as an international dealer or international adviser or in an equivalent registration category;

AND IT IS THE FURTHER DECISION of the Director, pursuant to section 6.1 of Rule 13-502, that the Application Fee will be waived in respect of the application for this Decision.

September 30, 2003.

"David M. Gilkes"

2.1.9 International Strategy & Investment Group Inc. - ss. 6.1(1) of MI 31-102 and s. 6.1 of OSC Rule 13-502

Headnote

International adviser exempted from the electronic funds transfer requirement pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 National Registration Database and activity fee contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 Fees waived in respect of this discretionary relief, subject to certain conditions.

Rules Cited

Multilateral Instrument 31-102 National Registration Database (2003) 26 O.S.C.B. 926, s. 6.1.
Ontario Securities commission Rule 13-502 Fees (2003) 26 O.S.C.B. 867, ss. 4.1 and 6.1.

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, CHAPTER S.5, AS AMENDED

AND

IN THE MATTER OF
INTERNATIONAL STRATEGY & INVESTMENT GROUP INC.

DECISION
(Subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* and section 6.1 of Rule 13-502 *Fees*)

UPON the Director having received the application of International Strategy & Investment Group Inc. (the Applicant) for an order pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* (MI 31-102) granting the Applicant relief from the electronic funds transfer requirement contemplated under MI 31-102 and for relief from the activity fee requirement contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 *Fees* (Rule 13-502) in respect of this discretionary relief;

AND UPON considering the application and the recommendation of the staff of the Ontario Securities Commission (the Commission);

AND UPON the Applicant having represented to the Director as follows:

1. The Applicant is incorporated under the laws of the State of Delaware in the United States of America. The Applicant is not a reporting issuer. The Applicant is registered under the Act as an international adviser. The head office of the Applicant is located in New York, New York.

2. MI 31-102 requires that all registrants in Canada enrol with CDS Inc. (CDS) and use the national registration database (NRD) to complete certain registration filings. As part of the enrolment process, registrants are required to open an account with a member of the Canadian Payments Association from which fees may be paid with respect to NRD by electronic pre-authorized debit (electronic funds transfer or, the EFT Requirement).

3. The Applicant has encountered difficulties in setting up a Canadian based bank account for purposes of fulfilling the EFT Requirement.

4. The Applicant confirms that it is not registered in another category to which the EFT Requirement applies and that Ontario is the only jurisdiction in which it is registered.

5. Staff of the Canadian Securities Administrators has indicated that, with respect to applications from international dealers and international advisers (or applicants in equivalent categories of registration) for relief from the EFT Requirement, it is prepared to recommend waiving the fee normally required to accompany applications for discretionary relief (the Application Fee).

6. For Ontario registrants, the requirement for payment of the Application Fee is set out in section 4.1 of Rule 13-502.

AND UPON the Director being satisfied that to do so would not be prejudicial to the public interest;

IT IS THE DECISION of the Director, pursuant to subsection 6.1(1) of MI 31-102 that the Applicant is granted relief from the EFT Requirement for so long as the Applicant:

A. makes acceptable alternative arrangements with CDS for the payment of NRD fees;

B. pays its participation fee under the Act to the Commission by cheque, draft, money order or other acceptable means at the time of filing its application for annual renewal, which shall be no later than the first day of December in each year;

C. pays any applicable activity fees, or other fees that the Act requires it to pay to the Commission, by cheque, draft, money order or other acceptable means at the appropriate time; and

D. is not registered in any Jurisdiction in another category to which the EFT Requirement applies;

PROVIDED THAT the Applicant submits a similar application in any other Canadian jurisdiction where it becomes registered as an international dealer or

international adviser or in an equivalent registration category;

AND IT IS THE FURTHER DECISION of the Director, pursuant to section 6.1 of Rule 13-502, that the Application Fee will be waived in respect of the application for this Decision.

September 30, 2003.

"David M. Gilkes"

2.1.10 Glickenhaus & Co. - ss. 6.1(1) of MI 31-102 and s. 6.1 of OSC Rule 13-502

Headnote

International dealer exempted from the electronic funds transfer requirement pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 National Registration Database and activity fee contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 Fees waived in respect of this discretionary relief, subject to certain conditions.

Rules Cited

Multilateral Instrument 31-102 National Registration Database (2003) 26 O.S.C.B. 926, s. 6.1.
Ontario Securities Commission Rule 13-502 Fees (2003) 26 O.S.C.B. 867, ss. 4.1 and 6.1.

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, CHAPTER S.5, AS AMENDED

AND

IN THE MATTER OF
GLICKENHAUS & CO.

DECISION
(Subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* and section 6.1 of Rule 13-502 *Fees*)

UPON the Director having received the application of Glickenhaus & Co. (the Applicant) for an order pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* (MI 31-102) granting the Applicant relief from the electronic funds transfer requirement contemplated under MI 31-102 and for relief from the activity fee requirement contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 *Fees* (Rule 13-502) in respect of this discretionary relief;

AND UPON considering the application and the recommendation of the staff of the Ontario Securities Commission (the Commission);

AND UPON the Applicant having represented to the Director as follows:

1. The Applicant is a partnership registered under the laws of the State of New York in the United States of America. The Applicant is not a reporting issuer. The Applicant is registered under the Act as an international dealer and an international adviser. The head office of the Applicant is located in New York, New York.

2. MI 31-102 requires that all registrants in Canada enrol with CDS Inc. (CDS) and use the national registration database (NRD) to complete certain registration filings. As part of the enrolment

process, registrants are required to open an account with a member of the Canadian Payments Association from which fees may be paid with respect to NRD by electronic pre-authorized debit (electronic funds transfer or, the EFT Requirement).

3. The Applicant has encountered difficulties in setting up a Canadian based bank account for purposes of fulfilling the EFT Requirement.

4. The Applicant confirms that it is not registered in another category to which the EFT Requirement applies and that Ontario is the only jurisdiction in which it is registered.

5. Staff of the Canadian Securities Administrators has indicated that, with respect to applications from international dealers and international advisers (or applicants in equivalent categories of registration) for relief from the EFT Requirement, it is prepared to recommend waiving the fee normally required to accompany applications for discretionary relief (the Application Fee).

6. For Ontario registrants, the requirement for payment of the Application Fee is set out in section 4.1 of Rule 13-502.

AND UPON the Director being satisfied that to do so would not be prejudicial to the public interest;

IT IS THE DECISION of the Director, pursuant to subsection 6.1(1) of MI 31-102 that the Applicant is granted relief from the EFT Requirement for so long as the Applicant:

A. makes acceptable alternative arrangements with CDS for the payment of NRD fees;

B. pays its participation fee under the Act to the Commission by cheque, draft, money order or other acceptable means at the time of filing its application for annual renewal, which shall be no later than the first day of December in each year;

C. pays any applicable activity fees, or other fees that the Act requires it to pay to the Commission, by cheque, draft, money order or other acceptable means at the appropriate time; and

D. is not registered in any Jurisdiction in another category to which the EFT Requirement applies;

PROVIDED THAT the Applicant submits a similar application in any other Canadian jurisdiction where it becomes registered as an international dealer or international adviser or in an equivalent registration category;

AND IT IS THE FURTHER DECISION of the Director, pursuant to section 6.1 of Rule 13-502, that the Application Fee will be waived in respect of the application for this Decision.

September 30, 2003.

"David M. Gilkes"

2.1.11 Benedetto, Gartland & Company, Inc. - ss. 6.1(1) of MI 31-102 and s. 6.1 of OSC Rule 13-502

Headnote

International dealer exempted from the electronic funds transfer requirement pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 National Registration Database and activity fee contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 Fees waived in respect of this discretionary relief, subject to certain conditions.

Rules Cited

Multilateral Instrument 31-102 National Registration Database (2003) 26 O.S.C.B. 926, s. 6.1.
Ontario Securities Commission Rule 13-502 Fees (2003) 26 O.S.C.B. 867, ss. 4.1 and 6.1.

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, CHAPTER S.5, AS AMENDED

AND

IN THE MATTER OF
BENEDETTO, GARTLAND & COMPANY, INC.

DECISION
(Subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* and section 6.1 of Rule 13-502 *Fees*)

UPON the Director having received the application of Benedetto, Gartland & Company, Inc. (the Applicant) for an order pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* (MI 31-102) granting the Applicant relief from the electronic funds transfer requirement contemplated under MI 31-102 and for relief from the activity fee requirement contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 *Fees* (Rule 13-502) in respect of this discretionary relief;

AND UPON considering the application and the recommendation of the staff of the Ontario Securities Commission (the Commission);

AND UPON the Applicant having represented to the Director as follows:

1. The Applicant is incorporated under the laws of the State of New York in the United States of America. The Applicant is not a reporting issuer. The Applicant is registered under the Act as an international dealer. The head office of the Applicant is located in New York, New York.

2. MI 31-102 requires that all registrants in Canada enrol with CDS Inc. (CDS) and use the national registration database (NRD) to complete certain registration filings. As part of the enrolment process, registrants are required to open an account with a member of the Canadian Payments Association from which fees may be paid with respect to NRD by electronic pre-authorized debit (electronic funds transfer or, the EFT Requirement).

3. The Applicant has encountered difficulties in setting up a Canadian based bank account for purposes of fulfilling the EFT Requirement.

4. The Applicant confirms that it is not registered in another category to which the EFT Requirement applies and that Ontario is the only jurisdiction in which it is registered.

5. Staff of the Canadian Securities Administrators has indicated that, with respect to applications from international dealers and international advisers (or applicants in equivalent categories of registration) for relief from the EFT Requirement, it is prepared to recommend waiving the fee normally required to accompany applications for discretionary relief (the Application Fee).

6. For Ontario registrants, the requirement for payment of the Application Fee is set out in section 4.1 of Rule 13-502.

AND UPON the Director being satisfied that to do so would not be prejudicial to the public interest;

IT IS THE DECISION of the Director, pursuant to subsection 6.1(1) of MI 31-102 that the Applicant is granted relief from the EFT Requirement for so long as the Applicant:

A. makes acceptable alternative arrangements with CDS for the payment of NRD fees;

B. pays its participation fee under the Act to the Commission by cheque, draft, money order or other acceptable means at the time of filing its application for annual renewal, which shall be no later than the first day of December in each year;

C. pays any applicable activity fees, or other fees that the Act requires it to pay to the Commission, by cheque, draft, money order or other acceptable means at the appropriate time; and

D. is not registered in any Jurisdiction in another category to which the EFT Requirement applies;

PROVIDED THAT the Applicant submits a similar application in any other Canadian jurisdiction where it becomes registered as an international dealer or international adviser or in an equivalent registration category;

AND IT IS THE FURTHER DECISION of the Director, pursuant to section 6.1 of Rule 13-502, that the Application Fee will be waived in respect of the application for this Decision.

September 30, 2003.

"David M. Gilkes"

2.1.12 Skylon Funds Management Ltd. - MRRS Decision

Headnote

Exemption from the requirement to deliver comparative financial statements to registered securityholders of certain labour sponsored investment funds until proposed National Instrument 81-106 comes into force.

Statutes Cited

Securities Act (Ontario), R.S.O. 1990 c. S.5, as am., ss. 79 and 80(b)(iii).

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ALBERTA, ONTARIO AND NOVA SCOTIA

AND

IN THE MATTER OF
THE MUTUAL RELIANCE REVIEW SYSTEM
FOR EXEMPTIVE RELIEF APPLICATIONS

AND

IN THE MATTER OF
THE FUNDS LISTED IN SCHEDULE "A"

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of Alberta, Ontario and Nova Scotia (the "Jurisdictions") has received an application (the "Application") from Skylon Funds Management Ltd. (the "Manager"), the manager of the Funds (as defined herein), for a decision pursuant to the securities legislation of the Jurisdictions (the "Legislation") that the requirement to deliver comparative annual financial statements to the securityholders of the mutual funds listed in Schedule "A" and the mutual funds hereinafter established and/or managed by the Manager or a successor or affiliate of the Manager (the "Funds") shall not apply unless securityholders have requested to receive them.

AND WHEREAS under the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the Ontario Securities Commission is the principal regulator for this application;

AND WHEREAS, unless otherwise defined, the terms herein have the meaning set out in National Instrument 14-101 Definitions;

AND WHEREAS the Manager has represented to the Decision Makers that:

1. The Manager is a corporation incorporated under the laws of the Province of Ontario.

2. Each existing Fund is a registered labour sponsored investment fund corporation under the *Community Small Business Investment Funds Act* (Ontario) and is a prescribed labour-sponsored venture capital corporation under the *Income Tax Act* (Canada).

3. Each existing Fund is a reporting issuer in the Province of Ontario and VentureLink Brighter Future (Equity) Fund Inc. and VentureLink Financial Services Innovation Fund Inc. are reporting issuers or the equivalent thereof in each Jurisdiction. Each Fund is not in default of applicable requirements of the Legislation. Securities of each existing Fund, other than VentureLink Brighter Future (Balanced) Fund Inc. which is no longer in distribution, are offered for sale on a continuous basis in each Jurisdiction in which it is a reporting issuer.

4. Each Fund is required to deliver annually, within 140 days of its financial year-end, to each holder of its securities ("Securityholders"), comparative financial statements in the prescribed form pursuant to the Legislation. Each existing Fund has a financial year-end of December 31.

5. The Manager will send to Securityholders who hold securities of the Funds in client name (the "Direct Securityholders") in each year, a notice advising them that they will not receive the annual financial statements of the Funds for the year then ended unless they request same, and providing them with a request form under which the securityholder may request, at no cost to the securityholder, to receive the annual financial statements. The notice will advise the Direct Securityholders where annual financial statements can be found on the Internet (including on the SEDAR website) and downloaded. The Manager will send such financial statements to any Direct Securityholder who requests them in response to such notice or who subsequently requests them.

6. Securityholders who hold their securities in the Funds through a nominee will be dealt with pursuant to National Instrument 54-101.

7. Securityholders will be able to access annual financial statements of the Funds either on the SEDAR website or on the website of the Manager: www.venturelinkcorp.com (or any successor website) or by calling the Manager's toll-free phone line.

8. There would be substantial cost savings if the Funds are not required to print and mail annual financial statements to those Direct Securityholders who do not want them.

9. The Canadian Securities Administrators ("CSA") have published for comment proposed National Instrument 81-106 ("NI 81-106") which, among other things, would permit a Fund not to deliver annual financial statements to those of its Securityholders who do not request them, if the Funds provide each Securityholder with a request form under which the Securityholder may request, at no cost to the Securityholder, to receive the mutual fund's annual financial statements for that financial year.

10. NI 81-106 would also require a Fund to have a toll-free telephone number for, or accept collect calls from, persons or companies that want to receive a copy of, among other things, the annual financial statements of the Fund.

AND WHEREAS under the System, this MRRS Decision Document evidences the Decision of each Decision Maker (collectively, the "Decision");

AND WHEREAS each Decision Maker is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the Decision has been met;

AND WHEREAS the Decision Makers are satisfied that making the Decision will not adversely affect the rule-making process with respect to proposed NI 81-106 and is consistent with National Instrument 54-101;

THE DECISION of the Decision Makers pursuant to the Legislation is that until NI 81-106 comes into force, the Funds shall not be required to deliver their comparative annual financial statements to their Direct Securityholders other than those Direct Securityholders who have requested to receive them provided that:

(a) the Manager shall file on SEDAR, under the annual financial statements category, confirmation of mailing of the request forms that have been sent to the Direct Securityholders within 90 days of mailing the request forms;

(b) the Manager shall file on SEDAR, under the annual financial statements category, information regarding the number and percentage of requests for annual financial statements made by the return of the request forms, on a province-by-province basis within 30 days after the end of each quarterly period beginning from the date of mailing the request forms and ending 12 months from the date of mailing;

(c) the Manager shall record the number and a summary of complaints received from Direct Securityholders about not receiving the annual financial statements and shall file on SEDAR, under the annual financial statements category, this information within 30 days after the end of each quarterly period beginning from

the date of mailing the request forms and ending 12 months from the date of mailing;

(d) the Manager shall, if possible, measure the number of "hits" on the annual financial statements of the Funds on the www.venturelinkcorp.com website and shall file on SEDAR, under the annual financial statements category, this information within 30 days after the end of each quarterly period beginning from the date of mailing the request forms and ending 12 months from the date of mailing;

(e) the Manager shall file on SEDAR, under the annual financial statements category, estimates of the annual cost savings resulting from the granting of this Decision within 90 days of mailing the request forms; and

(f) this decision shall terminate upon NI 81-106 coming into force.

January 20, 2004.

"Paul M. Moore" "Robert L. Shirriff"

SCHEDULE "A"

THE FUNDS

VentureLink Fund Inc.
VentureLink Brighter Future (Balanced) Fund Inc.
VentureLink Brighter Future (Equity) Fund Inc.
VentureLink Diversified Balanced Fund Inc.
VentureLink Diversified Income Fund Inc.
VentureLink Financial Services Innovation Fund Inc.

2.1.13 Pivotal Corporation - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – relief granted from the requirement to reconcile to Canadian GAAP certain financial statements and MD&A included in an information circular that were prepared in accordance with US GAAP.

Applicable Ontario Rules

Rule 41-501 General Prospectus Requirements.
Rule 54-501 Prospectus Disclosure in Certain Information Circulars.

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ALBERTA, SASKATCHEWAN, ONTARIO, QUÉBEC,
AND NEWFOUNDLAND AND LABRADOR

AND

IN THE MATTER OF
THE MUTUAL RELIANCE REVIEW SYSTEM
FOR EXEMPTIVE RELIEF APPLICATIONS

AND

IN THE MATTER OF
PIVOTAL CORPORATION
AND CHINADOTCOM CORPORATION

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of Alberta, Saskatchewan, Ontario, Québec, and Newfoundland and Labrador (collectively, the "Jurisdictions") has received an application from Pivotal Corporation (the "Applicant") for a decision under the securities legislation of the Jurisdictions (the "Legislation") that the Applicant be exempt from the following requirements in connection with a management information circular (the "Circular") being prepared in connection with an upcoming extraordinary meeting of the Applicant's securityholders to consider a plan of arrangement involving the Applicant and chinadotcom corporation ("CDC"):

(a) the requirement that historical and pro forma financial statements of CDC (and various entities acquired or being acquired by CDC) (the "CDC Statements") prepared in accordance with U.S. GAAP (as defined below) be accompanied by a note to explain and quantify the effect of material differences between Canadian GAAP and U.S. GAAP that relate to measurements and provide a reconciliation of such financial statements to Canadian GAAP;

(b) the requirement that auditors' reports on the CDC Statements disclose any material differences in the form and content of such auditors' reports as compared to a Canadian auditors' report and confirming that the auditing standards applied are substantially equivalent to Canadian generally accepted auditing standards;

(c) the requirement that all management discussion and analysis ("MD&A") relating to the CDC Statements provide a restatement of those parts of the MD&A that would read differently if the MD&A were based on statements prepared in accordance with Canadian GAAP, and the requirements that the MD&A provide a cross-reference to the notes in the financial statements that reconcile the differences between U.S. GAAP and Canadian GAAP; and

(d) the requirement that all calculations done to determine whether a particular actual or probable acquisition is a "significant acquisition" under the Legislation be done using financial statements which are either prepared in accordance with Canadian GAAP or reconciled to Canadian GAAP;

(collectively, the "GAAP Reconciliation Requirements");

AND WHEREAS under the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the Ontario Securities Commission is the principal regulator for this application;

AND WHEREAS unless otherwise defined, the terms herein have the meaning set out in National Instrument 14-101 *Definitions* or in Québec Securities Commission Notice 14-101;

AND WHEREAS the Applicant has represented to the Decision Makers as follows:

1. The Applicant is incorporated under the *Company Act* (British Columbia) and is a "reporting issuer", or holds equivalent status, under the Legislation.

2. The Applicant is not in default of any of the requirements of the Legislation.

3. The common shares of the Applicant (the "Pivotal Common Shares") are listed on the Toronto Stock Exchange (the "TSX") and on the Nasdaq National Market ("Nasdaq").

4. CDC and its wholly-owned subsidiary, CDC Software Corporation ("Acquisitionco", and together with CDC and any direct or indirect

subsidiary of either corporation, the "Acquisition Group"), are Cayman Island corporations.

5. The common shares of CDC (the "CDC Common Shares") are listed on Nasdaq.

6. CDC has securities currently registered under the 1934 Act and is not registered or required to be registered as an investment company under the *Investment Company Act* of 1940, as amended.

7. The Applicant's authorized capital consists of 200,000,000 Pivotal Common Shares and 20,000,000 preferred shares, of which 26,390,114 Pivotal Common Shares and no preferred shares were outstanding as of November 28, 2003.

8. Under an arrangement agreement dated December 6, 2003 among the Applicant, CDC and Acquisitionco, CDC is proposing to acquire all of the outstanding Pivotal Common Shares (the "Arrangement").

9. The effect of the Arrangement will be that each holder of Pivotal Common Shares (other than members of the Acquisition Group) may, subject to certain conditions, elect to receive from CDC, in exchange for the transfer to Acquisitionco of each Pivotal Common Share held, either

   (a) US$2.00 in cash; or

   (b) US$1.00 in cash and US$1.14 in CDC Common Shares.

10. The Applicant expects to apply in early January, 2004 for an interim order from the Supreme Court of British Columbia authorizing the Applicant to convene a meeting of its securityholders on or about February, 2004 to consider and approve the Arrangement.

11. Under the requirements of the Legislation, the Circular must, among other things, contain prospectus-level disclosure regarding CDC.

12. To provide prospectus-level disclosure regarding CDC, the following historical and pro forma financial statements must be included in the Circular (the "Circular Financial Statements"):

   (a) three years of audited financial statements of

      (i) CDC;

      (ii) the Applicant, given its status as a significant probable acquisition by CDC;

      (iii) Ross Systems Inc. ("Ross"), a company which is currently the subject of a significant probable acquisition by CDC; and

      (iv) Industri-Matematik International Corp. ("IMI"), a company in which CDC acquired a controlling interest in September, 2003;

   (b) the following interim unaudited financial statements:

      (i) unaudited financial statements of CDC for the nine months ended September 30, 2003 and 2002;

      (ii) unaudited financial statements of the Applicant for the three months ended September 30, 2003 and 2002;

      (iii) unaudited financial statements of Ross for the three months ended September 30, 2003 and 2002; and

      (iv) unaudited financial statements of IMI for the three months ended July 31, 2003 and 2002;

   (c) a pro forma balance sheet as of September 30, 2003 showing

      (i) the combination of the Applicant, CDC and IMI, and

      (ii) the combination of the Applicant, CDC, IMI and Ross; and

   (d) a pro forma statement of profit and loss for the nine months ended September 30, 2003 and the year ended December 31, 2002 showing

      (i) the combination of the Applicant, CDC and IMI, and

      (ii) the combination of the Applicant, CDC, IMI and Ross;

13. The audited Circular Financial Statements will be audited in accordance with generally accepted auditing standards in the United States of America, as supplemented by the SEC's rules on auditor independence, and the auditors' reports will identify the auditing standards used to conduct the audit and the accounting principles used to prepare the financial statements.

14. It is expected that the Pivotal Common Shares will be delisted from the TSX and Nasdaq on or shortly after the completion of the Arrangement.

AND WHEREAS under the System, this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the "Decision");

AND WHEREAS each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the Decision has been met;

THE DECISION of the Decision Makers under the Legislation is that the GAAP Reconciliation Requirements shall not apply the Applicant in connection with the disclosure pertaining to CDC, including the various entities acquired or to be acquired by CDC, in the Circular, provided that:

(a) the Circular Financial Statements are either prepared in accordance with, or reconciled to, generally accepted accounting principles in the United States of America that the SEC has identified as having substantial authoritative support, as supplemented by Regulation S-X and Regulation S-B under the 1934 Act ("U.S. GAAP"); and

(b) the calculations done to determine whether an actual or probable acquisition is a "significant acquisition" under the Legislation are done using financial statements that are either prepared in accordance with, or reconciled to, U.S. GAAP.

January 16, 2004.

"Cameron McInnis"

2.1.14 Terra Firma Emerging Companies Fund 2004 Inc. et al. - s. 9.1 of NI 81-105

Headnote

Exemption from section 2.1 of National Instrument 81-105 Mutual Fund Sales Practices granted to labour sponsored investment fund corporation to permit it to pay certain specified distribution costs out of fund assets.

Rules Cited

National Instrument 81-105 Mutual Fund Sales Practices.

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO

AND

IN THE MATTER OF
NATIONAL INSTRUMENT 81-105
MUTUAL FUND SALES PRACTICES

AND

IN THE MATTER OF
TERRA FIRMA EMERGING COMPANIES
FUND 2004 INC.,
TERRA FIRMA INCOME FUND 2004 INC.,
AND TERRA FIRMA EQUITY FUND 2004 INC.

DECISION DOCUMENT

WHEREAS the Ontario Securities Commission (the "Commission") has received an application from Terra Firma Emerging Companies Fund 2004 Inc., Terra Firma Income Fund 2004 Inc., and Terra Firma Equity Fund 2004 Inc. (the "Funds") for a decision pursuant to section 9.1 of National Instrument 81-105 Mutual Fund Sales Practices ("NI 81-105") that the prohibition contained in section 2.1 of NI 81-105 against the making of certain payments by the Funds to registered dealers shall not apply to the Funds;

AND WHEREAS the Funds have represented to the Commission as follows:

1. Each Fund is a corporation incorporated under the *Business Corporations Act* (Ontario) by articles of incorporation dated October 30, 2003.

