The Ontario Securities Commission

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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)

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Notices / News Releases

1.1 Notices

1.1.1 Current Proceedings Before The Ontario Securities Commission

MAY 7, 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
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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
May 10, 12-14, 2004 10:00 a.m.	**John Craig Dunn** s. 127 K. Manarin in attendance for Staff Panel: WSW/RWD/PKB
June 2004	**Gregory Hyrniw and Walter Hyrniw** s. 127 K. Wootton in attendance for Staff Panel: TBA
June 24, 2004 10:00 a.m.	**Donald Greco** s. 8(2) and 21.7 A. Clark in attendance for Staff Panel: PMM/SWJ/RLS

July 26, 2004 (on or about)	**Brian Anderson and Flat Electronic Data Interchange ("F.E.D.I.")**
10:00 a.m.	s. 127
	K. Daniels in attendance for Staff
	Panel: HLM/RLS
October 18 to 22, 2004 October 27 to 29, 2004 November 2, 3, 5, 8, 10-12, 15, 17, 19, 2004	**ATI Technologies Inc., Kwok Yuen Ho, Betty Ho, JoAnne Chang, David Stone, Mary de La Torre, Alan Rae and Sally Daub**
10:00 a.m.	s. 127
	M. Britton in attendance for Staff
	Panel: PMM/MTM/PKB

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 Commission Approval – Amendments to OSC Rule 61-501 and Companion Policy 61-501CP – Insider Bids, Issuer Bids, Going Private Transactions and Related Party Transactions

NOTICE OF COMMISSION APPROVAL
AMENDMENTS TO RULE 61-501 AND COMPANION POLICY 61-501CP
– INSIDER BIDS, ISSUER BIDS, GOING PRIVATE TRANSACTIONS AND RELATED PARTY TRANSACTIONS

The Commission is publishing in today's Bulletin a notice of amendments to Rule 61-501 and Companion Policy 61-501.

The amendments were sent to the Chair of the Management Board of Cabinet (the "Minister" under the *Securities Act*) on April 28, 2004. The amendments are published in Chapter 5 of this Bulletin.

1.1.3 Notice of Commission Approval – IDA Proposed Amendments to the By-Laws and Regulations to Eliminate District Association Auditors and Alternate District Association Auditors

THE INVESTMENT DEALERS ASSOCIATION OF CANADA (IDA)

PROPOSED AMENDMENTS TO THE BY-LAWS AND REGULATIONS TO ELIMINATE DISTRICT ASSOCIATION AUDITORS AND ALTERNATE DISTRICT ASSOCIATION AUDITORS

NOTICE OF COMMISSION APPROVAL

The Ontario Securities Commission approved amendments to various IDA By-laws and Regulations to eliminate District Association Auditors and Alternate District Association Auditors. In addition, the Alberta Securities Commission approved and the British Columbia Securities Commission did not object to the amendments. The purpose of the amendments is to eliminate the requirement to appoint District Association Auditors and Alternate District Association Auditors (collectively DAAs), to formally transfer the responsibilities of DAAs currently outlined in its By-laws and Regulations to the Senior Vice-President of Member Regulation and to eliminate other requirements that are no longer necessary. A copy and description of the proposed amendments were published on February 20, 2004, at (2004) 27 OSCB 2272. No comments were received.

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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 IAMGold Corporation and Wheaton River Minerals Ltd. - MRRS Decision

Headnote

MRRS - issuers preparing joint information circular in connection with plan of arrangement – circular must contain prospectus level disclosure regarding acquiror company issuing securities – aquiror eligible to complete short-form offerings in reliance upon grand-fathering provisions contained in ss. 4.2(1) 2 in connection with two producing mines - new material technical information recently disclosed on one mine – acquiror issuer exempt from requirement to file a technical report in connection with technical disclosure contained in the information circular with respect to two of its mines – acquirer issuer to file a technical report within 30 days of date of decision on mine for which material information recently disclosed - target issuer able to file technical reports to support technical disclosure of its material mineral projects that will also be included in the joint circular.

Rules Cited

National Instrument 43-101 - Standards of Disclosure for Mineral Projects, ss. 4.2(1)2, 4.2(1)3, and 9.1(1).
OSC Rule 54-501 – Prospectus Disclosure, s. 2.1.

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN, MANITOBA, ONTARIO, QUÉBEC, NEW BRUNSWICK, NOVA SCOTIA, PRINCE EDWARD ISLAND, NEWFOUNDLAND AND LABRADOR, YUKON, NORTHWEST TERRITORIES AND NUNAVUT

AND

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

AND

IN THE MATTER OF
IAMGOLD CORPORATION AND WHEATON RIVER MINERALS LTD.

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, Yukon, Northwest Territories and Nunavut (collectively the "Jurisdictions") has received an application from IAMGold Corporation ("IAMGold") and Wheaton River Minerals Ltd. ("Wheaton") (collectively the "Applicants") for a decision pursuant to subsection 9.1(1) of National Instrument 43-101, Standards of Disclosure for Mineral Projects ("NI 43-101"), that the Applicants be exempt from the requirement contained in subsection 4.2(3) of NI 43-101 to file current technical reports to support information relating to certain mineral projects of IAMGold to be contained and incorporated by reference in a joint management information circular of the Applicants (the "Joint Circular") being prepared in connection with a proposed business combination transaction (the "Transaction") involving the Applicants;

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 Commission Notice 14-101;

AND WHEREAS the Applicants have, or one of the Applicants has, represented to the Decision Makers that:

1. IAMGold is a corporation existing under *Canada Business Corporations Act* with its registered and principal office located in Toronto, Ontario.

2. IAMGold is a gold mining, exploration and development company, the principal property interests of which consist of:

   (a) an indirect 38% interest in La Société d'Exploitation des Mines d'Or de Sadiola S.A., the owner of the mining rights for the mining permit area in Mali on which the Sadiola gold mine (the "Sadiola Gold Mine") is located;

   (b) an indirect 40% interest in Yatela Exploitation Company Limited, the owner of the mining rights for the mining permit area in Mali on which the Yatela gold mine (the "Yatela Gold Mine") is located;

   (c) an indirect 18.9% interest in Gold Fields Ghana Limited, the holder of the mineral rights to the Tarkwa concession in Ghana

on which the Tarkwa gold mine (the "Tarkwa Gold Mine") is located;

(d) an indirect 18.9% interest in Abosso Goldfields Limited, the holder of the mineral rights to the Damang concession in Ghana on which the Damang gold mine (the "Damang Gold Mine") is located;

(e) a 1% royalty (the "Diavik Royalty") on the Diavik diamond property located in the Northwest Territories, Canada; and

(f) a 0.72% net smelter return royalty (the "Williams Royalty") on the Williams mine located in Ontario, Canada;

(collectively the "IAMGold Property Interests").

3. IAMGold is a reporting issuer or its equivalent under the securities legislation of each of the Jurisdictions (collectively the "Legislation") and is eligible to file a short form prospectus under National Instrument 44-101, Short Form Prospectus Distributions ("NI 44-101")

4. IAMGold is authorized to issue an unlimited number of common shares ("IAMGold Shares"), an unlimited number of first preference shares, issuable in series, and an unlimited number of second preference shares, issuable in series, of which 145,536,179 IAMGold Shares, nil first preference shares and nil second preference shares were outstanding on March 30, 2004. The IAMGold Shares are listed on the Toronto Stock Exchange (the "TSX") and the American Stock Exchange (the "AMEX").

5. Wheaton is a corporation existing under the *Business Corporations Act* (Ontario) (the "OBCA") with its registered office located in Toronto, Ontario and its principal office located in Vancouver, British Columbia.

6. Wheaton is a gold mining company engaged in the acquisition, exploration and operation of precious metal properties with primary interests in the following properties:

(a) an indirect 37.5% interest in the Bajo de la Alumbrera gold-copper mine in Argentina;

(b) an indirect 100% interest in the San Dimas and San Martin gold-silver mines in Mexico;

(c) an indirect 100% interest in the Peak gold mine in Australia;

(d) an indirect 100% interest in the advanced development stage Los Filos gold project in Mexico; and

(e) an indirect 100% interest in the advanced development stage Amapari gold project in Brazil;

(collectively the "Wheaton Property Interests").

7. Wheaton is a reporting issuer or its equivalent under the securities legislation of each of the provinces of Canada and is eligible to file a short form prospectus under NI 44-101.

8. Wheaton is authorized to issue an unlimited number of common shares ("Wheaton Shares"), of which 567,838,838 Wheaton Shares were outstanding on March 30, 2004. The Wheaton Shares are listed on the TSX and the AMEX. Certain warrants to purchase common shares of Wheaton are also listed on the TSX and the AMEX.

9. The Transaction will be completed by the amalgamation of Wheaton with a wholly-owned subsidiary of IAMGold pursuant to an arrangement under the provisions of the OBCA, with the holders of Wheaton Shares receiving IAMGold Shares on the basis of 0.55 of an IAMGold Share for each one Wheaton Share. In addition, each outstanding option, warrant, convertible or exchangeable security and other right to acquire Wheaton Shares will, upon completion of the Transaction, entitle the holder thereof to receive upon the exercise, exchange or conversion thereof 0.55 of an IAMGold Share in lieu of one Wheaton Share. Upon completion of the Transaction, the corporation resulting from the amalgamation of Wheaton with the wholly-owned subsidiary of IAMGold will be a wholly-owned subsidiary of IAMGold and the Wheaton Shares will be delisted from the TSX and AMEX.

10. The Transaction is subject to approval by the shareholders of IAMGold and Wheaton. A meeting of the shareholders of IAMGold and a meeting of the shareholders of Wheaton (collectively the "Meetings") have each been called for June 8, 2004 to consider the Transaction.

11. The Joint Circular is being prepared by IAMGold and Wheaton in connection with the Meetings. The Joint Circular will contain and/or incorporate by reference information regarding IAMGold and Wheaton, including information regarding the IAMGold Property Interests and the Wheaton Property Interests.

12. IAMGold has not filed technical reports in respect of the Sadiola Gold Mine and the Yatela Gold Mine. Material information regarding the Sadiola

Gold Mine and the Yatela Gold Mine is contained in disclosure documents filed before February 1, 2001. Since February 1, 2001, no new material information exists regarding the Yatela Gold Mine which would require the filing of a current technical report under NI 43-101. Until recently, no new material information existed regarding the Sadiola Gold Mine which would require the filing of a current technical report under NI 43-101. IAMGold has disclosed new material information in respect of the Sadiola Gold Mine in 2004. IAMGold will file a technical report with respect to the Sadiola Gold Mine within thirty days of the date of this Decision.

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;

THE DECISION of the Decision Makers under the Legislation is that the Applicants are exempt from the requirement contained in subsection 4.2(3) of NI 43-101 to file current technical reports to support information relating to the Sadiola Gold Mine and the Yatela Gold Mine to be contained and incorporated by reference in the Joint Circular.

May 3, 2004.

“John Hughes”

2.1.2 Canadian Oil Sands Limited - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - Relief granted to a reporting issuer, with a current base shelf prospectus, from the requirement to prepare and include or incorporate by reference, in any future shelf prospectus supplement to this base shelf prospectus, December 31, 2003 proforma financial statements for a significant acquisition that took place in February 2003 and relief from the requirement to include or incorporate by reference in any future shelf prospectus supplement to this base shelf prospectus, annual comparative financial statements for the significant acquisition pertaining to the year ended subsequent to the acquisition date.