2. Each Fund was registered as a labour sponsored investment fund corporation ("LSIF") pursuant to the *Community Small Business Investment Funds Act* (Ontario) effective December 17, 2003. As such, each Fund is a labour sponsored venture capital corporation under the *Income Tax Act* (Canada). The Funds will not be applying for registration as an LSIF, or similar concept, under the legislation of any other provincial jurisdiction.

3. Amended preliminary prospectuses have been filed in the Province of Ontario for purposes of

qualifying for distribution the Class A Shares of the Funds (the "Class A Shares"), one in respect of Terra Firma Emerging Companies Fund 2004 Inc. dated November 28, 2003 (SEDAR Project 585116), and the other, on a combined basis in respect of Terra Firma Income Fund 2004 Inc. and Terra Firma Equity Fund 2004 Inc. dated November 28, 2003 (SEDAR Project 585355).

4. The offerings proposed to be made pursuant to the amended preliminary prospectuses will be made only in Ontario and the Funds will be mutual funds pursuant to the securities legislation of Ontario. Except for their respective names and investment emphasis and objectives, the Funds are identical in all material respects.

5. IPM Funds Inc. (the "Manager"), together with The National Guild of Canadian Media, Manufacturing, Professional, and Service Workers / Communication Workers of America, (the "Sponsor") have caused the Funds to be formed and organized.

6. The authorized capital of each Fund comprises unlimited numbers of Class A shares, Class B shares and Class C shares, of which no Class A shares, no Class B shares and 10 Class C shares were issued and outstanding as of the date of the Application. The Manager is the sole owner of the Class C shares of each Fund, and the Sponsor will be the sole owner of the Class B shares of each Fund.

7. As is disclosed in the Amended preliminary prospectuses, the following distribution costs will be paid in the manner set forth below, except in the case of a Fund's Class A Shares, Series II, participating dealers may elect to charge investors a sales commission up to 2% of the original issue price of the shares (which will be deducted from their investment):

   (a) sales commissions (the "Sales Commissions"):

      (i) the Fund will pay a sales commission in the amount of 5% of the subscription price derived on the sale of a Class A Share, Series I to the dealer procuring such subscription; and

   (b) servicing commissions (the "Servicing Commissions"):

      (i) the Manager will pay an annual service fee to dealers equal to 0.5% of the net asset value of Class A Shares, Series I held by clients of the sales representatives of participating dealers; and

      (ii) in the case of a Fund's Class A Shares, Series II, the Manager will pay an annual service fee to dealers equal to 1.0% of the net asset value of such shares held by clients of the sales representatives of the dealers.

8. With respect to the Servicing Commissions, the Funds will pay a service fee to the Manager equal to the Servicing Commissions as reimbursement for the Servicing Commissions paid to the dealers by the Manager.

9. The Sales Commissions will be included in each Fund's management expense ratio and recognized as expenses in the statement of operations of the Fund in the period in which they were incurred.

10. With respect to the Sales Commissions described above, the gross investment amounts will be paid to the Funds (as opposed to first deducting a commission and remitting the net investment amount to the Funds) in order to ensure that the entire amount paid by an investor is eligible for applicable federal and Ontario tax credits which arise on the purchase of the Class A Shares of the Funds.

11. The Funds undertake to comply with all other provisions of NI 81-105. In particular, the Funds undertake that all Sales Commissions paid by them will be compensation permitted to be paid to participating dealers under NI 81-105.

AND WHEREAS the Commission is satisfied that to do so would not be prejudicial to the public interest;

THE DECISION of the Commission under section 9.1 of NI 81-105 is that the Funds shall be exempt from section 2.1 of NI 81-105 to permit the Funds to pay the Sales Commissions, provided that:

   (a) The Sales Commissions are otherwise permitted by, and paid in accordance with, NI 81-105;

   (b) the Funds, in their financial statements, will expense the Sales Commissions in the fiscal period when incurred;

   (c) the summary section of the final prospectus has full, true and plain disclosure explaining to investors that they pay the Sales Commissions indirectly, as the Funds pay the Sales Commissions. This summary section must be placed within the first 10 pages of the final prospectus; and

   (d) this exemption shall cease to be operative on the date that a rule or

regulation replacing or amending section 2.1 of NI 81-105 comes into force or on November 30, 2004 whichever date comes first.

January 9, 2004.

"Paul M. Moore" "Robert L. Shirriff"

2.1.15 Husky Energy Inc. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Application**.** Issuer exempt from certain disclosure requirements of NI 51-101 subject to certain conditions. Issuer exempt from requirement of NI 51-101 that reserves evaluator be independent from issuer, subject to conditions.

Applicable National Instrument

National Instrument 51-101 Standards of Disclosure for Oil and Gas Activities - s. 2.1, s. 3.2, s. 4.2(1)(a)(ii) and (iii), s. 4.2(1)(b) and (c), s. 5.3, s. 5.8, s. 5.15(a), s. 5.15(b)(i), s. 5.15(b)(iv) and s. 8.1(1).

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN, MANITOBA, ONTARIO, QUEBEC, NOVA SCOTIA AND NEWFOUNDLAND AND LABRADOR

AND

IN THE MATTER OF
THE MUTUAL RELIANCE REVIEW SYSTEM FOR EXEMPTIVE RELIEF APPLICATIONS

AND

IN THE MATTER OF
HUSKY ENERGY INC.

MRRS DECISION DOCUMENT

1. **WHEREAS** the local securities regulatory authority or regulator (the Decision Maker) in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, Nova Scotia and Newfoundland and Labrador (the Jurisdictions) has received an application from Husky Energy Inc. (the Filer) for a decision under the securities legislation of the Jurisdictions (the Legislation) that the Filer be exempted from the following requirements contained in the Legislation:

   1.1 to disclose information concerning oil and gas activities in accordance with sections 2.1, 4.2(1)(a)(ii) and (iii), 4.2(1)(b) and (c), 5.3, 5.8, 5.15(a), 5.15(b)(i) and 5.15(b)(iv) of National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities* (NI 51-101) (collectively, the Canadian Disclosure Requirements);

   1.2 that the qualified reserves evaluator appointed under section 3.2 of NI 51-101 be independent of the Filer (the Independent Evaluator Requirement); and

   1.3 in Québec, to comply with National Policy Statement No. 2-B *Guide for Engineers and Geologists Submitting Oil and Gas Reports to*

Canadian Provincial Securities Administrators (NP 2-B) until such time as NI 51-101 is implemented in Québec;

2. **AND WHEREAS** under the Mutual Reliance Review System for Exemptive Relief applications (the System), the Alberta Securities Commission is the principal regulator for this application;

3. **AND WHEREAS**, unless otherwise defined, the terms herein have the meaning set out in National Instrument 14-101 *Definitions*, Québec Commission Notice 14-101 or Appendix 1 of Companion Policy 51-101CP;

4. **AND WHEREAS** the Filer has represented to the Decision Makers that:

   4.1 the Filer's head office is in Calgary, Alberta;

   4.2 the Filer is an oil and gas issuer that produced an average of more than 100,000 BOEs of oil and gas (converted in the ratio 6 Mcf of gas to 1 bbl of oil) per day in its most recent financial year;

   4.3 the Filer is a reporting issuer or equivalent in each of the Jurisdictions;

   4.4 the Filer currently has registered securities under the 1934 Act;

   4.5 the Filer's common shares are listed on the Toronto Stock Exchange;

   4.6 the Filer is active in capital markets outside Canada where it competes for capital with foreign issuers, routinely offering securities in the US;

   4.7 the Filer believes that a significant portion of its securities are held, or its security holders are located, outside Canada;

   4.8 the Filer understands that, for purposes of making an investment decision or providing investment analysis or advice, a significant portion of its investors, lenders and investment analysts in both Canada and the US routinely compare the Filer to US and international oil and gas issuers, and accordingly comparability of its disclosure to their disclosure is of primary relevance to market participants;

   4.9 the Filer is subject to different disclosure requirements related to its oil and gas activities under US securities legislation (US Disclosure Requirements) than under the Legislation;

   4.10 disclosure concerning oil and gas activities routinely provided by issuers in the US (US Disclosure Practices) differs from the Canadian Disclosure Requirements;

   4.11 compliance in Canada with Canadian Disclosure Requirements, and conformity in the US with US Disclosure Requirements and US Disclosure Practices, would require that the Filer either

      4.11.1 prepare two separate versions of much of its public disclosure with respect to its oil and gas activities; or

      4.11.2 file, to the extent that the SEC permits, information that differs from the US Disclosure Requirements and accompany that information with a warning addressed to the US investor;

   exposing the Filer to increased costs, resulting in information that could confuse investors and other market participants, and possibly disadvantaging the Filer in competing for investment capital in the US;

   4.12 the Filer's internally-generated reserves data are as reliable as independently-generated reserves data for the following reasons:

      4.12.1 the Filer has qualified reserves evaluators within the meaning of NI 51-101; and

      4.12.2 the Filer has a well-established reserves evaluation process that is at least as rigorous as would be the case were it to rely upon independent reserves evaluators or auditors; and

   4.13 the Filer has adopted written evaluation practices and procedures using the COGE Handbook modified to the extent necessary to reflect the definitions and standards under US Disclosure Requirements;

5. **AND WHEREAS** under the System, this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the Decision);

6. **AND WHEREAS** each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the Decision has been met;

7. **THE DECISION** of the Decision Makers under the Legislation is that:

   7.1 The Filer is exempt from the Canadian Disclosure Requirements for so long as:

      7.1.1 **Annual Filings –** the Filer files with the securities regulatory authorities the following not later than the date on which it is required by the Legislation to file audited financial statements for its most recent financial year:

7.1.1.1. a modified statement of reserves data and other information relating to its oil and gas activities containing the information contemplated by, and consistent with, US Disclosure Requirements and US Disclosure Practices, and for this purpose, US Disclosure Requirements or US Disclosure Practices include

(i) the information required by the FASB Standard;

(ii) the information required by SEC Industry Guide 2 "Disclosure of Oil and Gas Operations", as amended from time to time; and

(iii) any other information concerning matters addressed in Form 51-101F1 that is required by FASB or by the SEC;

7.1.1.2 a modified report of qualified reserves evaluators in a form acceptable to the regulator; and

7.1.1.3 except in British Columbia, a modified report of management and directors on reserves data and other information in a form acceptable to the regulator;

7.1.2 **Use of COGE Handbook –** the Filer's estimates of reserves and related future net revenue (or, where applicable, related standardized measure of discounted future net cash flows (the standardized measure)) are prepared or audited in accordance with the standards of the COGE Handbook modified to the extent necessary to reflect the terminology and standards of the US Disclosure Requirements;

7.1.3 **Consistent Disclosure –** subject to changes in US Disclosure Requirements or US Disclosure Practices, the Filer is consistent in its application of standards relating to oil and gas information and its disclosure of such information, within and between reporting periods;

7.1.4 **Non-Conventional Oil and Gas Activities** -

7.1.4.1 the Filer may present information about its non-conventional oil and gas activities applying the FASB Standard despite any indication to the contrary in the FASB Standard;

7.1.4.2 the Filer may present information about its non-conventional oil and gas activities in a form that is consistent with US Disclosure Practices;

7.1.5 **Disclosure of this Decision and Effect** - the Filer:

7.1.5.1 at least annually, files on SEDAR (either as a separate document or in its annual information form) a statement

(i) of the Filer's reliance on this Decision;

(ii) that explains generally the nature of the information that the Filer has disclosed or intends to disclose in the year in reliance on this Decision and that identifies the standards and the source of the standards being applied (if not otherwise readily apparent); and

(iii) to the effect that the information that the Filer has disclosed or intends to disclose in the year in reliance on this Decision may differ from the corresponding information prepared in accordance with NI 51-101 standards (if that is the case), and explains the difference (if any); and

7.1.5.2 includes, reasonably proximate to all other written disclosure that the Filer makes in reliance on this Decision, a statement

(i) of the Filer's reliance on this Decision;

(ii) that explains generally the nature of the information being disclosed and identifies the standards and the source of the standards being applied (if it is not otherwise readily apparent);

(iii) that the information disclosed may differ from the corresponding information prepared in accordance with NI 51-101 standards; and

(iv) that reiterates or incorporates by reference the disclosure referred to in paragraph 0;

7.1.6 **Voluntary extra disclosure –**if the Filer makes public disclosure of a type contemplated in NI 51-101 or Form 51-101F1, but not required by US Disclosure Requirements, and:

7.1.6.1 if the disclosure is of a nature and subject matter referred to in Part 5 of NI 51-101 (other than in a provision included in the definition of Canadian Disclosure Requirements), and if there are no US Disclosure Requirements specific to that type of disclosure, the disclosure is made in compliance with Part 5 of NI 51-101;

7.1.6.2 if the disclosure includes estimates that are in substance estimates of reserves or related future net revenue in categories not required under US Disclosure Requirements,

(i) the disclosure:

(A) applies the relevant categories set out in the COGE Handbook; or

(B) sets out the categories being used in enough detail to make them understandable to a reader, identifies the source of those categories, states that those categories differ from the categories set out in the COGE Handbook (if that is the case) and either explains any differences (if any) or incorporates by reference disclosure referred to in paragraph 0 if that disclosure explains the differences;

(ii) if the disclosure includes an estimate of future net revenue or standardized measure, it also includes the corresponding estimate of reserves (although disclosure of an estimate of reserves would not have to be accompanied by a corresponding estimate of future net revenue or standardized measure);

(iii) if the disclosure includes an estimate of reserves for a category other than proved reserves (or proved oil and gas reserve quantities), it also includes an estimate of proved reserves (or proved oil and gas reserve quantities) based on the same price and cost assumptions with the price assumptions disclosed;

(iv) unless the extra disclosure is made involuntarily (as contemplated in section 8.4(b) of Companion Policy 51-101CP), the Filer includes disclosure of the same type in subsequent annual filings for as long as the information is material; and

(v) for the purpose of paragraph 0, if the triggering disclosure was an estimate for a particular property,

unless that property is highly material to the Filer, its subsequent annual disclosure of that type of estimate also includes aggregate estimates for the Filer and by country (or, if appropriate and not misleading, by foreign geographic area), not only estimates for that property, for so long as the information is material;

7.2 the Filer is exempt from the Independent Evaluator Requirement for so long as:

7.2.1 **Internal Procedures** – the Filer maintains internal procedures that will permit preparation of the modified report of qualified reserves evaluator, and preparation of the modified report of management and directors on reserves data and other information;

7.2.2 **Explanatory and Cautionary Disclosure** – the Filer discloses:

7.2.2.1 at least annually, the Filer's reasons for considering the reliability of internally-generated reserves data to be not materially less than would be afforded by strict adherence to the requirements of NI 51-101, including a discussion of

(i) factors supporting the involvement of independent qualified evaluators or auditors and why such factors are not considered compelling in the case of the Filer; and

(ii) the manner in which the Filer's internally-generated reserves data are determined, reviewed and approved, its relevant disclosure control procedures and the related role, responsibilities and composition of responsible management, the board of directors of the Filer and (if applicable) the reserves committee of the board of directors of the Filer; and

7.2.2.2 in each document that discloses any information derived from internally-generated reserves data and reasonably proximate to that disclosure, the fact that no independent qualified reserves evaluator or auditor was involved in the preparation of the reserves data; and

7.2.3 **Disclosure of Conflicting Independent Reports** – the Filer discloses and updates its public disclosure if, despite this Decision, it obtains a final report on reserves data from an independent qualified reserves evaluator or auditor that contains information that is materially different from the Filer's public disclosure record in respect of such reserves data;

7.3 the Filer is exempt from the prospectus and annual information form requirements of the Legislation that require a Filer to disclose information in a prospectus or annual information form in accordance with NI 51-101, but only to the extent that the Filer relies on and complies with this Decision; and

7.4 in Québec, until NI 51-101 comes into force in Québec, the Filer is exempt from the requirements of NP 2-B and may satisfy requirements under the Legislation of Québec that refer to NP 2-B by complying with the requirements of NI 51-101 as varied by this Decision.

8. This Decision, as it relates to either the Canadian Disclosure Requirements or the Independent Evaluator Requirement, will terminate in a Jurisdiction one year after the effective date in that Jurisdiction of any substantive amendment to the Canadian Disclosure Requirements or the Independent Evaluator Requirement, respectively, unless the Decision Maker otherwise agrees in writing.

January 15, 2004.

"Stephen R. Murison" "David W. Betts"

2.2 Orders

2.2.1 Aspect Capital Limited - s. 80 of the CFA

Headnote

Section 80 of the Commodity Futures Act (Ontario) (the CFA) - Relief from the adviser registration requirement of paragraph 22(1)(b) of the CFA granted to a non-resident adviser in respect of advising certain non-Canadian mutual funds regarding trades in commodity futures contracts and commodity futures options traded on commodity futures exchanges primarily outside of Canada and cleared through clearing corporations primarily outside of Canada, subject to certain terms and conditions.

Statutes Cited

Commodity Futures Act, R.S.O. 1990, c. C.20, as am., s. 22(1)(b) and s. 80.
Securities Act, R.S.O. 1990, c. S.5, as am. – Rule 35-502 – Non Resident Advisers.

IN THE MATTER OF
THE COMMODITY FUTURES ACT
R.S.O. 1990, CHAPTER C.20, AS AMENDED (the "ACT")

AND

IN THE MATTER OF
ASPECT CAPITAL LIMITED

ORDER
(Section 80 of the Act)

UPON the application of Aspect Capital Limited (the "Applicant") to the Ontario Securities Commission (the "Commission") for an order pursuant to section 80 of the Act that the Applicant and its directors, officers and employees are exempt from the requirements of paragraph 22(1)(b) of the Act in respect of advising Aspect Diversified Fund, Aspect Currency Fund Limited, Aspect Master Fund Limited, Aspect European Equity Fund Limited, Aspect European Market Neutral Fund Limited, Aspect Japanese Equity Fund Limited and Aspect Trading Fund Limited (collectively the "Funds") in respect of trades in commodity futures contracts and options traded on commodity futures exchanges located primarily outside of Canada and cleared through clearing corporations located primarily outside of Canada (the "Proposed Advisory Business");

AND UPON considering the application and the recommendation of staff of the Commission;

AND UPON the Applicant having represented to the Commission as follows:

1. The Applicant is a limited liability company organized under the laws of England and regulated in the conduct of its business in the United Kingdom by the Financial Services Authority of the United Kingdom.

2. The Applicant is the investment manager of each of the Funds and is responsible for managing the assets and investments of the Funds in accordance with their respective investment objectives, policies and restrictions.

3. The Funds are permitted to invest in commodity futures and options contracts and other derivative instruments traded on recognized exchanges located primarily outside of Canada and cleared through clearing corporations located primarily outside of Canada.

4. As would be required under section 7.10 (Privately Placed Funds Offered Primarily Abroad) of Rule 35-502 of the *Securities Act* (Ontario) the Funds are or will be non-Canadian and the securities of the Funds will be:

   (i) primarily offered outside of Canada;

   (ii) only distributed in Ontario through one or more registrants under the *Securities Act* (Ontario); and

   (iii) distributed in Ontario in reliance upon an exemption from the prospectus requirements under the *Securities Act* (Ontario).

5. Prospective investors who are Ontario residents will receive disclosure that includes (a) a statement that there may be difficulty in enforcing legal rights against the Applicant, or the directors, officers or employees of the Applicant because they are resident outside of Canada and all or substantially all of their assets are situated outside of Canada, and (b) a statement that the Applicant is not registered with or licensed by any securities regulatory authority in Canada and, accordingly, the protections available to clients of a registered adviser will not be available to purchasers of securities of the Funds.

AND UPON being satisfied that it would not be prejudicial to the public interest for the Commission to grant the exemptions requested.

IT IS ORDERED, pursuant to section 80 of the Act that the Applicant and its directors, officers and employees responsible for advising the Funds are not subject to the requirements of paragraph 22(1)(b) of the Act in respect of the Proposed Advisory Business in connection with the Funds, for a period of three years, provided that at the time such Proposed Advisory Business is engaged in:

1. the Applicant continues to be regulated by the Financial Services Authority of the United Kingdom;

2. the Funds invest in futures and options contracts traded on organized exchanges located primarily outside of Canada and cleared through clearing

corporations located primarily outside of Canada, in other derivative instruments traded over the counter primarily outside of Canada, and in securities primarily outside of Canada;

3. securities of the Funds will be offered primarily outside of Canada and will only be distributed in Ontario through Ontario-registered dealers, in reliance on an exemption from the prospectus requirements of the *Securities Act* (Ontario) and upon an exemption from the adviser registration requirements of the *Securities Act* (Ontario) under section 7.10 of Rule 35-502; and

4. prospective investors who are Ontario residents will receive disclosure that includes

   (a) a statement that there may be difficulty in enforcing legal rights against the Applicant, or the directors, officers or employees of the Applicant because they are resident outside of Canada and all or substantially all of their assets are situated outside of Canada; and

   (b) a statement that the Applicant is not registered with or licensed by any securities regulatory authority in Canada and, accordingly, the protections available to clients of a registered adviser will not be available to purchasers of securities of the Funds.

January 20, 2004.

"Robert W. Korthals" "Paul K. Bates"

2.2.2 Conquest Capital, LLC - s. 80 of the CFA

Headnote

Section 80 of the Commodity Futures Act (Ontario) (the CFA) - Relief from the adviser registration requirement of paragraph 22(1)(b) of the CFA granted to a non-resident adviser in respect of advising certain non-Canadian mutual funds regarding trades in commodity futures contracts and commodity futures options traded on commodity futures exchanges primarily outside of Canada and cleared through clearing corporations primarily outside of Canada, subject to certain terms and conditions.

Statutes Cited

Commodity Futures Act, R.S.O. 1990, c. C.20, as am., s. 22(1)(b) and s. 80.
Securities Act, R.S.O. 1990, c. S.5, as am. – Rule 35-502 – Non Resident Advisers.

IN THE MATTER OF
THE COMMODITY FUTURES ACT
R.S.O. 1990, CHAPTER C.20, AS AMENDED (the "ACT")

AND

IN THE MATTER OF
CONQUEST CAPITAL, LLC

ORDER
(Section 80 of the Act)

UPON the application of Conquest Capital, LLC (the "Applicant") to the Ontario Securities Commission (the "Commission") for an order pursuant to section 80 of the Act that the Applicant and its directors, officers and employees are exempt from the requirements of paragraph 22(1)(b) of the Act in respect of advising Conquest Macro Fund Ltd. (the "Company") and Conquest Macro Master Fund Ltd. (the "Master Fund") in respect of trades in commodity futures contracts and options traded on commodity futures exchanges primarily outside of Canada and cleared through clearing corporations primarily outside of Canada (the "Proposed Advisory Business");

AND UPON considering the application and the recommendation of staff of the Commission;

AND UPON the Applicant having represented to the Commission as follows:

1. The Applicant is a limited liability company organized under the laws of the state of Delaware.

2. The Applicant is registered as a commodity trading adviser and as a commodity pool operator with the Commodity Futures Trading Commission (the "CFTC") in the United States of America (the USA) and is a member of the National Futures Association (the "NFA") in the USA.

3. The Company and the Master Fund are organized in a "master/feeder" structure. The Company, as a feeder fund, invests, or will invest, substantially all of its assets in the Master Fund and cash equivalents. Discretionary portfolio investments are made through the Master Fund which include investments in commodity futures and options contracts traded on commodity futures exchanges located primarily outside of Canada and cleared through clearing corporations located primarily outside of Canada. Other than through the Master Fund, the Company does not invest in commodity futures and options contracts.

4. Securities of the Company are being offered to Ontario residents who are institutional investors or high net worth individuals. Securities of the Company are primarily offered outside of Canada, and are offered and distributed in Ontario through Ontario-registered dealers, in reliance upon an exemption from the prospectus requirements of the *Securities Act*, and in reliance upon an exemption from the adviser registration requirements of the *Securities Act* under section 7.10 of Commission Rule 35-502.

5. The Master Fund may, as part of its investment objective and policy, invest in commodity futures and options contracts traded on organized exchanges located primarily outside of Canada and cleared through clearing corporations located primarily outside of Canada.

6. The Applicant provides advice with respect to commodity futures and options contracts or securities to the Company and the Master Fund and makes all trading decisions for the Company and the Master Fund.

7. Prospective investors who are Ontario residents will receive disclosure that includes (i) a statement that there may be difficulty in enforcing legal rights against the Applicant and its directors, officers, or employees because they are resident outside of Canada and all or substantially all of their assets are situated outside of Canada, and (ii) a statement that the Applicant and its directors, officers, and employees are not registered with or licensed by any securities regulatory authority in Ontario and, accordingly, the protections available to clients of a registered adviser will not be available to purchasers of securities of the Company.

AND UPON being satisfied that it would not be prejudicial to the public interest for the Commission to grant the exemptions requested.