National Instruments Cited

National Instrument 44-101 Short Form Prospectus Distributions.
National Instrument 44-102 Shelf Distributions.

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN, MANITOBA, ONTARIO, QUÉBEC, NEW BRUNSWICK, NEWFOUNDLAND AND LABRADOR, NOVA SCOTIA AND PRINCE EDWARD ISLAND

AND

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

AND

IN THE MATTER OF
CANADIAN OIL SANDS LIMITED

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, New Brunswick, Newfoundland and Labrador, Nova Scotia and Prince Edward Island (the "Jurisdictions") has received an application from Canadian Oil Sands Limited (the "Corporation") and Canadian Oil Sands Trust (the "Trust") for a decision under the securities legislation of the Jurisdictions (the "Legislation") in connection with the Corporation's medium term note program established under a short form base shelf prospectus dated March 27, 2003 (the "Shelf Prospectus") that the following requirements contained in National Instrument 44-101 *Short Form Prospectus Distributions* ("NI 44-101") shall not apply to future shelf prospectus supplements to the Shelf Prospectus:

1.1 the requirement to include or incorporate by reference *pro forma* financial statements for the year ended December 31, 2003 to give effect to the acquisitions by the Corporation of: (a) an additional 10% working interest in the Syncrude oil sands project near Fort McMurray, Alberta (the "Syncrude Project") from EnCana Corporation ("EnCana") on February 28, 2003 (the "February Acquisition"); and (b) its subsequent acquisition of an additional 3.75% interest in the Syncrude Project (together with a 6% gross overriding royalty on another 1.25% interest in the Syncrude Project held by a third party) from EnCana on July 10, 2003 (the "July Acquisition", and together with the February Acquisition, the "Acquisitions"), as if the Acquisitions had taken place on January 1, 2003; and

1.2 the requirement to include or incorporate by reference financial statements of AEC Oil Sands, L.P. (the entity through which EnCana held its 13.75% interest in the Syncrude Project) subsequent to the year ended January 31, 2003,

(collectively, the "Updated Financial Statements");

2. AND WHEREAS under the Mutual Reliance Review System for Exemptive Relief Applications (the "System") created pursuant to National Policy 12-201, 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 or in Québec Commission Notice 14-101;

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

4.1 The Trust is a reporting issuer or the equivalent in each of the Jurisdictions, and is not in default of any requirements under the Legislation.

4.2 The Trust has two direct wholly-owned subsidiary entities, namely the Corporation and Canadian Oil Sands Commercial Trust ("CT").

4.3 The Trust holds an aggregate 35.49% working interest in the Syncrude Project indirectly through the Corporation (which has a direct 31.74% interest) and CT (which has an indirect 3.75% interest).

4.4 The Trust has no material assets other than its interests in the Syncrude Project.

4.5 The business of the Corporation is to oversee the Trust's indirect 35.49% working interest in the Syncrude Project through its role as the manager of both the Trust and CT. The Corporation does not have any material operations that are independent of this role.

4.6 The Corporation became a reporting issuer or the equivalent in the Jurisdictions on March 27, 2003 upon the issuance of a receipt for the Shelf Prospectus under National Instrument 44-102 *Shelf Distributions* ("NI 44-102") relating to the sale of up to CAD $750,000,000 of unsecured medium term notes (the "Notes").

4.7 The Corporation is not in default of any requirements under the Legislation.

4.8 Pursuant to a guarantee agreement (the "Guarantee") dated as of April 2, 2003 between the Trust and Computershare Trust Company of Canada, as trustee, any payments to be made by the Corporation as stipulated in the terms of the Notes or in an agreement governing the rights of the holders of Notes ("Noteholders") will be fully and unconditionally guaranteed by the Trust, such that the Noteholders shall be entitled to receive payment thereof from the Trust within 15 days of any failure by the Corporation to make a payment as stipulated.

4.9 The Corporation’s qualification under NI 44-101 to file a prospectus in the form of a short form prospectus is based on the Guarantee, and the Trust has signed the certificate to the Shelf Prospectus.

4.10 The February Acquisition was a "significant acquisition" within the meaning of NI 44-101 at the 20% threshold (but not at the 40% threshold), and the Corporation included in the Shelf Prospectus *pro forma* consolidated financial statements to give effect to the February Acquisition as if it has occurred on January 1, 2002.

4.11 Pursuant to an MRRS Decision Document dated May 21, 2003, certain financial reporting requirements contained in the Legislation shall not apply to the Corporation so long as certain conditions are satisfied, including the filing by the Corporation of the annual comparative audited consolidated financial statements and the interim

comparative consolidated financial statements of the Trust.

4.12 The Corporation has filed the Trust's consolidated December 31, 2003 comparative financial statements, together with the accompanying report of the auditor (the "2003 Audited Financial Statements").

4.13 Including the Updated Financial Statements in the Shelf Prospectus will impose unnecessary costs on the Corporation that will not result in any meaningful benefit to investors under the Shelf Prospectus beyond what is available from the 2003 Audited Financial Statements.

4.14 The Acquisitions increased the Corporation's and the Trust's proportionate stake in the Syncrude Project. Updated *pro forma* statements based on an increased interest in the Syncrude Project would not offer any meaningful benefit to investors.

4.15 The inclusion of 10 months of results with regard to the February Acquisition consolidated in the 2003 Audited Financial Statements is of equal or greater assistance to investors under the Shelf Prospectus than updated unaudited *pro forma* financial statements for the same period.

4.16 The Corporation filed the comparative audited financial statements of AEC Oil Sands, L.P. for the year ended January 31, 2003 and incorporated them by reference in the Shelf Prospectus pricing supplements nos. 2 and 3 dated January 13, 2004.

4.17 The audited financial statements of AEC Oil Sands, L.P. for the year ended January 31, 2003 were the last financial statements prepared for the acquired business, and the partners of AEC Oil Sands, L.P. dissolved the partnership effective February 28, 2003.

4.18 If financial statements of AEC Oil Sands, L.P. for periods ended after January 31, 2003 were available, they would offer no meaningful benefit to investors.

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 Makers with the jurisdiction to make the Decision has been met;

7. **THE DECISION** of the Decision Makers pursuant to the Legislation is that any future shelf prospectus supplements to the Shelf Prospectus shall not be required to include or incorporate by reference the Updated Financial Statements.

April 8, 2004.

“Agnes Lau”

2.1.3 Fidelity Investments Canada Limited - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – relief from certain filing requirements of MI 33-109 in connection with a bulk transfer of business locations and individuals.

Applicable Rule

MI 33-109 – Registration Information.

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN,
MANITOBA, ONTARIO, NEW BRUNSWICK,
NOVA SCOTIA, PRINCE EDWARD ISLAND,
NEWFOUNDLAND AND LABRADOR,
THE YUKON TERRITORY, THE NORTHWEST
TERRITORIES AND NUNAVUT

AND

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

AND

IN THE MATTER OF
FIDELITY INVESTMENTS CANADA LIMITED

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, the Yukon Territory, the Northwest Territories and Nunavut (the "Jurisdictions") has received an application from Fidelity Investments Canada Limited ("FICL") for a decision pursuant to Part 7 of Multilateral Instrument 33-109 *Registration Information* ("MI 33-109") exempting FICL from certain filing requirements under MI 33-109 so as to permit a bulk transfer of the business locations and individuals (the "Representatives") associated with FICL to the entity formed by the amalgamation (the "Amalgamation") of FICL with Fidelity Intermediary Services Company Limited ("FI Services") and Fidelity Intermediary Securities Company Limited ("FI Securities") (collectively "FICL Amalco") as referred to in section 3.1 of Companion Policy 33-109CP to MI 33-109.

AND WHEREAS pursuant to the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the Ontario Securities Commission (the "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 it has been represented by FICL to the Decision Makers that:

1. FICL is currently registered as a mutual fund dealer and adviser in all provinces and territories of Canada and as a commodity trading manager in Ontario, and is not a member of the Mutual Fund Dealers Association of Canada. FICL is not in default of any of the requirements of the securities legislation of the Jurisdictions.

2. FICL is a corporation continued under the laws of Ontario with its head office located in Toronto, Ontario.

3. FI Services and FI Securities are corporations incorporated under the laws of Ontario with their head offices located in Toronto, Ontario.

4. FI Services and FI Securities are wholly-owned subsidiaries of FICL.

5. FICL, FI Services and FI Securities amalgamated on December 31, 2003 to form FICL Amalco. All business locations and individuals associated with FICL will be transferred to FICL Amalco. FI Services and FI Securities conduct no registrable activities and have no business locations or registered or non-registered individuals to be transferred. FICL Amalco will carry on all of the active securities business of FICL in an identical manner with the same business location and the same registered and non-registered individuals, and will have FICL's name.

6. It would be unduly onerous to transfer each individual associated with FICL to FICL Amalco as per the requirements set out in MI 33-109 given that there will be no change to their employment or responsibilities.

AND WHEREAS pursuant to 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 MI 33-109 that provides the Decision Maker with the jurisdiction to make the Decision has been met;

THE DECISION of the Decision Makers pursuant to MI 33-109 is that, effective January 1, 2004, the following requirements of MI 33-109 shall not apply to FICL and FICL Amalco in respect of the Amalgamation:

(i) the requirement to submit a Form 33-109F1 regarding the termination of each employment, partner, or agency relationship under section 4.3 of MI 33-109;

(ii) the requirement to submit a Form 33-109F1 regarding each individual who

ceases to be a non-registered individual under section 5.2 of MI 33-109;

(iii) the requirement to submit a Form 33-109F4 for each individual applying to become a registered individual under section 2.2 of MI 33-109;

(iv) the requirement to submit a Form 33-109F4 for each non-registered individual under section 3.3 of MI 33-109; and,

(v) the requirement under section 3.1 of MI 33-109 to notify the regulator of a change to the business location information in Form 33-109F3.

January 30, 2004.

"David M. Gilkes"

2.1.4 Berkshire Investment Group Inc. et al. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – relief from certain filing requirements of MI 33-109 in connection with a bulk transfer of business locations and individuals.

Applicable Rule

MI 33-109 – Registration Information.

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN,
MANITOBA, ONTARIO, NEW BRUNSWICK,
PRINCE EDWARD ISLAND, NOVA SCOTIA,
NEWFOUNDLAND AND LABRADOR,
NORTHWEST TERRITORIES, YUKON
AND NUNAVUT

AND

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

AND

IN THE MATTER OF
BERKSHIRE INVESTMENT GROUP INC.,
BERKSHIRE SECURITIES INC.,
TWC FINANCIAL CORP. AND
TWC SECURITIES INC.