IT IS ORDERED pursuant to section 80 of the Act that the Applicant and its directors, officers and employees responsible for advising the Funds are not subject to the requirements of paragraph 22(1)(b) of the Act in respect of the Proposed Advisory Business in connection with the Funds, for a period of three years, provided that at the time such Proposed Advisory Business is engaged in:

1. the Applicant continues to be registered with the CFTC as a commodity trading adviser/commodity pool operator and be a member of the NFA;

2. the Master Fund may invest in commodity futures and options contracts traded on organized exchanges located primarily outside of Canada and cleared through clearing corporations located primarily outside of Canada;

3. securities of the Company will be offered primarily outside of Canada and will only be distributed in Ontario through Ontario-registered dealers, in reliance on an exemption from the prospectus requirements of the *Securities Act* and upon an exemption from the adviser registration requirements of the *Securities Act* under section 7.10 of Commission Rule 35-502; and

4. prospective investors who are Ontario residents will receive disclosure that includes (i) a statement that there may be difficulty in enforcing legal rights against the Applicant and its directors, officers, or employees because they are resident outside of Canada and all or substantially all of their assets are situated outside of Canada, and (ii) a statement that the Applicant and its directors, officers, and employees are not registered with or licensed by any securities regulatory authority in Canada and, accordingly, the protections available to clients of a registered adviser will not be available to purchasers of securities of the Company.

January 20, 2004.

"Robert L. Shirriff" "Robert W. Korthals"

2.2.3 Fall River Capital, LLC - s. 80 of the CFA

Headnote

Section 80 of the Commodity Futures Act (Ontario) (the CFA) - Relief from the adviser registration requirement of paragraph 22(1)(b) of the CFA granted to a non-resident adviser in respect of advising a non-Canadian mutual fund regarding trades in commodity futures contracts and commodity futures options traded on commodity futures exchanges primarily outside of Canada and cleared through clearing corporations primarily outside of Canada, subject to certain terms and conditions.

Statutes Cited

Commodity Futures Act, R.S.O. 1990, c. C.20, as am., s. 22(1)(b) and s. 80.
Securities Act, R.S.O. 1990, c. S.5, as am. – Rule 35-502 – Non Resident Advisers.

IN THE MATTER OF
THE COMMODITY FUTURES ACT
R.S.O. 1990, CHAPTER C.20, AS AMENDED (the "ACT")

AND

IN THE MATTER OF
FALL RIVER CAPITAL, LLC

ORDER
(Section 80 of the Act)

UPON the application of Fall River Capital, LLC (the "Applicant") to the Ontario Securities Commission (the "Commission") for an order pursuant to section 80 of the Act that the Applicant and its directors, officers and employees are exempt from the requirements of paragraph 22(1)(b) of the Act in respect of advising Fall River Fund (the "Fund") in respect of trades in commodity futures contracts and options traded on commodity futures exchanges primarily outside of Canada and cleared through clearing corporations primarily outside of Canada (the "Proposed Advisory Business");

AND UPON considering the application and the recommendation of staff of the Commission;

AND UPON the Applicant having represented to the Commission as follows:

1. The Applicant is a limited liability company organized under the laws of the State of Wisconsin in the United States of America.

2. The Applicant is registered as a commodity trading adviser and as a commodity pool operator with the Commodity Futures Trading Commission (the "CFTC") in the United States of America (the USA) and is a member of the National Futures Association (the "NFA") in the USA.

3. The Applicant acts as the general partner and trading advisor of the Fund. The Applicant provides investment advice with respect to investments in or the use of commodity futures contracts traded on commodity futures exchanges located primarily outside of Canada and cleared through clearing corporations located primarily outside of Canada and makes all trading decisions for the Fund.

4. As would be required under section 7.10 (Privately Placed Funds Offered Primarily Abroad) of Rule 35-502 of the *Securities Act* (Ontario) the Fund is or will be non-Canadian and the securities of the Fund will be:

   (i) primarily offered outside of Canada;

   (ii) only distributed in Ontario through one or more registrants under the *Securities Act* (Ontario); and

   (iii) distributed in Ontario in reliance upon an exemption from the prospectus requirements under the *Securities Act* (Ontario).

5. Prospective investors who are Ontario residents will receive disclosure that includes (a) a statement that there may be difficulty in enforcing legal rights against the Applicant, or the directors, officers or employees of the Applicant because they are resident outside of Canada and all or substantially all of their assets are situated outside of Canada, and (b) a statement that the Applicant is not registered with or licensed by any securities regulatory authority in Ontario and, accordingly, the protections available to clients of a registered adviser will not be available to purchasers of securities of the Fund.

AND UPON being satisfied that it would not be prejudicial to the public interest for the Commission to grant the exemptions requested.

IT IS ORDERED pursuant to section 80 of the Act that the Applicant and its directors, officers and employees responsible for advising the Funds are not subject to the requirements of paragraph 22(1)(b) of the Act in respect of the Proposed Advisory Business in connection with the Funds, for a period of three years, provided that at the time such Proposed Advisory Business is engaged in:

1. the Applicant continues to be registered with the CFTC as commodity trading adviser/commodity pool operator and be a member of the NFA;

2. the Fund invests in futures and options contracts traded on organized exchanges located primarily outside of Canada and cleared through clearing corporations located primarily outside of Canada, in other derivative instruments traded over the

counter primarily outside of Canada, and in securities primarily outside of Canada;

3. securities of the Fund will be offered primarily outside of Canada and will only be distributed in Ontario through Ontario-registered dealers, in reliance on an exemption from the prospectus requirements of the *Securities Act* and upon an exemption from the advisor registration requirements of the *Securities Act* under section 7.10 of Rule 35-502; and

4. prospective investors who are Ontario residents will receive disclosure that includes

   (a) a statement that there may be difficulty in enforcing legal rights against the Applicant, or the directors, officers or employees of the Applicant because they are resident outside of Canada and all or substantially all of their assets are situated outside of Canada; and

   (b) a statement that the Applicant is not registered with or licensed by any securities regulatory authority in Canada and, accordingly, the protections available to clients of a registered adviser will not be available to purchasers of securities of the Fund.

January 20, 2004.

"Robert W. Korthals" "Paul K. Bates"

2.2.4 Vega Asset Management (U.S.A.) LLC - s. 80 of the CFA

Headnote

Section 80 of the Commodity Futures Act (Ontario) (the CFA) - Relief from the adviser registration requirement of paragraph 22(1)(b) of the CFA granted to a non-resident adviser in respect of advising certain non-Canadian mutual funds regarding trades in commodity futures contracts and commodity futures options traded on commodity futures exchanges primarily outside of Canada and cleared through clearing corporations primarily outside of Canada, subject to certain terms and conditions.

Statutes Cited

Commodity Futures Act, R.S.O. 1990, c. C.20, as am., s. 22(1)(b) and s. 80.
Securities Act, R.S.O. 1990, c. S.5, as am. – Rule 35-502 – Non Resident Advisers.

IN THE MATTER OF
THE COMMODITY FUTURES ACT
R.S.O. 1990, CHAPTER C.20, AS AMENDED (the "ACT")

AND

IN THE MATTER OF
VEGA ASSET MANAGEMENT (U.S.A.) LLC

ORDER
(Section 80 of the Act)

UPON the application of Vega Asset Management (U.S.A.) LLC (the "Applicant") to the Ontario Securities Commission (the "Commission") for an order pursuant to section 80 of the Act that the Applicant and its directors, officers and employees are exempt from the requirements of paragraph 22(1)(b) of the Act in respect of advising Vega Select Opportunities Fund Limited, Vega Global Fund Limited, Vega Relative Value Fund Limited and Vega Diversified Fund Limited (the "Funds") in respect of trades in commodity futures contracts and options traded on commodity futures exchanges primarily outside of Canada and cleared through clearing corporations primarily outside of Canada (the "Proposed Advisory Business");

AND UPON considering the application and the recommendation of staff of the Commission;

AND UPON the Applicant having represented to the Commission as follows:

1. The Applicant is a limited liability company organized under the laws of the State of Delaware in the United States of America.

2. The Applicant is registered as a commodity pool operator and as a commodity trading adviser with the Commodity Futures Trading Commission (the "CFTC") in the United States of America (the USA)

and is a member of the National Futures Association (the "NFA") in the USA.

3. Vega Asset Management I Limited (the "Manager") is a limited liability company incorporated in the British Virgin Islands ("BVI") and licensed by the Registrar of Mutual Funds in BVI. The Manager provides fund management, administrative, investment advisory and distribution services to the Funds.

4. An investment committee for each of the Funds, appointed by the Manager, manages the trading and investments of the Funds, except for the commodities and futures contracts, which are under the sole and exclusive authority of the Applicant.

5. The Applicant is appointed by the Funds as the commodity pool operator and commodity trading adviser for the Funds with sole and exclusive authority to trade commodities and futures contracts for the accounts of the Funds and as the sub-advisor of the Funds to provide investment advisory services.

6. The Funds invest in commodities and futures contracts traded on organized exchanges located primarily outside of Canada and cleared through clearing corporations located primarily outside of Canada.

7. As would be required under section 7.10 (Privately Placed Funds Offered Primarily Abroad) of Rule 35-502 of the *Securities Act* (Ontario) the Funds are or will be non-Canadian and the securities of the Funds will be:

   (i) primarily offered outside of Canada;

   (ii) only distributed in Ontario through one or more registrants under the *Securities Act* (Ontario); and

   (iii) distributed in Ontario in reliance upon an exemption from the prospectus requirements under the *Securities Act* (Ontario).

8. Prospective investors who are Ontario residents will receive disclosure that includes (a) a statement that there may be difficulty in enforcing legal rights against the Applicant, or the directors, officers or employees of the Applicant because they are resident outside of Canada and all or substantially all of their assets are situated outside of Canada, and (b) a statement that the Applicant is not registered with or licensed by any securities regulatory authority in Canada and, accordingly, the protections available to clients of a registered adviser will not be available to purchasers of securities of the Funds.

AND UPON being satisfied that it would not be prejudicial to the public interest for the Commission to grant the exemptions requested.

IT IS ORDERED pursuant to section 80 of the Act that the Applicant and its directors, officers and employees responsible for advising the Funds are not subject to the requirements of paragraph 22(1)(b) of the Act in respect of the Proposed Advisory Business in connection with the Funds, for a period of three years, provided that at the time such Proposed Advisory Business is engaged in:

1. the Applicant continues to be registered with the CFTC as commodity pool operator and commodity trading adviser and be a member of the NFA;

2. the Funds invest in futures and options contracts traded on organized exchanges located primarily outside of Canada and cleared through clearing corporations located primarily outside of Canada, in other derivative instruments traded over the counter primarily outside of Canada, and in securities primarily outside of Canada;

3. securities of the Funds will be offered primarily outside of Canada and will only be distributed in Ontario through Ontario-registered dealers, in reliance on an exemption from the prospectus requirements of the *Securities Act* (Ontario) and upon an exemption from the adviser registration requirements of the *Securities Act* (Ontario) under section 7.10 of Rule 35-502; and

4. prospective investors who are Ontario residents will receive disclosure that includes

   (a) a statement that there may be difficulty in enforcing legal rights against the Applicant, or the directors, officers or employees of the Applicant because they are resident outside of Canada and all or substantially all of their assets are situated outside of Canada; and

   (b) a statement that the Applicant is not registered with or licensed by any securities regulatory authority in Canada and, accordingly, the protections available to clients of a registered adviser will not be available to purchasers of securities of the Funds.

January 20, 2004.

"Robert W. Korthals" "Paul K. Bates"

2.2.5 PeakSoft Multinet Corp. - s. 144

Headnote

Section 144 – variation of cease trade order to permit trades of securities pursuant to a reorganization.

Statutes Cited

Securities Act, R.S.O., c. S.5, as am., ss. 127 and 144.

IN THE MATTER OF
THE SECURITIES ACT
R.S.O. 1990, c. S.5. AS AMENDED (the Act)

AND

PEAKSOFT MULTINET CORP.

ORDER
(Section 144)

WHEREAS the securities of PeakSoft Multinet Corp. (PeakSoft) are subject to a temporary order (the Temporary Order) of the Director, Corporate Finance made on behalf of the Ontario Securities Commission (the Commission) pursuant to paragraph 2 of subsection 127(1) and subsection 127(5) of the Act on March 5, 2002, as extended by further order of the Director, Corporate Finance on March 15, 2002 on behalf of the Commission pursuant to subsection 127(8) of the Act, that trading in the securities of PeakSoft cease (collectively, the Cease Trade Order);

AND WHEREAS PeakSoft has applied to the Commission for a partial revocation of the Cease Trade Order pursuant to section 144 of the Act (the Application);

AND UPON PeakSoft having represented to the Commission that:

1. PeakSoft was incorporated under the *Company Act* (British Columbia) on August 24, 1994 as *Peak Technologies Inc.*, thereafter being continued into the Province of Alberta under the *Business Corporations Act* (Alberta) (the ABCA) on August 16, 1996, and changing its name to PeakSoft Corporation on October 27, 1997, and to PeakSoft Multinet Corp. on February 17, 1999.

2. PeakSoft is a reporting issuer in Ontario, Alberta and British Columbia, having become such on or about June 11, 1997 upon the filing of a prospectus in each of these jurisdictions.

3. PeakSoft's authorized capital consists of an unlimited number of common shares, of which 3,830,974 are issued and outstanding as fully paid and non-assessable. To the knowledge of PeakSoft, the entities which own more than 10 percent of any class of securities of PeakSoft are:

   (a) Elliott International, L.P. (formerly known as Westgate International, L.P.), Grand Cayman, Cayman Islands, which owns 905,636 shares, and, through brokers, a further 17,149 shares, representing approximately 24 percent of PeakSoft's issued and outstanding common shares; and

   (b) The Liverpool Limited Partnership, Hamilton, Bermuda, which owns 905,636 shares, and, through brokers, a further 17,149 shares, representing approximately 24 percent of PeakSoft's issued and outstanding common shares.

   (these partnerships being collectively referred to hereinafter as the Significant Shareholders).

4. The Cease Trade Order was issued by reason of the failure of PeakSoft to file with the Commission the audited annual financial statements for the year ended September 30, 2001 (the 2001 Annual Financial Statements).

5. PeakSoft has not carried on business since September 30, 2001. It owns no material assets or liabilities other than indebtedness owed to its creditors, including the Indebtedness (as defined in paragraph 12 below).

6. On February 25, 2002, the British Columbia Securities Commission (the BCSC) issued a cease trade order against PeakSoft for having failed to file the 2001 Annual Financial Statements. On March 15, 2002, the Alberta Securities Commission (the ASC) issued a cease trade order against PeakSoft for having failed to file the 2001 Annual Financial Statements and its interim unaudited financial statements for the three-month period ended December 31, 2001.

7. PeakSoft was unable to file the financial statements referred to above due to financial hardship.

8. On December 27, 2002, the 2001 Annual Financial Statements were filed with the Commission, the BCSC and the ASC, and were mailed to the shareholders of PeakSoft.

9. On January 3, 2003, the interim financial statements of PeakSoft for:

   (a) the 3-month period ended December 31, 2001;

   (b) the 6-month period ended March 31, 2002; and

   (c) the 9-month period ended June 30, 2002;

   were mailed to the shareholders of PeakSoft and were filed with the Commission, the ASC and the

BCSC. As of January 3, 2003, PeakSoft had remedied all outstanding deficiencies with respect to the filings of annual and interim financial statements. PeakSoft has subsequently filed its annual and interim financial statements in a timely manner.

10. PeakSoft's shares are listed on the TSX Venture Exchange. Currently, the trading of these common shares has been suspended due to the existence of the cease trade orders referred to above. PeakSoft was also listed on the OTC Bulletin Board, but was delisted on May 6, 2002 for failure to file required financial reports. PeakSoft has no other securities listed on any stock exchange or traded over the counter in Canada or elsewhere.

11. PeakSoft is not, to its knowledge, in default of any requirement of the Act, or the rules and regulations made pursuant thereto, other than the following:

(a) As described in paragraphs 12, 13, 14, and 16, PeakSoft has taken the following steps, one or more of which may constitute a contravention of the Cease Trade Order:

(i) PeakSoft entered into conditional Debt Conversion Agreements with its Creditors to settle CDN$6.8 million debt in exchange for 22.7 million PeakSoft shares and 0.4 million of IncuLab Shares held by PeakSoft;

(ii) PeakSoft entered into the Metz Agreements in settlement of certain of the Indebtedness owed to a director and senior officer of PeakSoft; and

(iii) PeakSoft entered into a preliminary term sheet pursuant to a reverse take-over transaction; and

(b) As described in paragraphs 12, 13, 14, and 16, PeakSoft did not file, and if such events were material changes was required to file, a material change report for the following events:

(i) Entering into the Debt Conversion Agreements;

(ii) The announcement of the Proposed RTO;

(iii) Entering into the Metz Agreements; and

(iv) Entering into the preliminary term sheet pursuant to a reverse take-over transaction.

12. PeakSoft entered into conditional debt conversion agreements (the Debt Conversion Agreements) with 10 of its creditors (the Creditors) as of December 21, 2000, August 1, 2001, and August 8, 2002. In accordance with the terms thereof, the issuance of shares under the Debt Conversion Agreements is conditional upon, among other things, shareholder and/or regulatory approval. Under the Debt Conversion Agreements, the Creditors have agreed to settle CDN$6,884,521 of debt (the Indebtedness) in exchange for the issuance of 22,639,526 PeakSoft common shares priced at $0.26 per share and for 431,989 IncuLab.com, Inc. shares (and the rights with respect thereto under certain agreements) (the IncuLab Shares) held by PeakSoft. To the knowledge of PeakSoft, none of the Creditors is resident in the Province of Ontario.

13. On August 29, 2001, PeakSoft published a press release announcing the conditional settlement of certain of the Indebtedness (totaling approximately $6,498,382) and a proposed reverse-takeover involving PeakSoft and a film and television production and distribution company (the Proposed RTO). The Significant Shareholders agreed to settle the Indebtedness owed to them in the aggregate amount of $5,121,429 in exchange for the issuance of 15,858,395 PeakSoft common shares and for the IncuLab Shares. Based on oral discussions with the Significant Shareholders, it was the understanding that the issuance of common shares under these Debt Conversion Agreements would be done in conjunction with PeakSoft entering into a merger, acquisition or financing with a third party. PeakSoft did not file a material change report at the time at which these Debt Conversion Agreements were entered into and the Proposed RTO was announced because PeakSoft was of the view that the completion of the Proposed RTO was highly speculative. The Proposed RTO transaction was cancelled when the required financing was not obtained. Due to the amount of the Indebtedness that was settled under the terms of these Debt Conversion Agreements, a material change report likely should have been filed within the prescribed period of time under the Act to disclose the existence of these Debt Conversion Agreements and the material terms thereof. On June 11, 2003, PeakSoft published a press release and filed a material change report (the Material Change Report) with the Commission, the ASC and the BCSC disclosing the material terms of these Debt Agreements.

14. In August 2002, Timothy Metz, then a director and senior officer of PeakSoft, entered into a

conditional Debt Conversion Agreement (the 2002 Metz Agreement) with PeakSoft in settlement of the Indebtedness owed to him by PeakSoft in the amount of $385,958 under his employment contract for the year 2002 in exchange for the issuance of 1,484,455 common shares. In January 2003, Mr. Metz entered into a conditional Debt Conversion Agreement (hereinafter referred to as the 2003 Metz Agreement and referred collectively with the 2002 Metz Agreement, as the Metz Agreements) in payment out of his employment contract for the end of the term. Material change reports and press releases reporting the entering into of the Metz Agreements were not filed within the prescribed period of time after the execution thereof. Material change reports and press releases disclosing the Metz Agreements likely should have been filed and published within the prescribed time periods under the Act due to the amount of Indebtedness that is to be settled pursuant to the terms thereunder. On May 9, 2003, Mr. Metz cancelled the 2003 Metz Agreement. On and June 11, 2003 PeakSoft published a press release and filed the Material Change Report with the Commission, the ASC and the BCSC disclosing, among other things, the material terms of the Metz Agreements.

15. PeakSoft is indebted to two private placees for an aggregate amount of USD$195,000 under certain promissory notes (the Promissory Notes). PeakSoft intends to issue 500,384 common shares in settlement of the Promissory Notes. To the knowledge of PeakSoft, none of the private placees are residents of Ontario.

16. Pursuant to a preliminary term sheet entered into on September 20, 2002, between PeakSoft and Alma, Inc., PeakSoft intends to enter into a merger transaction (the Merger) with PeakSoft Acquisition, Inc. (PeakSoft Acquisition), pursuant to the provisions of Delaware General Corporation Law (the Proposed Transaction). PeakSoft will be the surviving corporation and it is contemplated that existing shareholders of PeakSoft will own approximately 5 percent of the voting securities of the surviving corporation. At the time of the completion of the Proposed Transaction, it is contemplated that PeakSoft Acquisition will own at least the majority of the issued and outstanding securities of BHLC, Inc., with at least a majority of the former shareholders of BHLC, Inc. becoming stockholders of PeakSoft Acquisition pursuant to a share exchange. BHLC, Inc. is a Japanese corporation, which operates a lasik eye surgery business in Japan.

17. The Proposed Transaction is conditional upon the following re-organizational steps being completed in the following sequence:

    (a) the delisting of PeakSoft from the TSX Venture Exchange;

    (b) the continuance of PeakSoft (the Delaware Issuer) into the State of Delaware pursuant to the Delaware General Corporation Law and the ABCA (the Continuance) wherein each outstanding common share of PeakSoft immediately prior to the Continuance will be exchanged for one share of the common stock of the Delaware Issuer, subject to any rights of dissent exercised by PeakSoft's shareholders under the ABCA;

    (c) the issuance of common stock of the Delaware Issuer pursuant to the Debt Conversion Agreements or in settlement of the Promissory Notes; and

    (d) the merger of PeakSoft Acquisition with the Delaware Issuer whereby, pursuant to the Delaware General Corporation Law, the Delaware Issuer will continue as the surviving corporation under the name Paragon Medical Inc. (the Surviving Issuer), in which shareholders of PeakSoft Acquisition will receive shares in the Delaware Issuer.

18. The terms of the Proposed Transaction as negotiated between the Issuer and PeakSoft Acquisition will be set out in an agreement and plan of merger between PeakSoft and PeakSoft Acquisition (the Proposed Transaction Agreement). Under the terms of the proposed Merger, it is contemplated that shares of the Surviving Issuer issued to shareholders of the Delaware Issuer and to shareholders of PeakSoft Acquisition will be registered under the Securities Exchange Act of 1934.

19. The Debt Conversion Agreements with the Significant Shareholders and the 2002 Metz Agreement (collectively the Related Party Debt Conversion Agreements) are considered "related party" transactions under Commission Rule 61-501 (Rule 61-501). PeakSoft intends to rely on applicable exemptions from the formal valuation requirements under Rule 61-501 as it applies to the issuance of common shares under the Related Party Debt Conversion Agreements. The Material Change Report discloses PeakSoft's intention and its basis for relying on the applicable exemptions from the formal valuation requirements under Rule 61-501.

20. PeakSoft intends to hold a meeting (the Meeting) of its shareholders for the purposes of obtaining the necessary shareholder approvals under applicable corporate and securities laws for the matters described in paragraph (18) above. In preparation for the Meeting PeakSoft will send to all of its shareholders of record, a management information circular (Circular) which will contain

prospectus-level disclosure concerning PeakSoft, BHLC, Inc. and the business of BHLC, Inc.

21. Other than the Proposed Transaction, PeakSoft does not intend to seek public financing by way of an offering of its securities.

22. PeakSoft has applied for a partial revocation of the Cease Trade Order permitting:

    (a) PeakSoft to enter into the Proposed Transaction Agreement;

    (b) upon shareholder approval:

        (i) the exchange of each outstanding common share of PeakSoft held by Ontario shareholders for a share of the common stock of the Delaware Issuer pursuant to the Continuance; and

        (ii) the Surviving Issuer to issue shares of common stock to Ontario shareholders pursuant to the Merger.

23. On December 30, 2003, PeakSoft filed revised audited financial statements for the year ended September 30, 2002; and for the interim periods ended December 31, 2003, March 31, 2003 and June 30, 2003. PeakSoft also filed and issued a press release announcing this filing of the revised financial statements. The refiling of the financial statements resulted from a review of PeakSoft's statements by the Commission, and from the suggestions made by the Commission in conjunction with its review of this application.

24. During the process of verifying the debt associated with the conditional Debt Conversion Agreements which were announced on 29 August 2001 and again on 10 June 2003, PeakSoft discovered that the debts associated with these agreements had not been completely recorded on its books.

25. PeakSoft acquired 89.5 percent of Peak.com Inc., a Washington State company, in November 2000 in exchange for certain fixed assets, a software licence agreement and the assumption of USD $410,000 in debt.

26. As a part of an agreement to acquire an interest in IncuLab.com, Inc. at the time of the sale to it of Peak.com Inc., the Significant Shareholders advanced additional funds directly to IncuLab.com, Inc. on behalf of PeakSoft for the purpose of acquiring a greater equity in IncuLab.com, Inc. These advances were characterized as a loan to PeakSoft to be repaid by it to the Significant Shareholders. During the second quarter of fiscal year 2003, PeakSoft discovered that these advances also had not been completely recorded on its books. PeakSoft was unable verify the validity of the amounts of these advances until the fourth quarter of fiscal year 2003, at which time it determined that the advances to Peak.com Inc. and to Inculab.com, Inc. for which PeakSoft was liable aggregated to USD$1,023,090.