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, New Brunswick, Prince Edward Island, Nova Scotia, Newfoundland and Labrador, Northwest Territories, Yukon and Nunavut (the "Jurisdictions") has received an application from Berkshire Investment Group Inc. ("BIG"), and TWC Financial Corp. ("TFC"), which propose to amalgamate (the "BIG Amalgamation") and continue as "Berkshire Investment Group Inc." ("BIG Amalco") on or about February 29, 2004, and from Berkshire Securities Inc. ("BSI") and TWC Securities Inc. ("TSI") which propose to amalgamate (the "BSI Amalgamation") and continue as "Berkshire Securities Inc." ("BSI Amalco") on or about April 16, 2004 (BIG, TFC, BSI and TSI are collectively referred to as the "Applicants") for a decision pursuant to Part 7 of Multilateral Instrument 33-109 *Registration Information* ("MI 33-109") exempting the Applicants from certain requirements of MI 33-109 in connection with the BIG Amalgamation and the BSI Amalgamation so as to permit a bulk transfer of BIG and TFC's individuals to BIG Amalco and BSI and TSI's individuals to BSI Amalco, as referred to in Section 3.1 of the Companion Policy 33-109CP to MI 33-109 ("33-109CP");

AND WHEREAS under the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the Ontario Securities Commission (the "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 Applicants have represented to the Decision Makers that:

1. BSI is currently an investment dealer or its equivalent in all provinces and territories of Canada, a member of the Investment Dealers Association of Canada ("IDA"), a member of the TSX Venture Exchange ("TSXV") and a participating organization with the Toronto Stock Exchange ("TSX").

2. BIG is currently a mutual fund dealer in all provinces of Canada (and Limited Market Dealer in Ontario) and a member of the Mutual Fund Dealers Association of Canada (the "MFDA").

3. Both BSI and BIG are corporations incorporated under the laws of Ontario with their head office located in Burlington, Ontario and are wholly owned subsidiaries of Berkshire-TWC Financial Group Inc. ("BFGI").

4. TFC was continued under the laws of Ontario on December 18, 2003, is a wholly owned subsidiary of TWC Group of Companies Inc. ("TWC"), and is a member of the MFDA. TFC is also registered as a mutual fund dealer with the British Columbia, Saskatchewan, Alberta, Manitoba, Ontario and Northwest Territories Securities Commissions and as a broker (restricted to mutual funds) with the Yukon Securities Commission. TWC is a wholly owned subsidiary of BFGI. BFGI will amalgamate with TWC on February 29, 2004 and continue as BFGI.

5. TSI is a corporation incorporated under the laws of British Columbia and is a wholly owned subsidiary of TWC. TSI is a member of the IDA in the category of broker/investment dealer, is a member of the TSXV, and is registered as a broker/investment dealer with the Manitoba and Saskatchewan Securities Commissions and as a broker/investment dealer with the Alberta, British Columbia and Ontario Securities Commissions.

6. BSI, BIG, TFC and TSI are not in default of any of the requirements of the securities legislation of the Jurisdictions.

7. BIG proposes to amalgamate with TFC on or about February 29, 2004 and all individuals are to be transferred to BIG Amalco. The compliance systems, procedures and policies of each of BIG and TFC will continue to apply for a transition period (the "Transition Period") as if each of BIG and TFC were divisions of BIG Amalco. The Transition Period is expected to end on April 16, 2004.

8. BSI proposes to amalgamate with TSI on or about April 16, 2004 and continue under the name "Berkshire Securities Inc." and all individuals are to be transferred to BSI Amalco. BSI's compliance systems, procedures and policies will apply to BSI Amalco.

9. The transactions described herein are internal restructuring transactions and do not involve any third parties. BIG Amalco will carry on all of the active securities business of TFC and BIG in a substantially similar manner with the same directors as BIG and the same salespeople as BIG and TFC. BSI Amalco will carry on all of the active securities business of TSI and BSI in a substantially similar manner with the same directors as BSI and the same salespeople as BSI and TSI.

10. Given the sheer volume of representatives of TFC and BIG and of TSI and BSI, it would be exceedingly difficult to transfer each individual to BIG Amalco and BSI Amalco respectively as per the requirements set out in the MI 33-109.

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 MI 33-109 that provides the Decision Maker with the jurisdiction to make the Decision has been met;

THE DECISION of the Decision Makers pursuant to MI 33-109 is that the following requirements of MI 33-109 shall not apply to the Applicants in respect of the BIG Amalgamation and the BSI Amalgamation:

(i) the requirement to submit a Form 33-109F1 regarding the termination of each employment, partner, or agency relationship under section 4.3 of MI 33-109;

(ii) the requirement to submit a Form 33-109F1 regarding each individual who ceases to be a non-registered individual under section 5.2 of MI 33-109;

(iii) the requirement to submit a Form 33-109F4 for each individual applying to become a registered individual under section 2.2 of MI 33-109;

(iv) the requirement to submit a Form 33-109F4 for each non-registered individual under section 3.3 of MI 33-109; and

(v) the requirement under section 3.1 of MI 33-109 to notify the regulator of a change to the business location information in Form 33-109F3.

March 1, 2004.

"David M. Gilkes"

2.1.5 HSBC Securities (Canada) Inc. and HSBC InvestDirect Inc. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – relief from certain filing requirements of MI 33-109 in connection with a bulk transfer of business locations and individuals.

Applicable Rule

MI 33-109 – Registration Information.

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN,
MANITOBA, ONTARIO, NEW BRUNSWICK,
NOVA SCOTIA, PRINCE EDWARD ISLAND,
NEWFOUNDLAND AND LABRADOR

AND

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

AND

IN THE MATTER OF
HSBC SECURITIES (CANADA) INC. AND
HSBC INVESTDIRECT INC.

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador (the "Jurisdictions") has received an application from HSBC Securities (Canada) Inc. ("HCSC") and HSBC InvestDirect Inc. ("HIDC") (collectively, the Applicants) for a decision pursuant to Part 7 of Multilateral Instrument 33-109 *Registration Information* ("MI 33-109") exempting the Applicants from certain requirements of MI 33-109 so as to permit a bulk transfer of the business locations and individuals (the "Representatives") associated with HCSC and HIDC to the entity formed by the amalgamation (the "Amalgamation") of HCSC with HIDC ("HCSC Amalco") as referred to in Section 3.1 of the Companion Policy MI 33-109CP to MI 33-109.