27. The said amount of USD$1,023,090 had been included in a conditional debt conversion agreement with the Significant Shareholders, this agreement being dated for reference August 1, 2001, and announced on August 29, 2001 and again on June 10, 2003. As a result, this amount has been included in the 2001 comparatives and has been adjusted in the 2002 financial statements with retroactive effect.

28. Following the acquisition of an interest in Inculab.com, Inc. PeakSoft's management determined that IncuLab.com, Inc. had ceased to be a going concern, and that it would it not likely return to being such in the near future. As a result the investment was written off by PeakSoft as a loss. The 2001 comparative financial statements were revised by an increase of $1,548,562 to the Notes Payable on the Balance Sheet and an increase of $1,548,562 to the Loss on Investments on the Statement of Operations. On the 2002 Balance Sheet, the revision resulted in an increase in the Deficit of $1,548,562 and a corresponding increase of the same amount in the Notes Payable. The quarterly statements for December 2002, March 2003 and June 2003, have also been revised to reflect this revision.

29. Following completion of the Proposed Transaction, the Surviving Issuer intends to make a further application for a full revocation of the Cease Trade Order so as to permit trading of the securities generally.

30. PeakSoft has made applications to the ASC and the BCSC to have revoked partially the cease trade orders issued by them. On July 24, 2003, the ASC issued an order granting the partial revocation of the cease trade order issued by them in response to PeakSoft's application.

AND UPON considering the Application and the recommendation of the staff of the Commission;

AND UPON the Director being satisfied that to do so would not be prejudicial to the public interest;

IT IS ORDERED, pursuant to section 144 of the Act, that the Cease Trade Order be, and that it is hereby, partially revoked permitting:

(a) PeakSoft to enter into the Proposed Transaction Agreement; and

(b) upon shareholder approval:

(i) the exchange of each outstanding common share of PeakSoft held by Ontario shareholders for a share of the common stock of the Delaware Issuer pursuant to the Continuance; and

(ii) the Surviving Issuer to issue shares of common stock to Ontario shareholders pursuant to the Merger.

January 26, 2004.

“Cameron McInnis”

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Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 Reasons for Decision

3.1.1 Norlyn Financial Group Inc.

IN THE MATTER OF
AN APPLICATION FOR RENEWAL OF REGISTRATION
OF NORLYN FINANCIAL GROUP INC.

OPPORTUNITY TO BE HEARD BY THE DIRECTOR
PURSUANT TO SUBSECTION 26(3) OF THE
SECURITIES ACT

Date: January 26, 2004

Director: David M. Gilkes
Manager, Registrant Regulation
Capital Markets Branch

Submissions: Pamela Woodall
Registration Officer

Norm Gauthier
President, Norlyn Financial Group Inc.
Applicant

DIRECTOR'S DECISION

Decision and Reasons for Decision

1. The decision of the Director is to deny the renewal of registration of Norlyn Financial Group Inc. (**Norlyn** or the Applicant) as a Mutual Fund Dealer. These are the reasons for the decision.

Background

2. The Applicant was first granted registration in 1998 in the category of Securities Dealer. In May 2001, Norlyn changed its registration category from a Securities Dealer to a Mutual Fund Dealer.

3. As a result of the change in registration category, Norlyn was required to become a member of the Mutual Fund Dealers Association (**MFDA**) by July 2, 2002 in accordance with OSC Rule 31-506. On June 28, 2002 Norlyn received a temporary exemption from Rule 31-506 that expired December 1, 2002.

4. Norlyn applied for another temporary exemption from Rule 31-506 on November 28, 2002. This exemption was not granted and instead terms and conditions were imposed on its registration at renewal. Norlyn applied for renewal registration on December 1, 2002 and on December 31, 2002 renewal of registration was granted subject to the following terms and conditions:

   Any renewal of registration of the Registrant as a mutual fund dealer under the Securities Act (Ontario) (the Act) on December 31, 2002 at 12:01 A.M shall be restricted in duration to a term (the Renewal Period) commencing on December 31, 2002 at 12:01 A.M. and expiring on June 1, 2003 at 12:01 A.M. At that time the Registrant's renewal application will be reviewed in light of the status of its application for membership in the MFDA.

5. Norlyn's registration was renewed again on June 1, 2003 with the continuation of the terms and conditions noted in paragraph 4.

6. Over the time period June 2002 to December 2003, Norlyn had provided assurances to the Staff of the OSC that it was close to obtaining its membership in the MFDA. It continued to make these assurances as renewal of registration came up.

7. Norlyn applied for renewal of registration on December 29, 2003 (this application was due December 1, 2003). On December 30, 2003, Staff of the OSC advised Norlyn by letter that it had recommended that the Director not grant renewal of registration to Norlyn because it had not corrected the deficiencies in its application for membership identified by the MFDA. As a result, Norlyn was not in compliance with Rule 31-506.

8. After receiving the letter from Staff, Mr. Norm Gauthier, President of Norlyn requested an Opportunity to be Heard by the Director pursuant to subsection 26(3) of the Act that states:

   (3) Refusal – The Director shall not refuse to grant, renew, reinstate or amend registration or impose terms and conditions thereon without giving the applicant an opportunity to be heard.

9. The Opportunity to be Heard was conducted through written submissions. The Applicant provided its submission on January 6, 2004 and Staff provided a submission on January 16, 2004.

Staff Submissions

10. The Applicant has not met the requirements of Rule 31-506 and for a period of almost two years, Norlyn has not been able to satisfy the membership requirements of the MFDA.

11. At each point where either a temporary exemption from the Rule was granted and when terms and conditions were imposed on its registration, Norlyn has made verbal assurances that it would be a matter of weeks to correct the problems. In each instance Norlyn has not received membership with the MFDA.

Applicant's Submissions

12. Mr. Gauthier submitted that completion of the financial questionnaire for the MFDA was all that was required to gain membership. He planned to submit an unaudited version of the questionnaire on January 6, 2004. This would be followed by an audited version in a few weeks.

Decision

13. In addition to the written submissions provided to me, I contacted the MFDA and learned that Norlyn had not yet been accepted into membership. Based on submissions and the additional information from the MFDA, I deny to renew the registration of Norlyn as a Mutual Fund Dealer.

14. Once Norlyn receives membership in the MFDA, it can apply to have its registration reinstated.

January 26, 2004.

"David M. Gilkes"

Chapter 4

Cease Trading Orders

4.2.1 Management & Insider Cease Trading Orders

Company Name	Date of Order or Temporary Order	Date of Hearing	Date of Extending Order	Date of Lapse/ Expire	Date of Issuer Temporary Order
Atlas Cold Storage Income Trust	02 Dec 03	15 Dec 03	15 Dec 03		
Richtree Inc.	23 Dec 03	05 Jan 04	05 Jan 04		

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Chapter 6

Request for Comments

6.1.1 Request for Comment - Proposed Amendments to National Instrument 44-101 Short Form Prospectus Distributions, Form 44-101F3 Short Form Prospectus and Companion Policy 44-101CP

REQUEST FOR COMMENT
PROPOSED AMENDMENTS TO NATIONAL INSTRUMENT 44-101 SHORT FORM PROSPECTUS DISTRIBUTIONS, FORM 44-101F3 SHORT FORM PROSPECTUS AND COMPANION POLICY 44-101CP

Introduction

We (the members of the Canadian Securities Administrators (CSA)) are publishing for comment proposed amendments to National Instrument 44-101 *Short Form Prospectus Distributions* (the Instrument). We are also publishing for comment amendments to related forms and amendments to the companion policy.

Additional information on the proposed amendments to the Instrument, required for publication in Ontario, can be found in the form of notice published in the OSC Bulletin or on its Website at www.osc.gov.on.ca.

Substance, Purpose and Background

Subject to ministerial approval, on March 30, 2004, National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency* (NI 52-107*)* will be effective. NI 52-107 allows in certain circumstances financial statements to be prepared using foreign generally accepted accounting principles and financial statements to be audited using foreign generally accepted auditing standards. The Instrument requires all financial statements to be prepared using Canadian generally accepted accounting principles and financial statements to be audited using Canadian generally accepted auditing standards. As a result, we are proposing amendments to the Instrument to make it consistent with NI 52-107.

Summary of the Proposed Amendments to the Instrument

The proposed amendments will

- update the definitions in the Instrument,
- delete references to matters that will be dealt with in NI 52-107, and
- basically repeal Part 7 of the Instrument dealing with accounting principles, auditing standards, auditors' reports and other financial statement matters, and replace this part with a reference to NI 52-107.

Alternatives Considered

No other alternatives were considered.

Unpublished Materials

No unpublished study, report, or other written materials were relied on in proposing the amendments to this Instrument.

Anticipated Costs and Benefits

The purpose of the proposed amendments is to eliminate inconsistencies with existing rules and increases the number of acceptable accounting principles and auditing standards. Consequently, the proposed amendments to the Instrument reduce the cost of compliance for issuers and registrants.

Request for Comments

We welcome your comments on the proposed amendments to the Instrument and the Policy.

Please submit your comments in writing on or before April 29, 2004. If you are not sending your comments by email, a diskette containing the submissions (in Windows format, Word) should also be forwarded.

Address your submission to all of the CSA member commissions, as follows:

British Columbia Securities Commission
Alberta Securities Commission
Saskatchewan Financial Services Commission
Manitoba Securities Commission
Ontario Securities Commission
Office of the Administrator, New Brunswick
Registrar of Securities, Prince Edward Island
Nova Scotia Securities Commission
Newfoundland and Labrador Securities Commission
Registrar of Securities, Northwest Territories
Registrar of Securities, Yukon Territory
Registrar of Securities, Nunavut

Deliver your comments **only** to the addressed that follow. Your comments will be forwarded to the remaining CSA member jurisdictions.

John Stevenson
Secretary to the Commission
Ontario Securities Commission
20 Queen Street West
19th Floor, Box 55
Toronto, Ontario
Fax: (416) 593-2318
e-mail: jstevenson@osc.gov.on.ca

Denise Brosseau, Secretary
Commission des valeurs mobilières du Québec
Stock Exchange Tower
800 Victoria Square
P.O. Box 246, 22nd Floor
Montreal, Quebec
H4Z 1G3
Fax: (514) 864-6381
e-mail: consultation-en-cours@cvmq.com

We cannot keep submissions confidential because securities legislation in certain provinces requires publication of a summary of the written comments received during the comment period.

Questions

Please refer your questions to any of:

Carla-Marie Hait
Chief Accountant, Corporate Finance
British Columbia Securities Commission
(604) 899-6726 or (800) 373-6393 (if calling from B.C. or Alberta)
chait@bcsc.bc.ca

Michael Moretto
Associate Chief Accountant, Corporate Finance
British Columbia Securities Commission
(604) 899-6767 or (800) 373-6393 (if calling from B.C. or Alberta)
mmoretto@bcsc.bc.ca

Fred Snell
Chief Accountant
Alberta Securities Commission
(403) 297-6553
fred.snell@seccom.ab.ca

Mavis Legg
Manager, Securities Analysis
Alberta Securities Commission
(403) 297-2663
mavis.legg@seccom.ab.ca

Charlotte Howdle
Securities Analyst
Alberta Securities Commission
(403) 297-2990
charlotte.howdle@seccom.ab.ca

Bob Bouchard
Director, Corporate Finance
Manitoba Securities Commission
(204) 945-2555
bbouchard@gov.mb.ca

Bill Slattery
Deputy Director, Corporate Finance and Administration
Nova Scotia Securities Commission
(902) 424-7355
slattejw@gov.ns.ca

Laura Moschitto
Chief Accountant's Office
Ontario Securities Commission
(416) 593-8217
lmoschitto@osc.gov.on.ca

Rosetta Gagliardi
Conseillère en réglementation
Commission des valeurs mobilières du Québec
(514) 940-2199 ext. 4554
rosetta.gagliardi@cvmq.com

Sylvie Anctil-Bavas, Analyste
Service de l'expertise comptable
Commission des valeurs mobilières du Québec
(514) 940-2199 ext. 4556
sylvie.anctil-bavas@cvmq.com

Eric Boutin
Anaylste
Commission des valeurs mobilières du Québec
(514) 940-2199 ext. 4338
eric.boutin@cvmq.com

Ian McIntosh
Deputy Director, Corporate Finance
Saskatchewan Financial Services Commission – Securities Division
(306) 787-5867
imcintosh@sfsc.gov.sk.ca

The text of the proposed amendments to the Instrument follows or can be found elsewhere on a CSA member website.

January 30, 2004.

6.1.2 Proposed Amendments to National Instrument 44-101 Short Form Prospectus Distributions and Form 44-101F3 and Companion Policy 44-101CP

PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 44-101
SHORT FORM PROSPECTUS DISTRIBUTIONS
AND FORM 44-101F3

Part 1 Amendments to National Instrument 44-101

1.1 Amendments to Part 1 of NI 44-101 - ***Part 1 of National Instrument 44-101 is amended by,***

(a) in section 1.1, repealing the definition of "*auditor's report*", "foreign auditor's report", "foreign GAAP" and "foreign GAAS";

(b) in section 1.1, repealing the definition of "*executive officer*" and substituting the following:

"executive officer" with respect to a person or company means an individual who is

(a) a chair of the person or company,

(b) a vice-chair of the person or company,

(c) the president of the person or company,

(d) a vice-president of the person or company in charge of a principal business unit, division or function including sales, finance or production,

(e) an officer of the person or company or any of its subsidiaries who performed a policy-making function in respect of the person or company, or

(f) any other individual who performed a policy-making function in respect of the person or company;

(c) in section 1.1, adding immediately after the definition of "*NI 51-102*" and immediately before the definition of "*non-convertible*" the following:

"NI 52-107" means National Instrument 52-107, *Acceptable Accounting Principles, Auditing Standards and Reporting Currency.*

(d) in section 1.1, repealing the definition of "*U.S. GAAS*" and substituting the following:

"US GAAS" means generally accepted auditing standards in the United States of America, as supplemented by the SEC's rules on auditor independence.

1.2 Amendments to Part 4 of National Instrument 44-101– ***Part 4 of National Instrument 44-101 is amended by,***

(a) in section 4.12, striking the words "*shall be accompanied by an auditor's report without a reservation of opinion*" and substituting "*must be audited*".

(b) repealing section 4.13 and substituting the following:

Despite section 4.12, interim financial statements of a business included in a short form prospectus under this Part are not required to be audited.

(c) repealing section 4.14 and substituting the following:

Despite section 4.12, an issuer may omit from its short form prospectus an audit report from the acquired business' auditor for the annual financial statements of a business required under subsection 4.8(3), if the financial statements have not been audited.

(d) repealing section 4.15 and substituting the following:

Despite section 4.12, an issuer may omit from its short form prospectus an audit report from the acquired business' auditor for the annual financial statements of a business included in the short form prospectus, other than for the most recently completed financial year of the business for which financial statements are included in the short form prospectus, if

(a) those financial statements were previously included in a short form prospectus of the issuer without an audit report from the acquired business' auditor as permitted by this Instrument or pursuant to an exemption granted under this Instrument; and

(b) the financial statements have not been audited by the acquired business' auditor.

1.3 Amendments to Part 5 of National Instrument 44-101– ***Part 5 of National Instrument 44-101 is amended by,***

(a) in section 5.6, striking the words "*shall be accompanied by an auditor's report without a reservation of opinion*" and substituting "*must be audited*".

(b) repealing section 5.7 and substituting the following:

Despite section 5.6, interim financial statements of a business included in a short form prospectus under this Part are not required to be audited.

(c) striking section 5.8 and substituting the following:

Despite section 5.6, an issuer may omit from its short form prospectus an audit report from the issuer's auditor for the financial information or financial statements of a business referred to under subsection 5.3(2), if no audit report has been issued by the issuer's auditor on the financial information or financial statements.

1.4 Amendments to Part 7 of National Instrument 44-101 – ***Part 7 of National Instrument 44-101 is amended by,***

(a) repealing sections 7.1, 7.2, 7.4 and 7.5, and substituting the following:

7.1 The financial statements of a person or company that are included in a short form prospectus shall be prepared in accordance with NI 52-107."

(b) Renumbering section 7.3 as section 7.2.

(c) in section 7.2, striking the words "*shall be accompanied by an auditor's report without reservation*" and substituting "*must be audited*".

1.5 Amendments to Part 10 of National Instrument 44-101 – ***Part 10 of National Instrument 44-101 is amended by repealing item 10.2(b)7.***

Part 2 Amendment to Form 44-101F3 to National Instrument 44-101

2.1 Amendment to Item 20 of Form 44-101F3 to National Instrument 44-101 – ***Item 20 of Form 44-101F3 to National Instrument 44-101 is amended by repealing Item 20, and substituting the following:***

If financial statements prepared in other than Canadian GAAP are included in the short form prospectus and a reconciliation to Canadian GAAP has not been incorporated by reference in the short form prospectus, include in the short form prospectus the reconciliation to Canadian GAAP required under paragraph 4.1 or 5.1 of NI 52-107.

Part 3 Effective Date

3.1 Effective Date

This Amendment comes into force on ●, 2004.

PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 44-101
SHORT FORM PROSPECTUS DISTRIBUTIONS
COMPANION POLICY 44-101CP

Part 1 Amendments to Company Policy to National Instrument 44-101

1.1 Amendments to Part 4 of Companion Policy to National Instrument 44-101 - ***Part 4 of the Company Policy to National Instrument 44-101 is amended by, in section 4.3, deleting the words "*****be accompanied by an auditor's report without a reservation of opinion*****" and substituting "***must be audited***".***

1.2 Amendments to Part 6 of Company Policy to National Instrument 44-101 – ***Part 6 of the Company Policy to National Instrument 44-101 is amended by repealing sections 6.1 and 6.2, and substituting the following:***

6.1 The financial statements of a person or company that are included in a short form prospectus shall be prepared in accordance with NI 52-107 with reference to the Company Policy to NI 52-107.

Part 2 Effective Date

2.1 Effective Date

This Amendment comes into force on ●, 2004.

Chapter 7

Insider Reporting

This chapter is available in the print version of the OSC Bulletin, as well as as in Carswell's internet service SecuritiesScource (see www.carswell.com).

This chapter contains a weekly summary of insider transactions of Ontario reporting issuers in the System for Electronic Disclosure by Insiders (SEDI). The weekly summary contains insider transactions reported during the seven days ending Sunday at 11:59 pm.

To obtain Insider Reporting information, please visit the SEDI website (www.sedi.ca).

Chapter 8

Notice of Exempt Financings

Exempt Financings

The Ontario Securities Commission reminds issuers and other parties relying on exemptions that they are responsible for the completeness, accuracy, and timely filing of Forms 45-501F1 and 45-501F2, and any other relevant form, pursuant to section 27 of the *Securities Act* and OSC Rule 45-501 ("Exempt Distributions").

REPORTS OF TRADES SUBMITTED ON FORM 45-501F1

Transaction Date	Purchaser	Security	Total Purchase Price ($)	Number of Securities
08-Jan-2004	Gerald Davies	Acuity Pooled Balanced Fund - Trust Units	25,002.24	1,435.00
07-Jan-2004 13-Jan-2004	3 Purchasers	Acuity Pooled Conservative Asset Allocation - Trust Units	386,804.45	26,469.00
08-Jan-2004	John Broos	Acuity Pooled Growth and Income Fund - Trust Units	50,000.00	5,025.00
08-Jan-2004 13-Jan-2004	7 Purchasers	Acuity Pooled High Income Fund - Trust Units	1,020,686.93	57,887.00
09-Jan-2004 13-Jan-2004	3 Purchasers	Acuity Pooled Income Trust Fund - Trust Units	304,345.10	21,770.00
19-Dec-2003	David Durnan	Arrow Energy Ltd. - Flow-Through Shares	9,900.00	11,000.00
22-Dec-2003	72 Purchasers	Augen Limited Partnership - Units	3,345,000.00	33,450.00
05-Dec-2003	31 Purchasers	Augen Limited Partnership - Units	620,000.00	62,000.00
21-Apr-2004	10 Purchasers	Burgundy Balanced Foundation Fund - Units	6,862,077.00	574,911.00
01-Jan-2003 31-Dec-2003	114 Purchasers	Burgundy Japan Fund - Units	62,869,392.58	6,291,987.00
01-Apr-2003 31-Dec.2003	41 Purchasers	Burgundy Pension Trust Fund - Units	8,912,371.57	621,373.00
01-Jan-2003 31-Dec-2003	9 Purchasers	Burgundy RCA Fund - Units	1,771,851.80	110,538.00
01-Jan-2003 31-Dec-2003	89 Purchasers	Burgundy Small Cap Value Fund - Units	24,369,766.21	458,097.00
01-Jan-2003 31-Dec.2003	144 Purchasers	Burgundy Small Cap Value Fund - Units	30,924,387.68	245,735.00

01-Jan-2003 31-Dec-2003	6 Purchasers	Burgundy Special Japan Fund - Units	90,132,198.73	7,614,071.00
31-Dec-2003	5 Purchasers	Canadian Public Venture Capital I Inc. - Common Shares	312,500.00	1,250,000.00
11-Dec-2003	3 Purchasers	COSS Systems Inc. - Debentures	2,010,201.00	3.00
06-Jan-2004	Creststreet Capital Corporation	Creststreet Power & Income Fund LP - Option	1.00	1.00
06-Jan-2003	Creststreet Power Hodings Limited	Creststreet Power & Income Fund LP - Shares	1.00	19,400.00
31-Dec-2003	10 Purchasers	Cusac Gold Mines Ltd. - Units	262,175.00	750,500.00
19-Aug-2003	9 Purchasers	Dynamic Fuel Systems Inc. - Common Shares	300,998.50	54,727.00
18-Nov-2003	3 Purchasers	Dynamic Fuel Systems Inc. - Common Shares	166,999.50	19,647.00
12-Jan-2004	4 Purchasers	Excalibur Limited Partnership - Limited Partnership Units	1,592,000.00	7.00
12-Jan-2004	LH Enterprises Company Inc.;Lawrence Curtis	Exeter Resources Corporation - Units	30,000.00	30,000.00
31-Dec-2003 01-Dep-2003	3 Purchasers	Fisgard Capital Corporation - Units	964.00	9,640.00
17-Dec-2003	James Steel	Grayphon Gold Corporation - Common Shares	4,250.00	20,000.00
16-Jan-2004	Cinram International Inc.	HSBC Short Term Investment Fund - Units	1,000,000.00	10.00
15-Jan-2004	Hamblin Watsa Investment Counsel Ltd.	H&R Real Estate Investment Trust - Units	25,000,001.03	1,849,605.00
16-Dec-2003 23-Dec-2003	4 Purchasers	IMAGIN Diagnostics, Inc. - Common Shares	18,000.00	18,000.00
01-Jan-2004	Amr Bannis	IMAGIN Diagnostics, Inc. - Common Shares	10,000.00	10,000.00
07-Jan-2003 15-Jan-2004	5 Purchasers	IMAGIN Diagnostics, Inc. - Common Shares	31,000.00	31,000.00
31-Dec-2003	Ahamed Ismail;Sprott Asset Management Inc.	Island Mountain Gold Mines Ltd. - Units	510,000.00	5,100,000.00
23-Dec-2003	4 Purchasers	Kelso Technologies Inc. - Common Shares	29,950.03	272,273.00
11-Dec-2003	New Generation Biotech (Equity) Fund Inc.	Millenium Biologix Inc. - Convertible Debentures	2,000,000.00	1.00
01-Jan-2003	8 Purchasers	MMCAP Limited Partnership Fund - Limited Partnership Units	4,460,124.00	2,474.00
19-Dec-2003	Creststreet Power and Income Fund LP	Mount Copper Wind Power Energy Inc. - Shares	62,120.04	347,767.00

24-Dec-2003	Creststreet Power and Income Fund LP	Mount Copper Wind Power Energy Inc. - Shares	3,355,455.00	1,677,722.00
15-Dec-2003	Optima International Trust Compnay Ltd.	Passion Media Inc. - Shares	10,000.00	100,000.00
06-Jan-2004	Creststreet Capital Corporation	Pubnico Point Wind Farm Inc. - Shares	20,000.00	30,600.00
02-Sep-2003 23-Sep-2003	3 Purchasers	QSA Enterprise Fund - Units	168,500.00	23,648.00
07-Jan-2003	12 Purchasers	QSA Select Canadian Equity Fund - Units	1,022,400.00	138,431.00
11-Mar-2003 24-Dec-2003	146 Purchasers	QSA US Large Cap Value 50 Cdn$ Fund - Units	10,307,959.26	2,072,047.00
08-Jan-2004 14-Jan-2004	Richrd holt;B.J. Stahl	Recognia Inc. - Notes	22,654.41	21,654.00
03-Dec-2003	Latinvest Capital Limited	RNC Gold Inc. - Common Shares	600,001.00	517,000.00
02-Dec-2003	Latinvest Capital Limited	RNC Gold Inc. - Common Shares	1.00	33,000.00
01-Apr-2003 01-Dec-2003	25 Purchasers	Silvercreek Limited Partnership - Units	4,538,766.06	63.00
31-Jan-2003	20 Purchasers	Sprott Bull/Bear RSP Fund - Units	1,636,264.23	308,957.00
28-Feb-2003	23 Purchasers	Sprott Bull/Bear RSP Fund - Units	1,190,747.40	222,524.00
31-Mar-2003	5 Purchasers	Sprott Bull/Bear RSP Fund - Units	510,330.39	101,596.00
30-Apr-2003	5 Purchasers	Sprott Bull/Bear RSP Fund - Units	488,416.47	109,265.00
30-Jun-2003	4 Purchasers	Sprott Bull/Bear RSP Fund - Units	475,400.00	117,259.00
29-Aug-2003	Shambleau Elizabeth	Sprott Bull/Bear RSP Fund - Units	13,615.53	3,060.00
31-Oct-2003	Little Donald;Fuhrer Marcel	Sprott Bull/Bear RSP Fund - Units	350,000.00	72,765.00
30-Nov-2003	3 Purchasers	Sprott Bull/Bear RSP Fund - Units	274,100.00	55,486.00
31-Jan-2003	21 Purchasers	Sprott Hedge Fund Limited Partnership II - Units	11,226,116.72	1,185,150.00
28-Feb-2003	10 Purchasers	Sprott Hedge Fund Limited Partnership II - Units	2,081,072.61	217,756.00
31-Mar-2003	6 Purchasers	Sprott Hedge Fund Limited Partnership II - Units	890,021.57	100,454.00