AND WHEREAS pursuant to the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the Ontario Securities Commission (the "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 it has been represented by the Applicants to the Decision Makers that:

1. HCSC and HIDC were, at the date of the Amalgamation, registered as investment dealers in all provinces of Canada and are members of the Investment Dealers Association of Canada ("IDA") and, to the best of their knowledge, were not in default of any of the requirements of the securities legislation of the Jurisdictions.

2. HCSC was, at the date of the Amalgamation, a corporation amalgamated under the laws of Ontario with its head office located in Toronto, Ontario.

3. HIDC was, at the date of the Amalgamation, a corporation continued under the laws of Ontario with its head office located in Toronto, Ontario.

4. HCSC and HIDC amalgamated on January 1, 2004 to form HCSC Amalco. All individuals and business locations associated with HCSC and HIDC were transferred to HCSC Amalco. HCSC Amalco will carry on all of the active securities business of HCSC and HIDC in a substantially similar manner with the same salespeople. HCSC Amalco, to the best of its knowledge, is not in default of any of the requirements of the securities legislation of the Jurisdictions.

5. It would be unduly onerous to transfer each individual associated with HCSC and HIDC to HCSC Amalco as per the requirements set out in the MI 33-109 given that there is no substantive change in their employment or responsibilities.

AND WHEREAS pursuant to 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 MI 33-109 that provides the Decision Maker with the jurisdiction to make the Decision has been met;

THE DECISION of the Decision Makers pursuant to section 7.1 of MI 33-109 is that the following requirements of MI 33-109 shall not apply to HCSC and HIDC in respect of the Amalgamation:

(i) the requirement to submit a Form 33-109FI regarding the termination of each employment, partner, or agency relationship under section 4.3 of MI 33-109;

(ii) the requirement to submit a Form 33-109F1 regarding each individual who ceases to be a non-registered individual under section 5.2 of MI 33-109;

(iii) the requirement to submit a Form 33-109F4 for each individual applying to become a registered individual under section 2.2 of MI 33-109;

(iv) the requirement to submit a Form 33-109F4 for each non-registered individual under section 3.3 of MI 33-109; and,

(v) the requirement under section 3.1 of MI 33-109 to notify the regulator of a change to the business location information in Form 33-109F3.

February 24, 2004.

"David M. Gilkes"

2.2 Orders

2.2.1 The Secretary to the Commission - ss. 3.5(3) and 7(3)

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

AND

IN THE MATTER OF
THE SECRETARY TO THE COMMISSION

ORDER
(Subsections 3.5(3) and 7(3))

WHEREAS a quorum of the Ontario Securities Commission (the "Commission") may, pursuant to subsection 3.5(3) of the Act, in writing authorize any member of the Commission to exercise any of the powers and perform any of the duties of the Commission, except the power to conduct contested hearings on the merits;

AND WHEREAS, the Secretary to the Commission may from time to time be absent from the Commission and unable to exercise the powers vested in the Secretary under the Act;

AND WHEREAS by order made on May 10, 1993, pursuant to subsection 7(3) of the Act (the "Order") the Commission designated Rosemarie Gomme, Hearings Registrar to act in the capacity of Secretary.

NOW, THEREFORE, IT IS ORDERED that the Order is hereby revoked; and

THE COMMISSION HEREBY AUTHORIZES, pursuant to subsection 3.5(3) and subsection 7(3) of the Act, that each of Rosemarie Gomme and Daisy Aranha is hereby designated to act in the capacity of Secretary and may alone exercise the powers vested in the Secretary under the Act or the Regulation thereto.

April 22, 2004.

"David A. Brown" "Paul M. Moore"

2.2.2 Canso Fund Management Ltd. - s. 147

Headnote

Exemption for pooled funds from the requirement to file with the Commission interim financial statements under section 77(2) of the Act and comparative financial statements under section 78(1) of the Act, subject to conditions.

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5 as am., ss. 74(1).
National Instrument 13-101 – System for Electronic Document Analysis and Retrieval (SEDAR), s. 2.1(1)1.

Regulations Cited

Regulation made under the Securities Act, R.R.O. Reg. 1015, as am.

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

AND

IN THE MATTER OF
CANSO FUND MANAGEMENT LTD.

AND

CANSO HIGH YIELD FUND,
CANSO GLOBAL INVESTMENT FUND,
CANSO NORTH STAR FUND,
CANSO CORPORATE SECURITIES FUND,
THE CANSO FUND, THE CANSO CATALINA FUND,
CANSO RECONNAISSANCE FUND,
CANSO PRESERVATION FUND,
CANSO INFLATION LINKED FUND, and
CANSO RETIREMENT & SAVINGS FUND
(the "Existing Pooled Funds")

ORDER
(Section 147 of the Act)

UPON the application (the "Application") of Canso Fund Management Ltd. ("Canso"), the manager of the Existing Pooled Funds and any other pooled fund established and managed by Canso (or Canso Investment Counsel Ltd.) from time to time (collectively the "Pooled Funds") to the Ontario Securities Commission (the "Commission") for an order pursuant to section 147 of the Act exempting the Pooled Funds from filing with the Commission the interim and annual financial statements prescribed by subsections 77(2) and 78(1), respectively, of the Act.

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

AND UPON Canso having represented to the Commission as follows:

1. Canso is a corporation subsisting under the laws of the Province of Ontario with its head office in Markham, Ontario. Canso (or Canso Investment Counsel Ltd.), is, or will be, the trustee and manager of the Pooled Funds.