30-Apr-2003	3 Purchasers	Sprott Hedge Fund Limited Partnership II - Units	681,290.00	87,121.00
30-Jun-2003	Rolnick Abe & Bella	Sprott Hedge Fund Limited Partnership II - Units	40,500.00	5,769.00
31-Jul-2003	O'Leary Robert & Colleen	Sprott Hedge Fund Limited Partnership II - Units	150,375.94	20,380.00
30-Sep-2003	Morassutti Gary	Sprott Hedge Fund Limited Partnership II - Units	200,080.18	24,824.00
31-Oct-2003	Trust Baldwin Family	Sprott Hedge Fund Limited Partnership II - Units	150,000.00	17,836.00
30-Nov-2003	Batty Maria;Smye Frederick T.	Sprott Hedge Fund Limited Partnership II - Units	300,000.00	34,884.00
31-Dec-2003	Wilson Judy;Willis Peter M.	Sprott Hedge Fund Limited Partnership II - Units	225,000.00	25,656.00
08-Jan-2004	17 Purchasers	Star Navigation Systems Inc. - Common Shares	1,019,129.36	8,492,744.00
09-Jan-2004	20 Purchasers	Tercero Energy Inc. - Special Warrants	2,525,567.40	1,819,524.00
02-Jan-2004	3 Purchasers	The Alpha Fund - Limited Partnership Units	1,750,000.00	14.00
08-Jan-2004	6 Purchasers	The Canadian Professionals Services Trust - Units	10,941.44	21,883.00
26-Mar-2003	Mark & Denise Kolb	The Upper Circle Equity Fund - Units	171,000.00	15,350.00
19-Mar-2003	Joel Kirsh	The Upper Circle Equity Fund - Units	64,000.00	5,745.00
29-Jan-2003	J. Main & P. Main	The Upper Circle Equity Fund - Units	100,000.00	8,696.00
18-Jan-2003	Stewart Robertson	The Upper Circle Equity Fund - Units	146,000.00	13,865.00
20-Mar-2003	Joel Kirsh	The Upper Circle Equity Fund - Units	100,000.00	9,766.00
19-Mar-2003	Judy Paradi	The Upper Circle Equity Fund - Units	180,000.00	17,578.00
14-Feb-2003	Louis Lavoie	The Upper Circle Equity Fund - Units	150,000.00	14,648.00
29-Jan-2003	Pat Main	The Upper Circle Equity Fund - Units	100,000.00	9,699.00
29-Jan-2003	James Main	The Upper Circle Equity Fund - Units	75,000.00	7,274.00
12-Jan-2004	12 Purchasers	Thermal Energy International Inc. - Common Shares	98,789.00	898,082.00

01-Jan-2003 13-Dec-2003	3 Purchasers	Twenty-First Century Funds Inc. - Units	180,031.00	16.00
31-Mar-2003 31-Dec-2003	10 Purchasers	Twenty-First Century Funds Inc. - Units	47,614.30	60.00
31-Mar-2003 31-Dec-2003	5 Purchasers	Twenty-First Century Funds Inc. - Units	309,021.04	22.00
01-Jan-2003 30-Mar-2003	8 Purchasers	Twenty-First Century Funds Inc. - Units	44,746.85	45.00
01-Jan-2003 13-Dec-2003	3 Purchasers	Twenty-First Century Funds Inc. - Units	38,283.70	15.00
13-Jan-2004	AGF Pricious Metals Fund	Tyhee Development Corp. - Units	500,000.00	1,000,000.00
31-Dec-2003	43 Purchasers	Tyhee Development Corp. - Units	2,458,025.00	3,781,576.00
02-Jan-2003	Edward Benzean	Upper Circle Equity Fund - Units	125,000.00	10,870.00
07-Jan-2003	Brian Heller	Upper Circle Equity Fund - Units	200,000.00	17,050.00
28-Mar-2003	Beverly Kupfert	Upper Circle Equity Fund - Units	156,000.00	14,054.00
09-Jan-2003	Strategic Advisors Corp	VoiceIQ Inc. - Units	325,000.00	250,000.00
29-Dec-2003	Dave Jones	Wescorp Energy Inc. - Units	112,625.27	283,334.00
14-Jan-2004	Alan L. Russell	Western Geopower Corp. - Units	12,000.00	10,000.00

NOTICE OF INTENTION TO DISTRIBUTE SECURITIES AND ACCOMPANYING DECLARATION UNDER SECTION 2.8 OF MULTILATERAL INSTRUMENT 45-102 RESALE OF SECURITIES - FORM 45-102F3

Seller	Security	Number of Securities
Larry Melnick	Champion Natural Health.com Inc. - Shares	429,665.00
Estill Holdings Limited	EMJ Data Systems Ltd. - Common Shares	344,500.00
Glen R. Estill	EMJ Data Systems Ltd. - Common Shares	2,667.00
F.D.L. & Associes Ltee	Groupe Cossette Communication Inc. - Shares	33,444.00
Xenolith Gold Limited	Kookaburra Resources Ltd. - Common Shares	59,086.00
Belinda Stronach	Magna International Inc. - Shares	677.00
Alifa Holdings Inc.	Matrikon Inc. - Common Shares	350,000.00

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Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
Brascan Corporation
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Shelf Prospectus dated January 20, 2004
Mutual Reliance Review System Receipt dated January 21, 2004
Offering Price and Description:
US$750,000,000.00 - Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #606817

Issuer Name:
Caterpillar Financial Services Limited
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Shelf Prospectus dated January 21, 2004
Mutual Reliance Review System Receipt dated January 21, 2004
Offering Price and Description:
Cdn $750,000,000.00 - Medium Term Notes (unsecured)
Unconditionally guaranteed as to principal, premium (if any),
interest and certain other amounts by CATERPILLAR FINANCIAL SERVICES CORPORATION
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
TD Securities Inc.
Promoter(s):
Capitallar Financial Services Corporation
Project #607055

Issuer Name:
CO2 Solution inc.
Principal Regulator - Quebec
Type and Date:
Preliminary Prospectus dated January 26, 2004
Mutual Reliance Review System Receipt dated January 27, 2004
Offering Price and Description:
$ 4,000,000, 5,714,286 units (maximum offering)
$ 1,500,000, 2,142,857 units (minimum offering)
Price : $ 0.70 per Unit MINIMUM SUBSCRIPTION : 2 000 Units ($ 1,400)
Underwriter(s) or Distributor(s):
CTI Capital inc.
Promoter(s):
Réjean Blais
Project #608119

Issuer Name:
Denison Energy Inc.
Principal Regulator - Alberta
Type and Date:
Preliminary Prospectus dated January 20, 2004
Mutual Reliance Review System Receipt dated January 22, 2004
Offering Price and Description:
$120,000,000.00 - Class A Common Shares Price: $ * per Class A Common Share
Underwriter(s) or Distributor(s):
Peters & Co. Limited
FirstEnergy Capital Corp.
RBC Dominion Securities Inc.
Promoter(s):
-
Project #607343

Issuer Name:
Dividend 15 Split Corp.
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated January 20, 2004
Mutual Reliance Review System Receipt dated January 21, 2004
Offering Price and Description:
$ * (Maximum) * Preferred Shares and * Class A Shares Price: $10.00 per Preferred Share and $15.00 per Class A Share
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
TD Securities Inc.
National Bank Financial Inc.
Canaccord Capital Corporation
Desjardins Securities Inc.
Dundee Securities Corporation
First Associates Investments Inc.
HSBC Securities (Canada) Inc.
Raymond James Ltd.
Bieber Securities Inc.
Promoter(s):
Quadravest Capital Management Inc.
Project #606997

Issuer Name:
Faircourt Split Seven Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated January 23, 2004
Mutual Reliance Review System Receipt dated January 23, 2004
Offering Price and Description:
Maximum $ * - Prices: $15 per Unit $10 per Preferred security
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
RBC Dominion Securities Inc.
National Bank Financial Inc.
Scotia Capital Inc.
TD Securities Inc.
Dundee Securities Corporation
First Associates Investments Inc.
HSBC Securities (Canada) Inc.
Raymond James Ltd.
Canaccord Capital Corporation
Desjardins Securities Inc.
Wellington West Capital Inc.
Promoter(s):
Faircourt Asset Management Inc.
Project #607642

Issuer Name:
First Quantum Minerals Ltd
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated January 26, 2004
Mutual Reliance Review System Receipt dated January 26, 2004
Offering Price and Description:
$56,000,000.00 - 3,500,000 Common Shares Price: 16.00 per Common Share
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
Canaccord Capital Corporation
Haywood Securities Inc.
National Bank Financial Inc.
Promoter(s):
-
Project #608199

Issuer Name:
Gateway Casinos Income Fund
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated January 26, 2004
Mutual Reliance Review System Receipt dated January 26, 2004
Offering Price and Description:
$62,800,000.00 - 4,000,000 Units Price: $15.70 per Offered Unit
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
RBC Dominion Securities Inc.
TD Securities Inc.
First Associates Investments Inc.
Promoter(s):
Gateway Casinos Inc.
Project #607981

Issuer Name:
Newmont Mining Corporation
Principal Regulator - Ontario
Type and Date:
Preliminary MJDS Prospectus dated January 23, 2004
Mutual Reliance Review System Receipt dated January 26, 2004
Offering Price and Description:
US $1,000,000,000
We may offer by this prospectus the following securities for sale:
* Common Stock
* Preferred Stock
* Warrants to purchase Common Stock
* Senior Debt Securities guaranteed by our subsidiary, Newmont USA Limited
* Subordinated Debt Securities guaranteed by our subsidiary, Newmont USA Limited
* Warrants to purchase Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #607818

Issuer Name:
Newmont Mining Corporation
Principal Regulator - Ontario
Type and Date:
Preliminary MJDS Prospectus dated January 23, 2004
Mutual Reliance Review System Receipt dated January 26, 2004
Offering Price and Description:
US$200,000,000
* Common Stock and
* Warrants to purchase Common Stock.
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #607834

Issuer Name:
Ontario Capital Opportunities Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary CPC Prospectus dated January 20, 2004
Mutual Reliance Review System Receipt dated January 22, 2004
Offering Price and Description:
$300,000.00 - 1,000,000 Common Shares Price: $0.30 per Common Share
Underwriter(s) or Distributor(s):
Raymond James Ltd.
Promoter(s):
Timothy Gallagher
Project #607348

Issuer Name:
Preferred Securities Limited Duration Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated January 23, 2004
Mutual Reliance Review System Receipt dated January 23, 2004
Offering Price and Description:
Cdn.$ (MAXIMUM) US$ (MAXIMUM)
* SERIES A UNITS * SERIES B UNITS
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
TD Securities Inc.
BMO Nesbitt Burns Inc.
RBC Dominion Securities Inc.
National Bank Financial Inc.
Scotia Capital Inc.
HSBC Securities (Canada) Inc.
Canaccord Capital Corporation
Desjardins Securities Inc.
Dundee Securities Corporation
First Associates Investments Inc.
Raymond James Ltd.
Wellington West Capital Inc.
Promoter(s):
First Asset Funds Inc.
Project #607656

Issuer Name:
UBS Global Allocation Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated January 21, 2004
Mutual Reliance Review System Receipt dated January 21, 2004
Offering Price and Description:
Maximum: $ * (Units)
Price: $10.00 per Unit
Minimum Purchase: 100 Units
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
Scotia Capital Inc.
TD Securities Inc.
Canaccord Capital Corporation
Desjardins Securities Inc.
Dundee Securities Corporation
First Associates Investments Inc.
HSBC Securities (Canada) Inc.
Raymond James Ltd.
Research Capital Corp.
Promoter(s):
UBS Global Asset Management (Canada) Co.
Project #607012

Issuer Name:
YM BioSciences Inc.
Type and Date:
Preliminary Long Form Prospectus dated January 23, 2004
Receipted on January 26, 2004
Offering Price and Description:
$19,067,401.00 - 10,895,658 COMMON SHARES AND 5,447,829 WARRANTS ISSUABLE UPON THE EXERCISE OF 10,895,658 PREVIOUSLY ISSUED SPECIAL WARRANTS
Underwriter(s) or Distributor(s):
First Associates Investments Inc.
Vengate Capital Partners Company
Promoter(s):
-
Project #607833

Issuer Name:
Aber Diamond Corporation
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated January 26, 2004
Mutual Reliance Review System Receipt dated January 26, 2004
Offering Price and Description:
Cdn.$74,625,000.00 - 1,500,000 Common Shares PRICE Cdn.$49.75 PER COMMON SHARE
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
Promoter(s):
-
Project #605583

Issuer Name:
APF Energy Trust
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated January 27, 2004
Mutual Reliance Review System Receipt dated January 27, 2004
Offering Price and Description:
$55,274,000.00 - 4,765,000 Trust Units $11.60 Per Trust Unit
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
CIBC World Markets Inc.
National Bank Financial Inc.
BMO Nesbitt Burns Inc.
RBC Dominion Securities Inc.
Canaccord Capital Corporation
Dundee Securities Corporation
GMP Securities Ltd.
Promoter(s):
-
Project #606367

Issuer Name:
BONAVISTA ENERGY TRUST
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated January 22, 2004
Mutual Reliance Review System Receipt dated January 22, 2004
Offering Price and Description:
$100,000,000.00 - 7.50% Convertible Unsecured Subordinated Debentures
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
RBC Dominion Securities Inc.
TD Securities Inc.
BMO Nesbitt Burns Inc.
Scotia Capital Inc.
FirstEnergy Capital Corp.
Peters & Co. Limited
Promoter(s):
-
Project #605421

Issuer Name:
Brandes International Equity Fund II
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated January 23, 2004
Mutual Reliance Review System Receipt dated January 26, 2004
Offering Price and Description:
Class I Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
Brandes Investment Partners & Co
Project #598825

Issuer Name:
Breakwater Resources Ltd.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated January 21, 2004
Mutual Reliance Review System Receipt dated January 21, 2004
Offering Price and Description:
$40,000,000.60 - 57,142,858 Units Price: $0.70 per Unit
Underwriter(s) or Distributor(s):
GMP Securities Ltd.
Canaccord Capital Corporation
Dundee Securities Corporation
Haywood Securities Inc.
McFarlane Gordon Inc.
Maison Placements Canada Inc.
Promoter(s):
-
Project #604775

Issuer Name:
Calloway Real Estate Investment Trust
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated January 27, 2004
Mutual Reliance Review System Receipt dated January 27, 2004
Offering Price and Description:
$115,500,000.00 - 8,400,000 Units Price: $13.75 per Unit
Underwriter(s) or Distributor(s):
TD Securities Inc.
CIBC World Markets Inc.
RBC Dominion Securities Inc.
Desjardins Securities Inc.
Scotia Capital Inc.
Canaccord Capital Corporation
National Bank Financial Inc.
HSBC Securities (Canada) Inc.
Promoter(s):
-
Project #606416

Issuer Name:
Canadian Medical Discoveries Fund Inc.
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated January 16, 2004 to Final Prospectus dated November 13, 2003
Mutual Reliance Review System Receipt dated January 21, 2004
Offering Price and Description:
Class A Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #582212

Issuer Name:
Defiant Energy Corporation
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated January 23, 2004
Mutual Reliance Review System Receipt dated January 23, 2004
Offering Price and Description:
13,800,000.00 - 3,000,000 Common Shares Price: $4.60 per Common Share
Underwriter(s) or Distributor(s):
Research Capital Corporation
CIBC World Markets Inc.
Canaccord Capital Corporation
National Bank Financial Inc.
Octagon Capital Corporation
Raymond James Ltd.
TD Securities Inc.
Maison Placements Canada Inc.
Promoter(s):
-
Project #606072

Issuer Name:
Duvernay Oil Corp.
Principal Regulator - Alberta
Type and Date:
Final Prospectus dated January 22, 2004
Mutual Reliance Review System Receipt dated January 23, 2004
Offering Price and Description:
$52,500,000.00 - 5,000,000 Common Shares Price: $10.50 per Common Share
Underwriter(s) or Distributor(s):
Peters & Co. Limited
FirstEnergy Capital Corp.
Promoter(s):
-
Project #598887

Issuer Name:
Fareport Capital Inc.
Type and Date:
Final Long Form Prospectus dated January 21, 2004
Receipted on January 23, 2004
Offering Price and Description:
$1,002,000.00 - 8,350,000 Units (Each Unit is comprised of one Common Share
and one-half of one Common Share Purchase Warrant)
Underwriter(s) or Distributor(s):
Standard Securities Corporation
Promoter(s):
Robert Donaldson
Project #598200

Issuer Name:
Harvest Energy Trust
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated January 21, 2004
Mutual Reliance Review System Receipt dated January 21, 2004
Offering Price and Description:
$50,000,000.00 - 9% Convertible Unsecured Subordinated Debentures
Underwriter(s) or Distributor(s):
National Bank Financial Inc.
CIBC World Markets Inc.
FirstEnergy Capital Corp.
Haywood Securities Inc.
TD Securities Inc.
Canaccord Capital Corporation
Promoter(s):
M. Bruce Chernoff
Kevin A. Bennett
Project #605425

Issuer Name:
John Deere Credit Inc.
Principal Regulator - Ontario
Type and Date:
Final Short Form Shelf Prospectus dated January 21, 2004
Mutual Reliance Review System Receipt dated January 22, 2004
Offering Price and Description:
Cdn. $1,000,000,000.00 - Medium Term Notes (Unsecured) Unconditionally guaranteed as to payment of principal, premium (if any), interest and certain other amounts by
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
TD Securities Inc.
Merrill Lynch Canada Inc.
Promoter(s):
-
Project #604524

Issuer Name:
NAV Energy Trust
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated January 21, 2004
Mutual Reliance Review System Receipt dated January 22, 2004
Offering Price and Description:
5,000,000.00 - Trust Units @ $10.00
Underwriter(s) or Distributor(s):
Natinal Bank Financial Inc.
TD Securities Inc.
RBC Dominion Securities Inc.
FirstEnergy Capital Corp.
Sprott Securities Inc.
Promoter(s):
-
Project #604261

Issuer Name:
New Millennium Venture Fund Inc.
Type and Date:
Final Prospectus dated January 15, 2004
Receipted on January 23, 2004
Offering Price and Description:
Venture Shares (Class A Shares, Series II)
Underwriter(s) or Distributor(s):
New Millennium Internet Ventures Fund Inc.
Promoter(s):
CFPA Sponsor Inc.
Triax Management Services Inc.
Project #599246

Issuer Name:
Pan American Silver Corp.
Principal Regulator - British Columbia
Type and Date:
Final Short Form Shelf Prospectus dated January 26, 2004
Mutual Reliance Review System Receipt dated January 27, 2004
Offering Price and Description:
Cdn$45,819,960.00 - Common Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #604020

Issuer Name:
Provident Energy Trust
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated January 22, 2004
Mutual Reliance Review System Receipt dated January 22, 2004
Offering Price and Description:
$50,400,000.00 - 4,500,000 Trust Units
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
National Bank Financial Inc.
BMO Nesbitt Burns Inc.
TD Securities Inc.
RBC Dominion Securities Inc.
Canaccord Capital Corporation
Desjardins Securities Inc.
FirstEnergy Capital Corp.
HSBC Securities (Canada) Inc.
Promoter(s):
-
Project #605401

Issuer Name:
Ritchie Bros. Auctioneers Incorporated
Principal Regulator - British Columbia
Type and Date:
Final Short Form Base PREP Prospectus dated January 23, 2004
Mutual Reliance Review System Receipt dated January 23, 2004
Offering Price and Description:
US$ ¬ 1,739,130 common shares Price: US$ ¬ per common share
Underwriter(s) or Distributor(s):
Raymond James Ltd.
CIBC World Markets Inc.
Scotia Capital Inc.
Promoter(s):
-
Project #605703

Issuer Name:
Scandinavian Gold Limited
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated January 23, 2004
Mutual Reliance Review System Receipt dated January 26, 2004
Offering Price and Description:
A Minimum of 2,500,000 Units and a Maximum of 2,850,000 Units and 696,000 Common Shares and 696,000 Series “A” Share Purchase Warrants issuable upon the exercise of 696,000 previously issued Special Warrants
Underwriter(s) or Distributor(s):
Union Securities Ltd.
Promoter(s):
-
Project #591247

Issuer Name:
Synergy American Growth Class
Synergy Global Growth Class
Synergy Global Style Management Class
of
Synergy Global Fund Inc.
Synergy Extreme Canadian Equity Fund
Principal Regulator - Ontario
Type and Date:
Amendment #4 dated January 20, 2004 to Final Simplified Prospectuses and Annual Information Forms dated August 25, 2003
Mutual Reliance Review System Receipt dated January 26, 2004
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
CI Mutual Funds Inc.
Project #558906

Issuer Name:
WGI Heavy Minerals, Incorporated
Principal Regulator - British Columbia
Type and Date:
Final Short Form Prospectus dated January 23, 2004
Mutual Reliance Review System Receipt dated January 23, 2004
Offering Price and Description:
$37,975,000.00 - 3,500,000 Common Shares Issuable Upon the Exercise of 3,500,000 Special Warrants
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
Haywood Securities Inc.
First Associates Investments Inc.
Sprott Securities Inc.
Promoter(s):
-
Project #605624

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Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
New Registration	Tower Asset Management Inc.	Investment Counsel & Portfolio Manager	January 23, 2004
New Registration	H&R Block Canada Financial Services, Inc.	Scholarship Plan Dealer	January 26, 2004
New Registration	Elysium Wealth Management Inc.	Extra-Provincial Investment Counsel & Portfolio Manager	January 20, 2004
New Registration	Pro-Hedge Funds Inc.	Limited Market Dealer	January 21, 2004
New Registration	Mr. Peter Eric Gold, Calsi Investments Inc.	Director & Trading Officer, President & CEO	January 27, 2004
Change of Category	Jarislowsky, Fraser Limited	From: Investment Counsel & Portfolio Manager To: Investment Counsel & Portfolio Manager & Limited Market Dealer	November 7, 2003

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Chapter 13

SRO Notices and Disciplinary Proceedings

13.1.1 RS Request for Comments - Amendments to the Rules and Policies Related to Manipulative and Deceptive Activities

REQUEST FOR COMMENTS

MANIPULATIVE AND DECEPTIVE ACTIVITIES

Summary

The Board of Directors of Market Regulation Services Inc. ("RS") has approved a series of amendments to the Universal Market Integrity Rules ("UMIR") and the Policies to vary the requirements related to manipulative and deceptive activities by:

- modifying the language to achieve greater clarity and consistency;
- providing for consistency with the requirements related to manipulative and deceptive activities under National Instrument 23-101 ("CSA Trading Rules") and applicable securities legislation;
- confirming the "gatekeeper" obligations of Participants and Access Persons including the requirement to report to RS significant violations of UMIR;
- eliminating potential gaps that may be caused by the current rule which combines both manipulative "effects" and "methods" in a single requirement.

Rule-Making Process

RS has been recognized as a self-regulatory organization by the Alberta Securities Commission, British Columbia Securities Commission, Manitoba Securities Commission, Ontario Securities Commission and the Commission des valeurs mobilières du Québec (the "Recognizing Regulators") and, as such, is authorized to be a regulation services provider for the purposes of the National Instrument 21-101 ("Marketplace Operation Instrument") and the CSA Trading Rules.

As a regulation services provider, RS will administer and enforce trading rules for the marketplaces that retain the services of RS. RS has adopted, and the Recognizing Regulators have approved, UMIR as the integrity trading rules that will apply in any marketplace that retains RS as its regulation services provider. Presently, RS has been retained to be the regulation services provider for the Toronto Stock Exchange ("TSX") and TSX Venture Exchange ("TSX VE"), as recognized exchange ("Exchanges"), for Bloomberg Tradebook Canada Company ("Bloomberg"), as an alternative trading system ("ATS"), and Canadian Trading and Quotation System ("CNQ") as a quotation and trade reporting system ("QTRS").