2. Canso Investment Counsel Ltd., the investment manager of the Existing Pooled Funds (the "Investment Manager"), is registered under the Act as an adviser in the categories of investment counsel and portfolio manager and as dealer in the category of limited market dealer.

3. Canso is considering the transfer of the trustee and manager functions to the Investment Manager for business purposes.

4. The Pooled Funds are, or will be, open-ended mutual fund trusts established under the laws of Ontario. The Pooled Funds will not be reporting issuers in any province or territory of Canada. Units of the Pooled Funds are, or may be, distributed in each of the provinces and territories of Canada without a prospectus pursuant to exemptions from the prospectus delivery requirements of applicable securities legislation.

5. The Pooled Funds fit within the definition of "mutual fund in Ontario" in section 1(1) of the Act and are thus required to file with the Commission interim financial statements under subsection 77(2) of the Act and comparative annual financial statements under subsection 78(1) of the Act (collectively, the "Financial Statements").

6. Unitholders of the Pooled Funds (the "Unitholders") receive the Financial Statements for the Pooled Funds they hold. The Financial Statements are prepared and delivered to Unitholders in the form and for the periods required under the Act and the regulation or rules made thereunder (the "Regulation"). Canso and the Pooled Funds will continue to rely on subsection 94(1) of the Regulation and will omit statements of portfolio transactions from the Financial Statements (such statements from which the statements of portfolio transactions have been omitted, the "Permitted Financial Statements").

7. As required by subsection 94(1) of the Regulation, the Permitted Financial Statements will contain a statement indicating that additional information as to portfolio transactions will be provided to a Unitholder without charge on request to a specified address and,

   (a) the omitted information shall be sent promptly and without charge to each Unitholder that requests it in compliance with the indication; and

   (b) where a person or company requests that such omitted information be sent routinely to that Unitholder, the request shall be carried out while the information continues to be omitted from the subsequent Financial Statements until the Unitholder requests, or agrees to, termination of the arrangement or is no longer a Unitholder.

8. Section 2.1(1) of National Instrument 13-101 – System for Electronic Document Analysis and Retrieval (SEDAR) ("Rule 13-101"), requires that every issuer required to file a document under securities legislation make its filing through SEDAR. The Financial Statements filed with the Commission thus become publicly available.

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

IT IS ORDERED by the Commission pursuant to subsection 147 of the Act that the Pooled Funds be exempted from the requirements in subsections 77(2) and 78(1) of the Act to file the Financial Statements with the Commission, provided:

(a) In the absence of other regulatory relief, the Pooled Funds will prepare and deliver to the Unitholders of the Pooled Funds the Permitted Financial Statements, in the form and for the periods required under the Act and the Regulation;

(b) The Pooled Funds will retain the Financial Statements indefinitely;

(c) The Pooled Funds will provide the Financial Statements to the Commission or any member, employee or agent of the Commission immediately upon request of the Commission or any member, employee or agent of the Commission;

(d) The Pooled Funds will provide a list of the Pooled Funds relying on this Order to the Investment Funds Branch of the Commission on an annual basis;

(e) Unitholders of the Pooled Funds will be notified that the Pooled Funds are exempted from the requirements in sections 77(2) and 78(1) of the Act to file the Financial Statements with the Commission;

(f) In all other aspects, the Pooled Funds will comply with the requirements of Ontario securities law for financial statements; and

(g) This decision, as it relates to the Commission, will terminate after the coming into force of any legislation or rule of the Commission dealing with the

matters regulated by subsections 77(2) and 78(1) of the Act.

April 5, 2004.

"Paul M. Moore" "Susan Wolburgh-Jenah"

2.3 Rulings

2.3.1 Fowler Enterprises Limited and 1108827 Ontario Inc. - ss. 74(1)

Headnote

Trades by developer, rental pool manager or licensed real estate agents in residential condominium units included in a rental pool program are not subject to section 25 or 53 provided that purchasers receive certain disclosure prior to entering into an agreement of purchase and sale. Note that reference to the Condominium Act, R.S.O. 1990, c. 26, should read the Condominium Act, 1998, S.O. 1998, c. 19.

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 25, 53, 74(1), 77, 78, 79.
Condominium Act, R.S.O. 1990, c. 26, as am.
Real Estate and Business Brokers Act, R.S.O. 1990, c. R.4, as am.
Securities Act, R.S.B.C. 1996, c. 418, as am.

Rules Cited

Ontario Securities Commission Rule 14-501 Definitions.

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

AND

IN THE MATTER OF
KEN FOWLER ENTERPRISES LIMITED

AND

1108827 ONTARIO INC.

RULING
(Subsection 74(1))

UPON the application (the "Application") of Ken Fowler Enterprises Limited ("Fowler Enterprises) and 1108827 Ontario Inc. (the "Developer") to the Ontario Securities Commission (the "Commission") for a ruling pursuant to subsection 74(1) of the Act that the sale of residential condominium units (the "Condohotel Units") within a J.W. Marriott luxury resort condominium hotel (the "Condohotel") that is to be built by the Developer on certain lands owned by the Developer which are located on the west side of Lake Rosseau in Muskoka (the "Project Lands") will not be subject to sections 25 and 53 of the Act;

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

AND UPON Fowler Enterprises and the Developer having represented to the Commission as follows:

1. Fowler Enterprises is a private firm established in 1974 that is engaged in the acquisition and ownership of operating businesses in a number of different sectors which include the food and beverage, hospitality, petroleum, education, consumer retail, manufacturing, real estate, resort development, home building, entertainment, forest management, internet and applied technology sectors.

2. The Developer is 80% owned and controlled indirectly by Fowler Enterprises.

3. The Developer proposes to develop a year round resort (the "Resort") on the Project Lands which will consist, in part, of the Condohotel, approximately 72 single owner residential cottages (the "Cottages"), certain Resort amenities and a Nick Faldo golf course.