The Rules Advisory Committee of RS ("RAC") reviewed the proposed amendments related to manipulative and deceptive activities and recommended their adoption by the Board of Directors. RAC is an advisory committee comprised of representatives of each of: the marketplaces for which RS acts as a regulation services provider; Participants; institutional investors and subscribers; and the legal and compliance community. The amendments to the Rules and Policies will be effective upon approval of the changes by the Recognizing Regulators following public notice and comment. Comments on the proposed amendments should be in writing and delivered within 30 days of the date of publication of this notice by the Recognizing Regulators to:

James E. Twiss,
Senior Counsel,
Market Policy and General Counsel,
Market Regulation Services Inc.,
Suite 900,
P.O. Box 939,
145 King Street West,
Toronto, Ontario. M5H 1J8

Fax: 416.646.7265
e-mail: james.twiss@rs.ca

A copy should also be provided to Recognizing Regulators by forwarding a copy to:

Cindy Petlock
Manager, Market Regulation
Capital Markets Branch
Ontario Securities Commission
Suite 800, Box 55,
20 Queen Street West
Toronto, Ontario. M5H 3S8

Fax: (416) 595-8940
e-mail: cpetlock@osc.gov.on.ca

Background to the Proposed Amendments

Early in 2003, RS formed the Staff Working Group on Manipulative and Deceptive Trading comprised of RS staff in both the Eastern and Western Regions in surveillance, investigations and enforcement together with staff from Market Policy and General Counsel. The Staff Working Group undertook a comprehensive review of the current provisions in UMIR related to manipulative and deceptive trading and recommended a number of changes to the Rules and Policies, the most significant of which are:

- ***Changes to Rule 1.1 - Definition of "Requirement"***

  It is proposed that the definition of "Requirement" be specifically expanded to include "securities legislation". In accordance with the Marketplace Operation Instrument, Marketplace Rules must contain a provision that requires compliance with securities legislation. Since an ATS can not have rules, the expansion of the definition under UMIR ensures that trades undertaken through an ATS are subject to the same requirements as a trade through an Exchange or QTRS.

- ***Changes to Rule 2.2 and Policies 2.2 – Manipulative and Deceptive Activities***

  Presently Rule 2.2 prohibits a Participant or Access Person using any manipulative or deceptive method of trading which creates or could reasonably be expected to create a false or misleading appearance of trading activity or an artificial price. The amendments propose to provide two separate prohibitions. The first is a prohibition on use of a manipulative or deceptive method of trading (irrespective of whether the use of the method creates a false or misleading appearance of trading activity or an artificial price). The second prohibits the entry of an order or the execution of a trade if the person knows or ought to know that the result would be to create a false or misleading appearance of trading activity or an artificial price.

  The amendment also clarifies that the entry of an order could be prohibited even though the order does not trade as the entry of the order could create a false or misleading appearance of interest in the purchase or sale of the security or an artificial ask price or bid price.

  The amendments also confirm that orders entered or trades made by a person in accordance with Market Maker Obligations imposed by Marketplace Rules will not be considered to be a violation of manipulative or deceptive trading restrictions. In this way, trades or orders which are automatically generated by the trading system of a marketplace will not be prohibited. However, the entry of orders or the execution of trades which are not required to fulfill Market Maker Obligations may violate the prohibitions on manipulative or deceptive trading.

  The amendments propose to move the specific examples of prohibited activities from the Rules to the Policies to be consistent with the structure of other rules in UMIR. The amendments also propose to expand the list of specific examples to include a prohibition on entering orders without the ability or the reasonable expectation of making settlement of the resulting trade. The CSA Trading Rules contain comparable prohibitions for trading which is not subject to UMIR.

- ***Introduction of Rule 2.3 – Improper Orders and Trades***

  The changes would introduce a new provision that would prohibit the entry of an order or the execution of a trade in circumstances where the Participant or Access Person knew or ought to have known that the order or trade would not be in compliance with various regulatory requirements. For example, if a Participant knows or ought to know that a client is entering an order for a security based on undisclosed material information related to that security (which action by the client would be contrary to securities legislation), the Participant would itself be in non-compliance with the requirements of UMIR.

- ***Changes to Rule 7.1 and Policy 7.1 – Trading Supervision Obligation***

  One of the proposed amendments to Policy 7.1 would clarify that the supervision obligation imposed on a Participant by Rule 7.1 exists irrespective of the source of the order or the means by which the order is transmitted to a marketplace. The proposal would specifically require the supervision policies and compliance procedures to take into account the additional difficulties faced by Participants where there is direct order entry by clients.

  An additional proposed change to Policy 7.1 would require a Participant when they have detected a violation or possible violation of a Requirement to address whether additional supervision is appropriate or whether their policies and procedures should be amended to reduce the possibility of a similar future violation.

  The proposed amendment would require that the supervisory system adopted by a Participant to specifically address several matters related to manipulative and deceptive activities. In particular, a Participant would be expected to have procedures to:

  - determine whether orders are being entered by insiders or other persons with an "interest" in affecting the price of a security;
  - monitor trading activity by persons with multiple accounts;
  - adopt additional compliance procedures in circumstances when the Participant is unable to verify certain information regarding an account (e.g. the ultimate beneficial ownership of the account); and
  - address the additional risks resulting from the fact that efforts to manipulate a security are more often likely to:
    - occur at the end of a calendar month or on the expiry of derivatives; or
    - be centred on illiquid securities.

- ***Changes to Rule 10.4 – Extension of Restrictions***

  The proposed amendment to Rule 10.4 is consequential on the changes in terminology used in Rule 2.2 and the introduction of Rule 2.3. As such, various persons including directors, officers and employees of a Participant or an Access Person will be prohibited from the entry of an order or the execution of a trade which such person knows or ought to know does not comply with regulatory requirements.

- ***Introduction of Rule 10.16 and Policy 10.16 – Gatekeeper Obligations of Directors, Officers and Employees of Participants and Access Persons***

  The proposed amendment would introduce a specific rule related to the "gatekeeper" obligations imposed on a Participant or Access Person and their respective directors, officers and employees. These persons would be expected to report activity which may be a violation of a "fundamental" integrity rule to their respective supervisor or compliance department. In turn, the supervisor or compliance department would be expected to make a written record of the report and to investigate the report and record the relevant findings, and where appropriate, inform the Market Regulator. While this type of "gatekeeper" obligation may have been implied in the conduct of the affairs of market participants, the proposal specifically sets out the standard in the form of a rule and identifies the rules which are considered "fundamental" for Participants and for Access Persons.

Summary of the Impact of the Proposed Amendments

If the proposed amendments are adopted:

- Participants would be required to review and revise their policies and procedures to specifically address:
  - the introduction of gatekeeper obligation with its attendant obligation to conduct internal investigations into possible violations of UMIR, to maintain records of all investigations and to report findings of potential violations; and
  - certain identified fact situations where manipulative and deceptive activities are most likely to occur.
- Access Persons would be required to adopt policies and procedures to accommodate the introduction of a more limited gatekeeper obligation applicable to an Access Person.

- A new rule would be introduced which would specifically prohibit the entry of an order or the execution of a trade in circumstances where the Participant or Access Person knew or ought to have known that the order or trade would not be in compliance with various regulatory requirements. The application of this new rule would be extended to directors, officers and employees of the Participant or Access Person and other related persons by virtue of proposed amendments to Rule 10.4.

Appendices

The text of the amendments to the Rules and Policies to vary a number of provisions related to manipulative and deceptive activities is set out in Appendix "A". Appendix "B" contains the text of the relevant provisions of the Rules and Policies as they would read on the adoption of the amendments. Appendix "B" also contains a marked version of the current provisions highlighting the changes being introduced by the amendments together with a brief explanation of the reason for each of the proposed changes.

Questions

Questions concerning this notice may be directed to:

James E. Twiss,
Senior Counsel,
Market Policy and General Counsel,
Market Regulation Services Inc.,
Suite 900,
P.O. Box 939,
145 King Street West,
Toronto, Ontario. M5H 1J8

Telephone: 416.646.7277
Fax: 416.646.7265
e-mail: james.twiss@rs.ca

ROSEMARY CHAN,
VICE PRESIDENT, MARKET POLICY AND GENERAL COUNSEL

Appendix "A"

Universal Market Integrity Rules

Amendments to the Rules and Policies
Related to Manipulative and Deceptive Activities

The Universal Market Integrity Rules are amended as follows:

1. Rule 1.1 is amended by adding the following as clause (f) of the definition of "Requirements":

   (f) securities legislation.

2. Rule 2.2 is deleted and the following substituted:

   Manipulative and Deceptive Activities

   (1) A Participant or Access Person shall not, directly or indirectly, engage in or participate in the use of any manipulative or deceptive method, act or practice in connection with any order or trade on a marketplace if the Participant or Access Person knows or ought to know the nature of the method, act or practice.

   (2) A Participant or Access Person shall not, directly or indirectly, enter an order or execute a trade on a marketplace if the Participant or Access Person knows or ought to know that the entry of the order or the execution of the trade will create or could reasonably be expected to create:

      (a) a false or misleading appearance of trading activity in or interest in the purchase or sale of the security; or

      (b) an artificial ask price, bid price or sale price for the security or a related security.

   (3) For greater certainty, the entry of an order or the execution of a trade on a marketplace by a person in accordance with the Market Maker Obligations shall not be considered a violation of subsection (1) or (2) provided such order or trade complies with applicable Marketplace Rules and the order or trade was required to fulfill applicable Market Maker Obligations.

3. Part 2 of the Rules is amended by adding the following as Rule 2.3:

   Improper Orders and Trades

   A Participant or Access Person shall not enter an order on a marketplace or execute a trade if the Participant or Access Person knows or ought to know that that the entry of the order or the execution of the trade would not comply with or would result in the violation of:

   (a) applicable securities legislation;

   (b) applicable requirements of any self-regulatory organization of which the Participant or Access Person is a member;

   (c) the Marketplace Rules of the marketplace on which the order is entered;

   (d) the Marketplace Rules of the marketplace on which the trade is executed; and

   (e) the Rules and Policies.

4. Clause (2)(a) of Rule 7.1 is amended by inserting the phrase ", acceptance" after the word "review".

5. Rule 10.4 is amended:

   (a) in clause (1)(a) by inserting the phrase "2.3," after "2.2" and by deleting the phrase "method of trading" and substituting the word "activities"; and

   (b) in clause (2)(a) by inserting the phrase ", 2.3" after "2.2" and by deleting the phrase "method of trading" and substituting the word "activities".

6. Part 10 of the Rules is amended by inserting the following as Rule 10.16:

Gatekeeper Obligations of Directors, Officers and Employees of Participants and Access Persons

(1) Prior to the entry of an order on a marketplace by a Participant, the officer, director, partner or employee who receives or originates the order or who enters the order on a marketplace shall comply with:

(a) applicable regulatory standards with respect to the review, acceptance and approval of orders;

(b) the policies and procedures adopted by the Participant in accordance with Rule 7.1; and

(c) all requirements of these Rules and each Policy.

(2) An officer, director, partner or employee of a Participant shall forthwith report to their supervisor or the compliance department of the Participant upon becoming aware of activity in a principal, non-client or client account of the Participant or a related entity that the officer, director, partner or employee believes may be a violation of:

(a) Subsection (1) of Rule 2.1 respecting just and equitable principles of trade;

(b) Rule 2.2 respecting manipulative and deceptive activities;

(c) Rule 2.3 respecting improper orders and trades;

(d) Rule 3.1 respecting short selling;

(e) Rule 4.1 respecting frontrunning;

(f) Rule 5.1 respecting best execution of client orders;

(g) Rule 5.2 respecting best price obligation;

(h) Rule 5.3 respecting client priority;

(i) Rule 6.3 respecting exposure of client orders;

(j) Rule 6.4 respecting trades to be on a marketplace;

(k) Rule 8.1 respecting client-principal trading; and

(l) any Requirement that has been designated by the Market Regulator for the purposes of this subsection.

(3) An officer, director, partner or employee of an Access Person shall forthwith report to their supervisor or the compliance department of the Access Person becoming aware of activity by the Access Person or a related entity that the officer, director, partner or employee believes may be a violation of:

(a) Subsection (2) of Rule 2.1 respecting conduct of business openly and fairly;

(b) Rule 2.2 respecting manipulative and deceptive activities;

(c) Rules 2.3 respecting improper orders or trades;

(d) Rule 3.1 respecting short selling; and

(e) any Requirement that has been designated by the Market Regulator for the purposes of this subsection.

(4) If a supervisor or compliance department of a Participant or Access Person receives a report in accordance with subsection (2) or (3), the Participant or Access Person shall:

(a) make a written record of the report by the officer, director, partner or employee;

(b) diligently investigate the activity that is the subject of the report;

(c) make a written record of the findings of the investigation; and

(d) report the findings of the investigation to the Market Regulator if the finding of the investigation is that a violation of an applicable Rule may have occurred.

(5) Each Participant and Access Person shall with respect to the record of the report and the record of the findings required by subsection (4):

(a) retain the record for a period of not less than seven years from the creation of the record; and

(b) allow the Market Regulator to inspect and make copies of the record at any time during ordinary business hours during the period that such record is required to be retained in accordance with clause (a).

(6) The obligation of a Participant or an Access Person to report findings of an investigation under subsection (4) is in addition to any reporting obligation that may exist in accordance with applicable securities legislation, the requirements of any self-regulatory entity and any applicable Marketplace Rules.

The Policies under Universal Market Integrity Rules are amended as follows:

1. Part 1 of Policy 2.2 is deleted and the following substituted:

Part 1 – Manipulative or Deceptive Method, Act or Practice

There are a number of activities which, by their very nature, will be considered to be a manipulative or deceptive method, act or practice. For the purpose of subsection (1) of Rule 2.2 and without limiting the generality that subsection, the following activities when undertaken on a marketplace constitute a manipulative or deceptive method, act or practice:

(a) making a fictitious trade;

(b) effecting a trade in a security which involves no change in the beneficial or economic ownership;

(c) effecting trades by a single interest or group with the intent of limiting the supply of a security for settlement of trades made by other persons except at prices and on terms arbitrarily dictated by such interest or group; and

(d) purchasing a security with the intention of making a sale of the same or a different number of units of the security or a related security on a marketplace at a price which is below the price of the last sale of a standard trading unit of such security displayed in a consolidated market display.

If persons know or ought to know that they are engaging or participating in these or similar types of activities those persons will be in breach of subsection (1) of Rule 2.2 irrespective of whether such method, act or practice results in a false or misleading appearance of trading activity or interest in the purchase or sale of a security or an artificial ask price, bid price or sale price for a security or a related security.

2. Policy 2.2 is amended by adding the following Parts:

Part 2 – False or Misleading Appearance of Trading Activity or Artificial Price

For the purposes of subsection (2) of Rule 2.2 and without limiting the generality of that subsection, if any of the following activities are undertaken on a marketplace and create or could reasonably be expected to create a false or misleading appearance of trading activity or interest in the purchase or sale of a security or an artificial ask price, bid price or sale price, the entry of the order or the execution of the trade shall constitute a violation of subsection (2) of Rule 2.2:

(a) entering an order or orders for the purchase of a security with the knowledge that an order or orders of substantially the same size, at substantially the same time and at substantially the same price for the sale of that security, has been or will be entered by or for the same or different persons;

(b) entering an order or orders for the sale of a security with the knowledge that an order or orders of substantially the same size, at substantially the same time and at substantially the same price for the purchase of that security, has been or will be entered;

(c) making purchases of, or offers to purchase, a security at successively higher prices or in a pattern generally of successively higher prices;

(d) making sales of or offers to sell a security at successively lower prices or in a pattern generally of successively lower prices;

(e) entering an order or orders for the purchase or sale of a security to:

(i) establish a predetermined sale price, ask price or bid price,

(ii) effect a high or low closing sale price, ask price or bid price, or

(iii) maintain the sale price, ask price or bid price within a predetermined range;

(f) entering an order or a series of orders for a security that are not intended to be executed;

(g) entering an order for the purchase of a security without, at the time of entering the order, having the ability or the reasonable expectation to make the payment that would be required to settle any trade that would result from the execution of the order; and

(h) entering an order for the sale of a security without, at the time of entering the order, having the ability or the reasonable expectation to make delivery of the securities that would be required to settle any trade that would result from the execution of the order.

Part 3 – Artificial Pricing

For the purposes of subsection (2) of Rule 2.2, an ask price, bid price or sale price will be considered artificial if it is not justified by real demand or supply in a security. Whether or not a particular price is "artificial" depends on the particular circumstances.

Some of the relevant considerations in determining whether a price is artificial are:

(a) the prices of the preceding trades and succeeding trades;

(b) the change in the last sale price, best ask price or best bid price that results from the entry of the order on a marketplace;

(c) the recent liquidity of the security;

(d) the time the order is entered and any instructions relevant to the time of entry of the order; and

(e) whether any Participant, Access Person or account involved in the order:

(i) has any motivation to establish an artificial price, or

(ii) represents substantially all of the orders entered or executed for the purchase or sale of the security.

The absence of any one or more of these considerations is not determinative that a price is or is not artificial.

3. Part 1 of Policy 7.1 is amended by adding the following at the end:

The obligation to supervise applies whether the order is entered on a marketplace:

- by a trader employed by the Participant,
- by an employee of the Participant through an order routing system,
- directly by a client and routed to a marketplace through the trading system of the Participant, or

- by any other means.

The Participant will act as a "gatekeeper" with responsibility to ensure that each order complies with all applicable Requirements.

Where an order is entered on a marketplace without the involvement of a trader (for example by a client with a systems interconnect arrangement in accordance with Policy 2-501 of the Toronto Stock Exchange), the Participant retains responsibility for that order and the supervision policies and procedures should adequately address the additional exposure which the Participant has for orders that are not directly handled by staff of the Participant.

4. Part 2 of Policy 7.1 is amended by deleting numbered paragraph 6 and substituting the following:

6. Identify the steps the Participant will take when a violation or possible violation of a Requirement or any regulatory requirement has been identified. These steps shall include the procedure for the reporting of the violation or possible violation to the Market Regulator as required by Rule 10.16. If there has been a violation or possible violation of a Requirement identify the steps that would be taken to determine if:

   - additional supervision should be instituted for the employee, the account or the business line that may be have been involved with the violation or possible violation of a Requirement; and

   - the written policies and procedures that have been adopted by the Participant should be amended to reduce the possibility of a future violation of the Requirement.

5. Policy 7.1 is amended by adding the following as Part 5:

Part 5 – Specific Procedures Respecting Manipulative and Deceptive Activities and Reporting and Gatekeeper Obligations

Each Participant must develop and implement compliance procedures to ensure that orders entered on a marketplace by or through a Participant are not part of a manipulative or deceptive method, act or practice nor an attempt to create an artificial price or a false or misleading appearance of trading activity or interest in the purchase or sale of a security. The minimum compliance procedures for trading supervision in connection with Rule 2.2 and Policy 2.2 are set out in the table to Part 3 of this Policy.

In particular, the procedures must address:

- the steps to be undertaken to determine whether or not a person entering an order is:
  - an insider,
  - an associate of an insider, and
  - part of or an associate of a promotional group or other group with an interest in effecting an artificial price, either for banking and margin purposes, for purposes of effecting a distribution of the securities of the issuer or for any other improper purpose;
- the steps to be taken to monitor the trading activity of any person who has multiple accounts with the Participant including other accounts in which the person has an interest or over which the person has direction or control;
- those circumstances when the Participant is unable to verify certain information (such as the beneficial ownership of the account on behalf of which the order is entered);
- the fact that orders which are intended to or which effect an artificial price are more likely to appear at the end of a month, quarter or year or on the date of the expiry of options where the underlying interest is a listed security; and
- the fact that orders which are intended to or which effect an artificial price or a false or misleading appearance of trading activity or investor interest are more likely to involve securities with limited liquidity.

Each Participant also must adopt written procedures to be followed by directors, officers and employees of the Participant with respect to the gatekeeper obligations of the Participant pursuant to Rule 10.16.

6. The Policies are amended by adding the following as Policy 10.16:

Policy 10.16 Gatekeeper Obligations of Directors, Officers and Employees of Participants and Access Persons

Part 1 - Applicable Regulatory Standards

Each Participant that is a dealer must be a member of a self-regulatory organization. Most Participants will be a member of the Investment Dealers Association ("IDA") and will be subject to the provisions of Regulation 1300 which requires under paraqraph 1300.1(a) that each member of the IDA "use due diligence to learn and remain informed of the essential facts relative to every customer and to every order or account accepted." In addition to Regulation 1300, the IDA has established Policy No. 2 – Minimum Standards for Retail Account Supervision and Policy No. 4 – Minimum Standards for Institutional Account Opening, Operation and Supervision that may apply to the opening and operation of various accounts at a Participant. While knowledge by a Participant of "essential facts" of every customer and order is necessary to determine the suitability of any investment for a client, the IDA requirement is not limited to that single application. The exercise of due diligence to learn essential facts "relative to every customer and to every order" is a central component of the "Gatekeeper Obligation" under the Rules which is designed to ensure that entry of orders and trading complies with:

- applicable regulatory requirements and standards;
- the trading supervision policies and procedures of the Participant; and
- the Rules and Policies including the prohibitions against manipulative and deceptive activities under Rule 2.2.

In addition, securities legislation applicable in a jurisdiction may impose review standards on Participants respecting orders and accounts. In British Columbia for example, Rule 48(1) made pursuant to the *Securities Act* (British Columbia) requires registrants, with certain exceptions, to make enquiries concerning each client to learn the essential facts relative to every client, including the identity and, if applicable, creditworthiness of the client and the reputation of the client if information known to the registrant causes doubt as to whether the client is of good business or financial reputation.

The regulatory standards that may apply to a particular order may vary depending upon a number of circumstances including:

- the requirements of any self-regulatory organization of which the Participant is a member;
- the type of account from which the order is received or originated; and
- the securities legislation in the jurisdiction applicable to the order.

Appendix "B"

Universal Market Integrity Rules

Text of Rules and Policies to Reflect Proposed Amendments

Related to Manipulative and Deceptive Trading

And Commentary on Proposed Amendments

Text of Provisions Following Adoption of Proposed Amendments	Text of Current Provisions Marked to Reflect Adoption of Proposed Amendments	Commentary on Proposed Amendments
1.1 Definitions **"Requirements"** means, collectively: (a) these Rules; (b) the Policies; (c) the Trading Rules; (d) the Marketplace Rules; (e) any direction, order or decision of the Market Regulator or a Market Integrity Official; and (f) securities legislation, as amended, supplemented and in effect from time to time.	**1.1 Definitions** **"Requirements"** means, collectively: (a) these Rules; (b) the Policies; (c) the Trading Rules; (d) the Marketplace Rules; ~~and~~ (e) any direction, order or decision of the Market Regulator or a Market Integrity Official~~;~~ and (f) securities legislation, as amended, supplemented and in effect from time to time.	The Marketplace Operation Instrument requires an Exchange or a QTRS to have rules that mandate compliance with securities legislation and, as such, these requirements can be enforced under UMIR as a Marketplace Rule. The inclusion of a requirement for compliance with securities legislation in UMIR ensures that trades undertaken through an ATS are subject to the same requirement.
2.2 Manipulative and Deceptive Activities (1) A Participant or Access Person shall not, directly or indirectly, engage in or participate in the use of any manipulative or deceptive method, act or practice in connection with any order or trade on a marketplace if the Participant or Access Person know or ought to know the nature of the method, act or practice. (2) A Participant or Access Person shall not, directly or indirectly enter an order or execute a trade on a marketplace if the Participant or Access Person knows or ought to know that the entry of the order or the execution of the trade will create or could reasonably be expected to create:	**2.2 Manipulative and~~or~~ Deceptive Activities~~Method of Trading~~** (1) A Participant or Access Person shall not, directly or indirectly, engage in or participate in the use of any manipulative or deceptive method, act or practice in connection with any order or trade on a marketplace if the Participant or Access Person know or ought to know the nature of the method, act or practice. (~~1~~2) A Participant or Access Person shall not, directly or indirectly~~, use nor knowingly facilitate nor participate in the use of any manipulative or deceptive method of trading in connection with the entry of~~ enter an order or ~~orders to~~ execute a trade on a marketplace if the Participant or Access Person knows or ought to know that the entry of	Under the proposed amendment, the present manipulation rule would be disaggregated into a "method" and an "effects" rule. The present UMIR rule combines different approaches in a single rule. Under the proposal, subsection (1) deals with an unacceptable "method, act or practice" and subsection (2) deals with the unacceptable "effects". The proposed Rule 2.2(1) prohibits the use of "any manipulative or deceptive method, act or practice". This key expression is well understood in securities regulatory context and similar to prior rules on the TSX, Canadian Venture Exchange ("CDNX"), Vancouver Stock Exchange ("VSE"), Alberta Stock Exchange ("ASE"), and securities legislation in Canadian provinces. The key expression includes the new words "acts or practices" since this consistent with the "Purpose of Rules" requirements

Text of Provisions Following Adoption of Proposed Amendments	Text of Current Provisions Marked to Reflect Adoption of Proposed Amendments	Commentary on Proposed Amendments
(a) a false or misleading appearance of trading activity or interest in the purchase or sale of the security; or (b) an artificial ask price, bid price or sale price for the security or a related security. (3) For greater certainty, the entry of an order or the execution of a trade on a marketplace by a person in accordance with the Market Maker Obligations shall not be considered a violation of subsection (1) or (2) provided such order or trade complies with applicable Marketplace Rules and the order or trade was required to fulfill applicable Market Maker Obligations.	the order or the execution of the trade will create ~~for the purchase or sale of any security which creates~~ or ~~which~~ could reasonably be expected to create: (a) a false or misleading appearance of trading activity or interest in the purchase or sale of the security; or (b) an artificial ask price, bid price or sale price for the security or a related security. (3) For greater certainty, the entry of an order or the execution of a trade on a marketplace by a person in accordance with the Market Maker Obligations shall not be considered a violation of subsection (1) or (2) provided such order or trade complies with applicable Marketplace Rules and the order or trade was required to fulfill applicable Market Maker Obligations.	under subclause 7(b)(i) of applicable Recognition Orders of RS. The key expression is also comparable to the "manipulative or deceptive device or contrivance" language of the US Securities Exchange Act (s 10 and rule 10b-5) and the "manipulative, deceptive or other fraudulent device or contrivance" language of NASD Conduct Rule 2120. The proposed rule is flexible enough to evolve (through panel decisions and rule amendments) to deal with new manipulative methods. This is because trading techniques used to manipulate prices must be keyed to market structure as well as trading and contracting practices. Thus, manipulative techniques change as structures and practices evolve and manipulative techniques vary among markets. A narrow rule may impair the ability of RS to prevent manipulative acts and practices. Unlike section 10b-5 and NASD rule 2120, there is the additional requirement that the Participant or Access Person "know or ought to know the nature of the method". The jurisdiction of RS as a self-regulatory organization is limited to Participants and Access Persons and directors, officers and employees of Participants and Access Persons and certain related entities. This language is considered appropriate as the primary violator may be a client and the role of the Participant or Access Person is essentially "aiding and abetting". Nonetheless, the language is equally applicable to a Participant or Access Person who engages in a manipulative or deceptive method of trading as principal. The proposed Rule 2.2(2) prohibits certain "effects" which are the result of manipulative or deceptive methods. The "effects" of creating a "false or misleading appearance" of trading activity or interest in a security or an "artificial price" are well understood expressions in securities regulatory context and consistent with prior rules on the TSX, CDNX, VSE, ASE, the CSA Trading Rules and securities legislation in Canadian provinces.

Text of Provisions Following Adoption of Proposed Amendments	Text of Current Provisions Marked to Reflect Adoption of Proposed Amendments	Commentary on Proposed Amendments
		The proposed amendment clarifies that the entry of orders may be considered "manipulative or deceptive" even though the orders do not trade if the entry of the orders creates or could reasonably be expected to create a false or misleading appearance of "interest" in the purchase or sale of a security. The proposed amendment also clarifies that the creation of an "artificial price" is not limited to a "sale price" and that the artificial price may be an "ask price" or a "bid price". The proposed amendment will further clarify that the entry of orders by persons with Market Maker Obligations will not be considered to be manipulative or deceptive if the entry of the order or the execution of the trade is required in accordance with their market making obligations. In particular, the obligation on market makers to maintain a two-sided market may see a market maker entering orders on both sides of the market at approximately the same price.
Policy 2.2 Manipulative and Deceptive Activities **Part 1 - Manipulative or Deceptive Method, Act or Practice** There are a number of activities which, by their very nature, will be considered to be a manipulative or deceptive method, act or practice. For the purpose of subsection (1) or Rule 2.2 and without limiting the generality of that subsection, the following activities when undertaken on a marketplace constitute a manipulative or deceptive method, act or practice: (a) making a fictitious trade; (b) effecting a trade in a security which involves no change in the beneficial or economic ownership; (c) effecting trades by a single interest or group with the intent of limiting the supply of a security for settlement of trades made by other persons except at prices and on	**The following is currently subsection 2.2(2) of UMIR** **Policy 2.2 Manipulative and Deceptive Activities** **Part 1 - Manipulative or Deceptive Method, Act or Practice ~~of Trading~~** ~~(2)~~ There are a number of activities which, by their very nature, will be considered to be a manipulative or deceptive method, act or practice. For the purpose of subsection (1) or Rule 2.2 and w~~W~~ithout limiting the generality of that subsection ~~(1)~~, the following activities when undertaken on a marketplace constitute a manipulative or deceptive ~~and manipulative~~ method~~s~~, act or practice ~~of trading~~: (a) making a fictitious trade; (b) effecting a trade in a security which involves no	Under the proposal, provisions similar to those currently in Rules 2.2(2) and 2.2(3) would be moved to the Policies for Rule 2.2 rather than remain in the Rules. In this way, the Rule will set out the general principle and the specific examples will be included under the Policy. This is the approach used in the former TSX Rules and currently used in the Trading Rules. The approach is also internally consistent with the approach taken in Rule 2.1 – where examples of conduct inconsistent with just and equitable principles of trade are found in the Policy, rather than in the Rule itself.

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terms arbitrarily dictated by such interest or group; and (d) purchasing a security with the intention of making a sale of the same or a different number of units of the security or a related security on a marketplace at a price which is below the price of the last sale of a standard trading unit of such security displayed in a consolidated market display. If persons know or ought to know that they are engaging or participating in these or similar types of activities those persons will be in breach of subsection (1) of Rule 2.2 irrespective of whether such method, act or practice results in a false or misleading appearance of trading activity or interest in the purchase or sale of a security or an artificial ask price, bid price or sale price for a security or a related security.	change in the beneficial or economic ownership; (c) effecting trades by a single interest or group with the intent of limiting the supply of a security for settlement of trades made by other persons except at prices and on terms arbitrarily dictated by such interest or group; and (d) purchasing a security with the intention of making a sale of the same or a different number of units of the security or a related security on a marketplace at a price which is below the price of the last sale of a standard trading unit of such security displayed in a consolidated market display. If persons know or ought to know that they are engaging or participating in these or similar types of activities those persons will be in breach of subsection (1) of Rule 2.2 irrespective of whether such method, act or practice results in a false or misleading appearance of trading activity or interest in the purchase or sale of a security or an artificial ask price, bid price or sale price for a security or a related security.	
Policy 2.2 Manipulative and Deceptive Activities **Part 2 – False or Misleading Appearance of Trading Activity or Artificial Price** For the purposes of subsection (2) of Rule 2.2 and without limiting the generality of that subsection, if any of the following activities are undertaken on a marketplace and create or could reasonably be expected to create a false or misleading appearance of trading activity or interest in the purchase or sale of a security or an artificial ask price, bid price or sale price, the entry of the order or the execution of the trade shall constitute a violation of subsection	**The following is currently subsection 2.2(3) of UMIR** **Policy 2.2 Manipulative and~~or~~ Deceptive Activities~~Method of Trading~~** **Part 2 – False or Misleading Appearance of Trading Activity or Artificial Price** ~~(3)~~ For the purposes of subsection (2) of Rule 2.2 and w~~W~~ithout limiting the generality of that subsection ~~(1)~~, if any of the following activities are~~shall be considered deceptive and manipulative methods of~~	Under the proposal, provisions similar to those currently in Rules 2.2(2) and 2.2(3) would be moved to the Policies for Rule 2.2 rather than remain in the Rules. In this way, the Rule will set out the general principle and the specific examples will be included under the Policy. This is the approach used in the former TSX Rules and currently used in the CSA Trading Rules. The approach is also internally consistent with the approach taken in Rule 2.1 – where examples of conduct inconsistent with just and equitable principles of trade are found in the Policy, rather than in the Rule itself.

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(2) of Rule 2.2: (a) entering an order or orders for the purchase of a security with the knowledge that an order or orders of substantially the same size, at substantially the same time and at substantially the same price for the sale of that security, has been or will be entered by or for the same or different persons; (b) entering an order or orders for the sale of a security with the knowledge that an order or orders of substantially the same size, at substantially the same time and at substantially the same price for the purchase of that security, has been or will be entered; (c) making purchases of, or offers to purchase, a security at successively higher prices or in a pattern generally of successively higher prices; (d) making sales of or offers to sell a security at successively lower prices or in a pattern generally of successively lower prices; (e) entering an order or orders for the purchase or sale of a security to: (i) establish a predetermined sale price, ask price or bid price, (ii) effect a high or low closing sale price, ask price or bid price, or (iii) maintain the sale price, ask price or bid price within a predetermined range; (f) entering an order or series of orders for a security that are not intended to be executed; (g) entering an order for the purchase of a security without, at the time of entering the order, having the ability or the reasonable expectation to make the payment that would be required to settle any trade that would result from the execution of the order; and (h) entering an order for the sale of a security without, at the time of	~~trading when~~ undertaken on a marketplace and~~with the intention of~~ create or could reasonably be expected to create~~ing~~ a false or misleading appearance of trading activity or interest in the purchase or sale of a security or an artificial ask price, bid price or sale price, the entry of the order or the execution of the trade shall constitute a violation of subsection (2) of Rule 2.2 ~~for a security or a related security~~: (a) entering an order or orders for the purchase of a security with the knowledge that an order or orders of substantially the same size, at substantially the same time and at substantially the same price for the sale of that security, has been or will be entered by or for the same or different persons; (b) entering an order or orders for the sale of a security with the knowledge that an order or orders of substantially the same size, at substantially the same time and at substantially the same price for the purchase of that security, has been or will be entered; (c) making purchases of, or offers to purchase, a security at successively higher prices; (d) making sales of or offers to sell a security at successively lower prices; (e) entering an order or orders for the purchase or sale of a security to: (i) establish a predetermined sale price, ask price or bid price ~~or quotation~~, (ii) effect a high or low closing sale price, ask	The proposed amendment clarifies that the entry of orders may be considered "manipulative or deceptive" even though the orders do not trade if the entry of the orders creates or could reasonably be expected to create a false or misleading appearance of "interest" in the purchase or sale of a security. The proposed amendment also clarifies that the creation of an "artificial price" is not limited to a "sale price" and that the artificial price may be an "ask price" or a "bid price". The proposal will modify clause (c) so that only a "pattern generally of successively higher prices" will be required when establishing whether activity has created a false or misleading appearance of trading or artificial prices. This amendment addresses the technical defence to the wording of the current provision that not every order established a successively higher price. A similar amendment is proposed for clause (d) with respect to sales in a "pattern generally of successively lower prices". The proposal will expand the ambit of the provision to include prohibitions against "free-riding" and "kiting". This expansion will parallel similar provisions in the CSA Trading Rules. Under clause (g), the purchasers must have the ability or the reasonable expectation to make payment that would be required to settle the trade. Similarly under clause (h), the seller must have the "ability or reasonable expectation to make delivery of the securities" that would arise on the execution of any order to sell. The proposal under clause (h) does not limit the ability to make a bona fide short sale. It does not require that the vendor have borrowed the securities prior to the sale. The provision merely requires that the vendor not make a sale knowing that the securities can not be borrowed and that the vendor take "reasonable steps" to attempt to borrow the securities to make delivery on closing. Having made a short sale of a security that has failed to settle because of an inability to borrow the

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entering the order, having the ability or the reasonable expectation to make delivery of the securities that would be required to settle any trade that would result from the execution of the order.	price or bid price ~~or closing quotation~~, or (iii) maintain the sale~~trading~~ price, ask price or bid price within a predetermined range; ~~and~~ (f) entering an order or series of orders for a security that are not intended to be executed; (g) entering an order for the purchase of a security without, at the time of entering the order, having the ability or the reasonable expectation to make the payment that would be required to settle any trade that would result from the execution of the order; and (h) entering an order for the sale of a security without, at the time of entering the order, having the ability or the reasonable expectation to make delivery of the securities that would be required to settle any trade that would result from the execution of the order.	security, a person should not undertake further short sales of that security without knowing where the securities to complete the additional sales will be obtained.
Policy 2.2 Manipulative and Deceptive Activities **Part 3 – Artificial Pricing** For the purposes of subsection (2) of Rule 2.2, an ask price, bid price or sale price will be considered artificial if it is not justified by real demand or supply in a stock. Whether or not a particular price is "artificial" depends on the particular circumstances. Some of the relevant considerations in determining whether a price is artificial are: (a) the prices of the preceding and succeeding trades; (b) the change in last sale price, best ask price or best bid price that	**Policy 2.2 Manipulative and Deceptive Activities ~~Method of Trading~~** **Part 3~~1~~ – Artificial Pricing** For the purposes of subsection (2) of Rule 2.2, an ask price, bid price or sale price will be considered artificial if it is not justified by real demand or supply in a stock. Whether or not a particular price ~~or quotation~~ is "artificial" depends on the particular circumstances. ~~A price may be artificial if it is higher or lower than the previous price and the market immediately returns to that previous price following the trade. A quotation may be artificial if it raises or lowers the bid or offering, is the only bid or offering at that price and is removed without trading. However, these factors are only indications and are not on their own~~	The proposal intends to make terminology consistent with the rest of UMIR by eliminating references to "quotations" and substituting references to "bid price" and "ask price". One of the factors taken into account in the existing provision in determining whether a price is artificial is whether the market "immediately returns" to the previous price. Circumstances are such that when an "unreasonable price" has been established, the market may not "immediately" return to the prior price. For this reason, it is proposed that the word "immediately" be dropped as a component of the requirements. The proposal also intends to add as a consideration in determining whether

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results from the entry of the order; (c) the recent liquidity of the security; (d) the time the order is entered, or any instructions relevant to the time of entry of the order; and (e) whether any Participant, Access Person or account involved in the order: (i) has any motivation to establish an artificial price, or (ii) represents substantially all of the orders entered or executed for the purchase or sale of the security. The absence of any one or more of these considerations is not determinative that a price is or is not artificial.	~~evidence that a given price or quotation is artificial. Consideration will also be given to whether any Participant, Access Person or account involved in the order has any motivation to establish an artificial price.~~ Some of the relevant considerations in determining whether a~~n order is proper~~ price is artificial are: (a) the prices of the ~~immediately~~ preceding and succeeding trades; (b) the change in last sale price, best ask price or best bid price ~~or quotation~~ that ~~would~~ results from ~~carrying~~ the ~~instruction or~~ entry~~ering~~ of the order; (c) the recent liquidity of the security; (~~c~~d) the time the order is entered, or any instructions relevant to the time of entry of~~executing~~ the order; and (e) whether any Participant, Access Person or account involved in the order: (i) has any motivation to establish an artificial price, or (ii) represents substantially all of the orders entered or executed for the purchase or sale of the security. The absence of any one or more of these considerations is not determinative that a price is or is not artificial. ~~(d) the effect that such a change would have on other Participants or Access Persons who are or who have been interested in the stock; and~~ ~~(e) whether or not the person entering the order is associated with a promotional group or other group with an interest in effecting an artificial price, either for banking and margin purposes or for purposes of effecting a distribution of the securities of the issuer.~~ ~~Where the order is coming from a non principal account, the responsibility for deciding whether or not an order has~~	a price is "artificial" the recent liquidity of the security. The more liquid a security is the less likely price variations will be considered to be "artificial". The proposal would delete as a consideration the effect a price change would have on other Participants or Access Persons as this was not thought of as a relevant factor for determining whether the actions of the person should be considered "manipulative or deceptive". If a person has a bona fide reason for entering orders for a particular security, the impact of the order entry on other parties was not thought relevant as a consideration in whether the order entry was proper. On the other hand, the proposal would expand the consideration of the "motivational" factor related to the Participant, Access Person or account involved in the order. Similarly, the proposal would take into account the extent to which any Participant, Access Person or account represents substantially all of the orders or trades in the particular security at any point in time. The proposal would also clarify that all of the factors need not be present in order to prove that an order or trade established an artificial price. The provisions of the current policy on artificial prices related to the responsibility of traders in determining whether a price is artificial have been reworded and moved to the section on supervision of trading. Certain persons had attempted to interpret the current provision as "empowering" the trader to make the determination of whether an order was proper and that once such a determination was made, RS could not come to a contrary determination unless the Participant acted in bad faith in making the determination. Such an interpretation was not the intended in the drafting of the rules.

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	~~been entered with the bona fide intention of buying and selling shares or to establish an artificial price or quotation lies with the Participant, and specifically with the person(s) responsible for handling the order. Each case must be judged on its own merits. Orders which are intended to or which affect an artificial price or quotation are more likely to appear at year end of a month, quarter or year or on and the date of the expiry of options on the listed security.~~ **~~The following are currently subsections 2.2(4) and (5) of UMIR~~** ~~(4) A price will be considered artificial if the price is not justified by real demand or supply in a security.~~ ~~(5) For the purposes of subsection (4), a price in a security may be considered not justified by real demand or supply if:~~ ~~(a) the price is higher or lower than the previous price and the market immediately returns to the previous price following the trade; and~~ ~~(b) the bid price is raised or the ask price is lowered by an order which, at the time of entry, is the only order at that price and the order is cancelled prior to trading.~~	
2.3 Improper Orders and Trades A Participant or Access Person shall not enter an order on a marketplace or execute a trade if the Participant or Access Person knows or ought to know that that the entry of the order or the execution of the trade would not comply with or would result in the violation of: (a) applicable securities legislation; (b) applicable requirements of any self-regulatory organization of which the Participant or Access Person is a member;	**2.3 Improper Orders and Trades** A Participant or Access Person shall not enter an order on a marketplace or execute a trade if the Participant or Access Person knows or ought to know that that the entry of the order or the execution of the trade would not comply with or would result in the violation of: (a) applicable securities legislation; (b) applicable requirements of any self-regulatory organization of which the Participant or Access Person is a member;	The suggested provision would prohibit the entry of an order or the execution of a trade in circumstances where the Participant or Access Person knew or ought to have known that the order or trade would not be in compliance with various regulatory requirements. For example, if a Participant knows or ought to know that a client is entering an order for a security based on undisclosed material information related to that security (which action by the client would be contrary to securities legislation), the Participant would itself be in non-compliance with the requirements of UMIR.

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(c) the Marketplace Rules of the marketplace on which the order is entered; (d) the Marketplace Rules of the marketplace on which the trade is executed; and (e) the Rules and Policies.	(c) the Marketplace Rules of the marketplace on which the order is entered; (d) the Marketplace Rules of the marketplace on which the trade is executed; and (e) the Rules and Policies.	
7.1 Trading Supervision Obligations (1) Prior to the entry of an order on a marketplace by a Participant, the Participant shall comply with: (a) applicable regulatory standards with respect to the review, acceptance and approval of orders; (b) the policies and procedures adopted in accordance with subsection (1); and (c) all requirements of these Rules and each Policy.	**7.1 Trading Supervision Obligations** (1) Prior to the entry of an order on a marketplace by a Participant, the Participant shall comply with: (a) applicable regulatory standards with respect to the review, acceptance and approval of orders; (b) the policies and procedures adopted in accordance with subsection (1); and (c) all requirements of these Rules and each Policy.	Regulation 1300 of the IDA sets out requirements to be followed by dealers in the supervision of accounts. That regulation uses the phraseology of "acceptance" of orders. To ensure that Participants comply with these requirements on the entry of orders, it is proposed that Rule 7.1 be expanded to include the word "acceptance".
Policy 7.1 Trading Supervision Obligations **Part 1 – Responsibility for Supervision and Compliance** For the purposes of Rule 7.1, a Participant shall supervise its employees, directors and officers and, if applicable, partners to ensure that trading in securities on a marketplace (an Exchange, QTRS or ATS) is carried out in compliance with the applicable Requirements (which includes provisions of securities legislation, UMIR, the Trading Rules and the Marketplace Rules of any applicable Exchange or QTRS). An effective supervision system requires a strong overall commitment on the part of the Participant, through its board of directors, to develop and implement a clearly defined set of policies and procedures that are reasonably designed to prevent and detect violations of Requirements.	**Policy 7.1 Trading Supervision Obligations** **Part 1 – Responsibility for Supervision and Compliance** For the purposes of Rule 7.1, a Participant shall supervise its employees, directors and officers and, if applicable, partners to ensure that trading in securities on a marketplace (an Exchange, QTRS or ATS) is carried out in compliance with the applicable Requirements (which includes provisions of securities legislation, UMIR, the Trading Rules and the Marketplace Rules of any applicable Exchange or QTRS). An effective supervision system requires a strong overall commitment on the part of the Participant, through its board of directors, to develop and implement a clearly defined set of policies and procedures that are reasonably designed to prevent and detect violations of Requirements.	The proposal would expand the discussion of the responsibility of a Participant for supervision and compliance. In particular, the amendment would clarify that the supervision obligation exists irrespective of the source of the order or the means by which the order is transmitted to a marketplace. The proposal would specifically require the supervision policies and compliance procedures to take into account the additional difficulties faced by Participants where there is direct order entry by clients.

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The board of directors of a Participant is responsible for the overall stewardship of the firm with a specific responsibility to supervise the management of the firm. On an ongoing basis, the board of directors must ensure that the principal risks for non-compliance with Requirements have been identified and that appropriate supervision and compliance procedures to manage those risks have been implemented. Management of the Participant is responsible for ensuring that the supervision system adopted by the Participant is effectively carried out. The head of trading and any other person to whom supervisory responsibility has been delegated must fully and properly supervise all employees under their supervision to ensure their compliance with Requirements. If a supervisor has not followed the supervision procedures adopted by the Participant, the supervisor will have failed to comply with their supervisory obligations under Rule 7.1(4). When the Market Regulator reviews the supervision system of a Participant (for example, when a violation occurs of Requirements), the Market Regulator will consider whether the supervisory system is reasonably well designed to prevent and detect violations of Requirements and whether the system was followed. The compliance department is responsible for monitoring and reporting adherence to rules, regulations, requirements, policies and procedures. In doing so, the compliance department must have a compliance monitoring system in place that is reasonably designed to prevent and detect violations. The compliance department must report the results from its monitoring to the Participant's management and, where appropriate, the board of directors, or its equivalent. Management and the board of directors must ensure that the compliance department is adequately funded, staffed and empowered to fulfil these responsibilities. The obligation to supervise applies whether the order is entered on a marketplace:	The board of directors of a Participant is responsible for the overall stewardship of the firm with a specific responsibility to supervise the management of the firm. On an ongoing basis, the board of directors must ensure that the principal risks for non-compliance with Requirements have been identified and that appropriate supervision and compliance procedures to manage those risks have been implemented. Management of the Participant is responsible for ensuring that the supervision system adopted by the Participant is effectively carried out. The head of trading and any other person to whom supervisory responsibility has been delegated must fully and properly supervise all employees under their supervision to ensure their compliance with Requirements. If a supervisor has not followed the supervision procedures adopted by the Participant, the supervisor will have failed to comply with their supervisory obligations under Rule 7.1(4). When the Market Regulator reviews the supervision system of a Participant (for example, when a violation occurs of Requirements), the Market Regulator will consider whether the supervisory system is reasonably well designed to prevent and detect violations of Requirements and whether the system was followed. The compliance department is responsible for monitoring and reporting adherence to rules, regulations, requirements, policies and procedures. In doing so, the compliance department must have a compliance monitoring system in place that is reasonably designed to prevent and detect violations. The compliance department must report the results from its monitoring to the Participant's management and, where appropriate, the board of directors, or its equivalent. Management and the board of directors must ensure that the compliance department is adequately funded, staffed and empowered to fulfil these responsibilities. <u>The obligation to supervise applies whether the order is entered on a marketplace:</u>	

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• by a trader employed by the Participant, • by an employee of the Participant through an order routing system, • directly by a client and routed to a marketplace through the trading system of the Participant, or • by any other means. The Participant will act as a "gatekeeper" with responsibility to ensure that each order complies with all applicable Requirements. Where an order is entered on a marketplace without the involvement of a trader (for example by a client with a systems interconnect arrangement in accordance with Policy 2-501 of the Toronto Stock Exchange), the Participant retains responsibility for that order and the supervision policies and procedures should adequately address the additional exposure which the Participant has for orders that are not directly handled by staff of the Participant.	• by a trader employed by the Participant, • by an employee of the Participant through an order routing system, • directly by a client and routed to a marketplace through the trading system of the Participant, or • by any other means. The Participant will act as a "gatekeeper" with responsibility to ensure that each order complies with all applicable Requirements. Where an order is entered on a marketplace without the involvement of a trader (for example by a client with a systems interconnect arrangement in accordance with Policy 2-501 of the Toronto Stock Exchange), the Participant retains responsibility for that order and the supervision policies and procedures should adequately address the additional exposure which the Participant has for orders that are not directly handled by staff of the Participant.	
Policy 7.1 Trading Supervision Obligations **Part 2 – Minimum Elements of a Supervision System** … Regardless of the circumstances of the Participant, however, every Participant must: 6. Identify the steps the Participant will take when violation or possible violation of a Requirement or any regulatory requirement have been identified. These steps shall include the procedure for the reporting of the violation or possible violation to the Market Regulator as required by Rule 10.16. If there has been a violation or possible violation of a Requirement identify the steps that would be taken to determine if:	**Policy 7.1 Trading Supervision Obligations** **Part 2 – Minimum Elements of a Supervision System** … Regardless of the circumstances of the Participant, however, every Participant must: 6. Identify the steps the Participant~~a firm~~ will take when violation or possible violation~~s~~ of a Requirement~~s~~ or any ~~securities laws or other~~ regulatory requirement~~s~~ have been identified. These~~is~~ steps shall~~may~~ include the procedure for the reporting of the violation or possible violation to the Market Regulator as required by Rule 10.16. If there has been a violation or possible violation of a Requirement identify the steps that would be taken to determine if:	The purpose of trading supervision policies and compliance procedures is to ensure that trading activity is conducted in compliance with various regulatory requirements. Where violations or possible violations have been detected by a Participant, the proposal will now require that the Participants address whether additional supervision is appropriate or whether the policies and procedures should be amended to reduce the possibility of a similar future violation.

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• additional supervision should be instituted for the employee, the account or the business line that may be have been involved with the violation or possible violation of a Requirement.; and • the written policies and procedures that have been adopted by the Participant should be amended to reduce the possibility of a future violation of the Requirement.	• additional supervision should be instituted for the employee, the account or the business line that may be have been involved with the violation or possible violation of a Requirement.; and • the written policies and procedures that have been adopted by the Participant should be amended to reduce the possibility of a future violation of the Requirement. ~~cancellation of the trade, increased supervision of the employee or the business activity, internal disciplinary measures and/or reporting the violation to the Market Regulator or other regulatory organization.~~	
Policy 7.1 Trading Supervision Obligations **Part 5 – Specific Procedures Respecting Manipulative and Deceptive Activities and Reporting and Gatekeeper Obligations** Each Participant must develop and implement compliance procedures to ensure that orders entered on a marketplace by or through a Participant are not part of a manipulative or deceptive method, act or practice nor an attempt to create an artificial price or a false or misleading appearance of trading activity or interest in the purchase or sale of a security. The minimum compliance procedures for trading supervision in connection with Rule 2.2 and Policy 2.2 are set out in the table to Part 3 of this Policy. In particular, the procedures must address: • the steps to be undertaken to determine whether or not a person entering an order is: ◦ an insider, ◦ an associate of an insider, and	**Policy 7.1 Trading Supervision Obligations** **Part 5 – Specific Procedures Respecting Manipulative and Deceptive Activities and Reporting and Gatekeeper Obligations** Each Participant must develop and implement compliance procedures to ensure that orders entered on a marketplace by or through a Participant are not part of a manipulative or deceptive method, act or practice nor an attempt to create an artificial price or a false or misleading appearance of trading activity or interest in the purchase or sale of a security. The minimum compliance procedures for trading supervision in connection with Rule 2.2 and Policy 2.2 are set out in the table to Part 3 of this Policy. In particular, the procedures must address: • the steps to be undertaken to determine whether or not a person entering an order is: ◦ an insider, ◦ an associate of an insider, and	The proposal would adopt standards respecting manipulative and deceptive activities. In particular, a Participant would be expected to have procedures to determine whether orders are being entered by insiders or other persons with an "interest" in affecting the price of a security. In this regard, specific procedures would be expected to be adopted to monitor trading activity by persons with multiple accounts. A Participant would be expected to adopt additional compliance procedures in circumstances when the Participant is unable to verify certain information regarding an account (e.g. the ultimate beneficial ownership of the account). Because efforts to manipulate a security are more often likely to occur at the end of a calendar month or on the expiry of derivatives, compliance procedures should address these additional risks. Similarly, sampling procedures adopted to test for compliance should recognize that manipulative efforts are most likely to be centred on illiquid securities.

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◦ part of or an associate of a promotional group or other group with an interest in effecting an artificial price, either for banking and margin purposes, for purposes of effecting a distribution of the securities of the issuer or for any other improper purpose; • the steps to be taken to monitor the trading activity of any person who has multiple accounts with the Participant including other accounts in which the person has an interest or over which the person has direction or control; • those circumstances when the Participant is unable to verify certain information (such as the beneficial ownership of the account on behalf of which the order is entered); • the fact that orders which are intended to or which efect an artificial price are more likely to appear at the end of a month, quarter or year or on the date of the expiry of options where the underlying interest is a listed security; and • the fact that orders which are intended to or which effect an artificial price or a false or misleading appearance of trading activity or investor interest are more likely to involve securities with limited liquidity. Each Participant also must adopt written procedures to be followed by directors, officers and employees of the Participant with respect to the gatekeeper obligations of the Participant pursuant to Rule 10.16.	◦ part of or an associate of a promotional group or other group with an interest in effecting an artificial price, either for banking and margin purposes, for purposes of effecting a distribution of the securities of the issuer or for any other improper purpose; • the steps to be taken to monitor the trading activity of any person who has multiple accounts with the Participant including other accounts in which the person has an interest or over which the person has direction or control; • those circumstances when the Participant is unable to verify certain information (such as the beneficial ownership of the account on behalf of which the order is entered); • the fact that orders which are intended to or which affect an artificial price are more likely to appear at the end of a month, quarter or year or on the date of the expiry of options where the underlying interest is a listed security; and • the fact that orders which are intended to or which effect an artificial price or a false or misleading appearance of trading activity or investor interest are more likely to involve securities with limited liquidity. Each Participant also must adopt written procedures to be followed by directors, officers and employees of the Participant with respect to the gatekeeper obligations of the Participant pursuant to Rule 10.16.	
10.4 Extension of Restrictions (1) A related entity of a Participant and a director, officer, partner or employee of the Participant or a related entity of the Participant shall: (a) comply with the provisions of these Rules and any Policies with respect to just	**10.4 Extension of Restrictions** (1) A related entity of a Participant and a director, officer, partner or employee of the Participant or a related entity of the Participant shall: (a) comply with the provisions of these Rules and any Policies with respect to just	The proposal recognizes the addition of a new rule against a Participant knowingly entering improper orders. The proposed amendments to Rule 10.4 ensure that related entities and directors, officers and employees of the Participant or the related entity are subject to the restriction. Similarly, the restriction is extended to related entities and directors, officers and employees of an Access Person

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and equitable principles of trade, manipulative and deceptive activities, short sales and frontrunning as if references to "Participant" in Rules 2.1, 2.2, 2.3, 3.1 and 4.1 included reference to such person; and … (2) A related entity of an Access Person and a director, officer, partner or employee of the Access Person or a related entity of the Access Person shall in respect of trading on a marketplace on behalf of the Access Person or related entity of the Access Person: (a) comply with the provisions of these rules and any Policies with respect to just and equitable principles of trade, manipulative and deceptive activities and short sales as if references to "Access Person" in Rules 2.1, 2.2, 2.3 and 3.1 included reference to such person; and	and equitable principles of trade, manipulative and deceptive activities ~~method of trading~~, short sales and frontrunning as if references to "Participant" in Rules 2.1, 2.2, 2.3, 3.1 and 4.1 included reference to such person; and … (2) A related entity of an Access Person and a director, officer, partner or employee of the Access Person or a related entity of the Access Person shall in respect of trading on a marketplace on behalf of the Access Person or related entity of the Access Person: (a) comply with the provisions of these rules and any Policies with respect to just and equitable principles of trade, manipulative and deceptive activities ~~method of trading~~, and short sales as if references to "Access Person" in Rules 2.1, 2.2, 2.3 and 3.1 included reference to such person; and	or a related entity of the Access Person.
10.16 Gatekeeper Obligations of Directors, Officers and Employees of Participants and Access Persons (1) Prior to the entry of an order on a marketplace by a Participant, the officer, director, partner or employee who receives or originates the order or who enters the order on a marketplace shall comply with: (a) applicable regulatory standards with respect to the review, acceptance and approval of orders; (b) the policies and procedures adopted by the Participant in accordance with Rule 7.1; and	**10.16 Gatekeeper Obligations of Directors, Officers and Employees of Participants and Access Persons** (1) Prior to the entry of an order on a marketplace by a Participant, the officer, director, partner or employee who receives or originates the order or who enters the order on a marketplace shall comply with: (a) applicable regulatory standards with respect to the review, acceptance and approval of orders; (b) the policies and procedures adopted by the Participant in accordance with Rule 7.1; and	The proposal would set out in UMIR the "gatekeeper" obligations imposed on a Participant or Access Person and their respective directors, officers and employees. These persons would be expected to report activity which may be a violation of a "fundamental" integrity rule to their respective supervisor or compliance department. In turn, the supervisor or compliance department would be expected to make a written record of the report and to investigate the report and record the relevant findings, and where appropriate, inform the Market Regulator. While this type of "gatekeeper" obligation may have been implied in the conduct of the affairs of market participants, the proposal specifically sets out the standard in the form of a rule and identifies the rules which are considered "fundamental" for Participants and for Access Persons.

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(c) all requirements of these Rules and each Policy. (2) An officer, director, partner or employee of a Participant shall forthwith report to their supervisor or the compliance department of the Participant upon becoming aware of activity in a principal, non-client or client account of the Participant or a related entity that the officer, director, partner or employee believes may be a violation of: (a) Subsection (1) of Rule 2.1 respecting just and equitable principles of trade; (b) Rule 2.2 respecting manipulative and deceptive activities; (c) Rule 2.3 respecting improper orders and trades; (d) Rule 3.1 respecting short selling; (e) Rule 4.1 respecting frontrunning; (f) Rule 5.1 respecting best execution of client orders; (g) Rule 5.2 respecting best price obligation; (h) Rule 5.3 respecting client priority; (i) Rule 6.3 respecting exposure of client orders; (j) Rule 6.4 respecting trades to be on a marketplace; (k) Rule 8.1 respecting client-principal trading; and (l) any Requirement that has been designated by the Market Regulator for the purposes of this subsection.	(c) all requirements of these Rules and each Policy. (2) An officer, director, partner or employee of a Participant shall forthwith report to their supervisor or the compliance department of the Participant upon becoming aware of activity in a principal, non-client or client account of the Participant or a related entity that the officer, director, partner or employee believes may be a violation of: (a) Subsection (1) of Rule 2.1 respecting just and equitable principles of trade; (b) Rule 2.2 respecting manipulative and deceptive activities; (c) Rule 2.3 respecting improper orders and trades; (d) Rule 3.1 respecting short selling; (e) Rule 4.1 respecting frontrunning; (f) Rule 5.1 respecting best execution of client orders; (g) Rule 5.2 respecting best price obligation; (h) Rule 5.3 respecting client priority; (i) Rule 6.3 respecting exposure of client orders; (j) Rule 6.4 respecting trades to be on a marketplace; (k) Rule 8.1 respecting client-principal trading; and (l) any Requirement that has been designated by the Market Regulator for the purposes of this subsection.	Currently, Policy 7.1 requires a Participant to have policies and procedures regarding the reporting of instances of non-compliance to a Market Regulator. The addition of the proposed rule would make the reporting of instances of non-compliance mandatory for certain fundamental integrity rules. The IDA currently requires that a dealer notify the IDA if the dealer determines that there has not been compliance with certain rules of "self-regulatory organizations". While the UMIR provisions fall within the ambit of that policy, the dealer is not obligated to inform RS as RS is not a "designated self-regulatory organization" for the purposes of the IDA policy. While RS commented on this aspect of the IDA policy during its formulation, the suggestions by RS were not adopted. As such, RS needs to impose a direct reporting requirement on a Participant when the Participant determines that certain UMIR provisions may have been violated. Access Persons are not subject to the requirement to have policies and procedures under Rule 7.1 (as Access Persons do not have the same fiduciary obligations to clients as Participants). Nonetheless, Access Persons should be required to report instances of non-compliance with those fundamental integrity rules which are applicable to Access Persons. The "fundamental" market integrity rules applicable to both Participants and Access Persons regulate: • just and equitable conduct for Participants and openly and fairly for Access Persons; • manipulative and deceptive activities; • improper orders and trades; and • short sales. For Participants, the "fundamental" rules are expanded to include those

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(3) An officer, director, partner or employee of an Access Person shall forthwith report to their supervisor or the compliance department of the Access Person becoming aware of activity by the Access Person or a related entity that the officer, director, partner or employee believes may be a violation of: (a) Subsection (2) of Rule 2.1 respecting conduct of business openly and fairly; (b) Rule 2.2 respecting manipulative and deceptive activities; (c) Rules 2.3 respecting improper orders or trades; (d) Rule 3.1 respecting short selling; and (e) any Requirement that has been designated by the Market Regulator for the purposes of this subsection. (4) If a supervisor or compliance department of a Participant or Access Person receives a report in accordance with subsection (2) or (3), the Participant or Access Person shall: (a) make a written record of the report by the officer, director, partner or employee; (b) diligently investigate the activity that is the subject of the report; (c) make a written record of the findings of the investigation; and (d) report the findings of the investigation to the Market Regulator if the finding of the investigation is that a violation of an applicable Rule may have occurred.	(3) An officer, director, partner or employee of an Access Person shall forthwith report to their supervisor or the compliance department of the Access Person becoming aware of activity by the Access Person or a related entity that the officer, director, partner or employee believes may be a violation of: (a) Subsection (2) of Rule 2.1 respecting conduct of business openly and fairly; (b) Rule 2.2 respecting manipulative and deceptive activities; (c) Rules 2.3 respecting improper orders or trades; (d) Rule 3.1 respecting short selling; and (e) any Requirement that has been designated by the Market Regulator for the purposes of this subsection. (4) If a supervisor or compliance department of a Participant or Access Person receives a report in accordance with subsection (2) or (3), the Participant or Access Person shall: (a) make a written record of the report by the officer, director, partner or employee; (b) diligently investigate the activity that is the subject of the report; (c) make a written record of the findings of the investigation; and (d) report the findings of the investigation to the Market Regulator if the finding of the investigation is that a violation of an applicable Rule may have occurred.	provisions related to their fiduciary obligations to clients or their obligations to the "market" generally including rules regulating: • frontrunning; • best execution; • best price obligation; • exposure of client orders; • trades to be on marketplaces; and • client-principal trades.

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(5) Each Participant and Access Person shall with respect to the record of the report and the record of the findings required by subsection (4): (a) retain the record for a period of not less than seven years from the creation of the record; and (b) allow the Market Regulator to inspect and make copies of the record at any time during ordinary business hours during the period that such record is required to be retained in accordance with clause (a). (6) The obligation of a Participant or an Access Person to report findings of an investigation under subsection (4) is in addition to any reporting obligation that may exist in accordance with applicable securities legislation, the requirements of any self-regulatory entity and any applicable Marketplace Rules.	(5) Each Participant and Access Person shall with respect to the record of the report and the record of the findings required by subsection (4): (a) retain the record for a period of not less than seven years from the creation of the record; and (b) allow the Market Regulator to inspect and make copies of the record at any time during ordinary business hours during the period that such record is required to be retained in accordance with clause (a). (6) The obligation of a Participant or an Access Person to report findings of an investigation under subsection (4) is in addition to any reporting obligation that may exist in accordance with applicable securities legislation, the requirements of any self-regulatory entity and any applicable Marketplace Rules.	
Policy 10.16 Gatekeeper Obligations of Directors, Officers and Employees of Participants and Access Persons **Part 1 - Applicable Regulatory Standards** Each Participant that is a dealer must be a member of a self-regulatory organization. Most Participants will be a member of the Investment Dealers Association ("IDA") and will be subject to the provisions of Regulation 1300 which requires under paraqraph 1300.1(a) that each member of the IDA "use due diligence to learn and remain informed of the essential facts relative to every customer and to every order or account accepted." In addition to Regulation 1300, the IDA has established Policy No. 2 – Minimum Standards for Retail Account Supervision and Policy No. 4 – Minimum Standards for Institutional Account Opening, Operation and	**Policy 10.16 Gatekeeper Obligations of Directors, Officers and Employees of Participants and Access Persons** **Part 1 - Applicable Regulatory Standards** Each Participant that is a dealer must be a member of a self-regulatory organization. Most Participants will be a member of the Investment Dealers Association ("IDA") and will be subject to the provisions of Regulation 1300 which requires under paraqraph 1300.1(a) that each member of the IDA "use due diligence to learn and remain informed of the essential facts relative to every customer and to every order or account accepted." In addition to Regulation 1300, the IDA has established Policy No. 2 – Minimum Standards for Retail Account Supervision and Policy No. 4 – Minimum Standards for Institutional Account Opening, Operation and	The proposed amendment to the Policies would set out guidance as to the interpretation of "applicable regulatory standards" with respect to the review, acceptance and approval of orders as required by the proposed Rule 10.17 on "gatekeeper obligations". In particular, the proposed Policy confirms that the requirements of the IDA to learn "essential facts" are not limited in their application to the determination of "suitability" (particularly, where an account may be exempt from the determination of "suitability" of a trade).

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Supervision that may apply to the opening and operation of various accounts at a Participant. While knowledge by a Participant of "essential facts" of every customer and order is necessary to determine the suitability of any investment for a client, the IDA requirement is not limited to that single application. The exercise of due diligence to learn essential facts "relative to every customer and to every order" is a central component of the "Gatekeeper Obligation" under the Rules which is designed to ensure that entry of orders and trading complies with: • applicable regulatory requirements and standards; • the trading supervision policies and procedures of the Participant; and • the Rules and Policies including the prohibitions against manipulative and deceptive activities under Rule 2.2. In addition, securities legislation applicable in a jurisdiction may impose review standards on Participants respecting orders and accounts. In British Columbia for example, Rule 48(1) made pursuant to the *Securities Act* (British Columbia) requires registrants, with certain exceptions, to make enquiries concerning each client to learn the essential facts relative to every client, including the identity and, if applicable, creditworthiness of the client and the reputation of the client if information known to the registrant causes doubt as to whether the client is of good business or financial reputation. The regulatory standards that may apply to a particular order may vary depending upon a number of circumstances including: • the requirements of any self-regulatory organization of which the Participant is a member; • the type of account from which the order is received or originated; and • the securities legislation in the jurisdiction applicable to the order.	Supervision that may apply to the opening and operation of various accounts at a Participant. While knowledge by a Participant of "essential facts" of every customer and order is necessary to determine the suitability of any investment for a client, the IDA requirement is not limited to that single application. The exercise of due diligence to learn essential facts "relative to every customer and to every order" is a central component of the "Gatekeeper Obligation" under the Rules which is designed to ensure that entry of orders and trading complies with: • applicable regulatory requirements and standards; • the trading supervision policies and procedures of the Participant; and • the Rules and Policies including the prohibitions against manipulative and deceptive activities under Rule 2.2. In addition, securities legislation applicable in a jurisdiction may impose review standards on Participants respecting orders and accounts. In British Columbia for example, Rule 48(1) made pursuant to the *Securities Act* (British Columbia) requires registrants, with certain exceptions, to make enquiries concerning each client to learn the essential facts relative to every client, including the identity and, if applicable, creditworthiness of the client and the reputation of the client if information known to the registrant causes doubt as to whether the client is of good business or financial reputation. The regulatory standards that may apply to a particular order may vary depending upon a number of circumstances including: • the requirements of any self-regulatory organization of which the Participant is a member; • the type of account from which the order is received or originated; and • the securities legislation in the jurisdiction applicable to the order.	

13.1.2 RS Notice of Amendment Approval - Administrative and Editorial Amendments

MARKET REGULATION SERVICES INC.

NOTICE OF AMENDMENT APPROVAL

ADMINISTRATIVE AND EDITORIAL AMENDMENTS

Summary

Effective January 30, 2004, the Alberta Securities Commission, British Columbia Securities Commission, Manitoba Securities Commission, Ontario Securities Commission and the Commission des valeurs mobilières du Québec (the "Recognizing Regulators) approved amendments to the Universal Market Integrity Rules ("UMIR") of a generally editorial or administrative nature. The amendments correct a number of drafting errors and provide clarification to the interpretation of several sections.

Background to the Proposed Amendments

The structure and contents of UMIR represented a significant departure from the previous rules and policies of both the Toronto Stock Exchange and the TSX Venture Exchange. UMIR was the result of efforts to "harmonize" the rules of the two exchanges with the requirements of the Canadian Securities Administrators ("CSA") as set out in the draft and final versions of both National Instrument 21-101 and National Instrument 23-101. Since UMIR was approved by the Recognizing Regulators in February of 2002 as part of the recognition of RS as a self-regulatory organization, it has become apparent that there is a need for a number of minor drafting and editorial changes.

Most of the "administrative" amendments are merely clarifications in the language used in the provisions and the insertion of terminology that would otherwise be reasonably implied. The most substantive amendment extends responsibility for conduct of a Participant to the officer or employee of a Participant or Access Person that engages in conduct that results in the contravention of a requirement under UMIR is liable for the conduct. While this provision was intended to be included in UMIR, in fact this provision was omitted from the version of UMIR submitted for approval by the CSA.

Impact of the Amendments

The effect of each of the amendments is described in more detail as follows:

- *Rule 7.4 – Contract Record and Official Transaction Record*

  Rule 7.4 previously provided that the electronic record of a "trade" as provided by a marketplace to an information processor or information vendor was the official record for determining "best ask price", "best bid price" and "last sale price". The amendment corrects a drafting error as the "best bid" and "best ask" prices referenced in the Rule are based on "orders" entered on marketplaces and not "trade" prices.

- *Rule 10.3 – Extension of Responsibility*

  UMIR was drafted such that various restrictions and prohibitions apply to Participants and Access Persons. Rule 10.3 of UMIR was designed to extend the responsibility for the conduct to various parties. For example, under subsection (1) a Participant or Access Person is made responsible for the conduct of any director, officer, partner, employee of individual holding a similar position. Under subsection (2) a partner or director is made responsible for the conduct of the Participant or Access Person and under subsection (3) a supervisor is made responsible for the conduct of any supervised employee. It had been intended that the structure of Rule 10.3 would provide that an officer or employee of a Participant or Access Person that engages in conduct that results in the contravention of a Requirement is liable for the conduct. The amendment corrects this oversight and ensures that the employees or officers who actually engage in offending conduct are held liable for that conduct and not just the Participant or Access Person.

- *Rule 10.7 – Assessment of Expenses*

  The purpose of the amendment to Rule 10.7 is to clarify that the power of the Market Regulator to assess expenses in the event of a "frivolous" complaint by a Regulated Person is subject to the requirement of the Market Regulator to "act reasonably" in making such determination. As a self-regulatory organization, a Market Regulator is under an obligation to "act reasonably" in fulfilling all of its responsibilities. However, the amendment is administrative in nature as it simply incorporates the existing standard of conduct into the text of the Rule.

Text of the Amendments

The text of the amendments to UMIR to facilitate the administrative and editorial amendments described above is set out in Appendix "A.

Changes From the Original Proposal

In the Request for Comments issued by RS on September 30, 2002 as Market Integrity Notice 2002-014, RS proposed an amendment to Rule 11.11 on the Status of Rules and Policies. The proposed amendment sought to clarify the inter-play between the provisions of UMIR and the terms of any regulation services agreement entered into between a Market Regulator and a marketplace by stipulating that the obligations of a marketplace related to investigations by a Market Regulator under Rule 10.2 and indemnifications by a marketplace of a Market Regulator under Rule 10.11 would be subject to the terms of the

regulation services agreement. This proposed amendment to Rule 11.11 has not been pursued and is not part of the Administrative and Editorial Amendments approved by the Recognizing Regulators.

Market Integrity Notice 2002-014 also proposed several amendments to Policy 10.8 dealing with Practice and Procedure to correct several minor drafting problems and to clarify the interpretation of certain provisions. In particular, the amendments to Policy 10.8 sought to:

(a) clarify that a Notice of Hearing does not need to contain a statement that a party may object to the form of the hearing if the hearing will be an oral hearing;

(b) provide that a Hearing Panel shall be selected upon acceptance of an Offer of Settlement (since under Part 3 of Policy 10.8 a Hearing Panel must convene to either approve or reject any Settlement Agreement that has been entered into by a Market Regulator.);

(c) delete the term "defendant" from a heading as this term is not used in UMIR; and

(d) correct cross references to the Rules.

The impact of these changes to Policy 10.8 are still being reviewed by the Recognizing Regulators and are not part of the Administrative and Editorial Amendment approved by the Recognizing Regulators that are effective as of January 30, 2004.

Responses to the Request for Comments

No comments were received by Market Regulation Services Inc. in response to the Request for Comments on the proposed amendments set out in Market Integrity Notice 2002-014.

Questions

Questions concerning this notice may be directed to:

James E. Twiss,
Senior Counsel,
Market Policy and General Counsel,
Market Regulation Services Inc.,
Suite 900,
P.O. Box 939,
145 King Street West,
Toronto, Ontario. M5H 1J8

Telephone: 416.646.7277
Fax: 416.646.7265
e-mail: james.twiss@rs.ca

ROSEMARY CHAN,
VICE PRESIDENT, MARKET POLICY AND GENERAL COUNSEL

Schedule "A"

Universal Market Integrity Rules

Administrative and Editorial Amendments

The Universal Market Integrity Rules are amended as follows:

1. Subsection (1) of Rule 7.4 is amended by inserting the words "an order or" immediately preceding the words "a trade".

2. Rule 10.3 is amended by:

   (a) renumbering subsection (4) as subsection (5); and

   (b) inserting the following as subsection (4):

   Any officer or employee of a Participant or Access Person or any individual holding a similar position with a Participant or Access Person who engages in conduct that results in the Participant or Access Person contravening a Requirement may be found liable by the Market Regulator for the conduct and be subject to any penalty or remedy as if such person was the Participant or Access Person.

3. Subsection (2) of Rule 10.7 is amended by adding the phrase ", acting reasonably," before the word "determines".

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