4. The Condohotel will be a condominium complex which will consist of approximately 220 self-contained Condohotel Units as well as the common areas and common facilities of the Condohotel and certain commercial facilities.

5. Each Condohotel Unit will have a living area, a kitchen or kitchenette, a bathroom, one or more bedrooms and will be sold fully furnished.

6. The common areas and common facilities of the Condohotel will comprise all property within the Condohotel, other than the Condohotel Units, a hotel management unit, the commercial facilities and the Resort amenities, and will include an exercise room and one or more swimming pools.

7. The commercial facilities will include a lobby lounge, dining rooms, a grill, a café, a spa and a retail store.

8. In addition to his or her own Condohotel Unit, each Owner (an "Owner") will be entitled to a proportionate share of the Condohotel's common area and the common facilities and other assets of the residential condominium that will be created pursuant to the Condominium Act, R.S.O. 1990, c.26 (the "Condominium Act").

9. Resort amenities will be available for use by the Owners and other occupants of Condohotel Units and will include a beach, docks and a boathouse.

10. The development of the Resort is subject to Comprehensive Zoning By-Law 87-87 (the "Zoning By-Law") of the Corporation of the Township of Muskoka Lakes (the "Township").

11. For purposes of the Zoning By-Law, each Condohotel Unit will be considered either an Accommodation Unit or a Housekeeping Unit and, as such, will have to be included in a rental pool in accordance with subsection 87-700 (vii) of the

Zoning By-Law which also provides that a "rental pool means one or more Accommodation Units or Housekeeping Units which are available at all times for rental by the travelling or vacationing public, or which have been rented to the travelling or vacationing public."

12. The Developer has discussed the intended scope of subsection 87-700 (vii) of the Zoning By-Law with the Township and the Township has confirmed its willingness to enter into an agreement with the Developer (the "Condominium Agreement") which will confirm the Township's understanding that the reference to the "travelling or vacationing public" in subsection 87-700 (vii) includes the Owners of Condohotel Units provided no Owner occupies his or her Condohotel Unit for more than 30 days during the summer season which runs from June 15 to September 15 of each calendar year (the "Summer Season Restriction"). The Condominium Agreement will therefore serve to confirm an Owner's ability to use his or her Condohotel Unit for vacationing purposes subject to the Summer Season Restriction and the other personal use restrictions described in paragraphs 21 to 27, inclusive, below which have been negotiated with Marriott Lodging (Canada) Ltd. and its affiliates (collectively, "Marriott") and which are considered by Marriott to be essential to the commercial viability of the Condohotel.

13. Execution of the Condominium Agreement by the Developer and the Township is one of a number of conditions which must be met or fulfilled before the Condohotel may become registered as a condominium under the Condominium Act and sales of Condohotel Units may not be completed unless and until the Condohotel becomes so registered. Accordingly, if the Developer and the Township do not enter into the Condominium Agreement, the Developer will be unable to complete any sales of Condohotel Units and each initial purchaser of a Condohotel Unit will be entitled to a full refund of his or her deposit with interest at a prescribed rate in accordance with the Condominium Act.

14. As contemplated by the Zoning By-Law, each Owner of a Condohotel Unit will be required to enter into a rental pool agreement (the "Rental Pool Agreement") with an affiliate of the Developer that will be established for the purpose of managing the Rental Pool (the "Rental Pool Manager").

15. The Rental Pool Agreements will require the Owners of Condohotel Units to participate in an arrangement whereby revenues derived from, and certain expenses relating to, the rental of Condohotel Units by the Rental Pool Manager will be shared by the Owners in accordance with their proportionate interests in the Condohotel (the "Rental Pool") and the terms and conditions of the Rental Pool Agreement.

16. The Rental Pool Agreement will appoint the Rental Pool Manager as the exclusive manager of an Owner's Condohotel Unit, it will grant the Rental Pool Manager the right to use and enjoy, and to allow guests to use and enjoy, all of the Owner's rights to the use and enjoyment of the common elements and it will require the Owners to accede to all Condohotel Unit rentals that are booked by the Rental Pool Manager in accordance with the Rental Pool Agreement.

17. As manager of the Rental Pool, the Rental Pool Manager will be required to determine the rental rates for Condohotel Units; to co-ordinate the rental of Condohotel Units; to collect all rental payments and room charges (the "Gross Rental Pool Revenue"); to deposit all money so received into a trust account or accounts under the exclusive control of the Rental Pool Manager; and generally to operate, manage, clean and maintain the Condohotel Units.

18. In keeping with its responsibilities, the Rental Pool Manager will be responsible for all Condohotel operating costs other than certain fees, charges and expenses prescribed by the Rental Pool Agreement ("Prescribed Fees, Charges and Expenses") which are paid or incurred in connection with the earning of Gross Rental Pool Revenue and which will be borne equally by both the Rental Pool Manager and the Owners to the extent there is sufficient Gross Rental Pool Revenue available to cover the Prescribed Fees, Charges and Expenses. If there is insufficient Gross Rental Pool Revenue to cover the Prescribed Fees, Charges and Expenses, the Rental Pool Manager will be responsible for any shortfall.

19. Once the Prescribed Fees, Charges and Expenses have been deducted from the Gross Rental Pool Revenue, the remaining balance ("Adjusted Gross Rental Pool Revenue") will be allocated between the Rental Pool Manager and the Owners as follows. As compensation for the services which the Rental Pool Manger will provide to the Owners pursuant to the Rental Pool Agreement, the Rental Pool Manager will receive a management fee equal to 50% of the Adjusted Gross Rental Pool Revenue. The other 50% of the Adjusted Gross Rental Pool Revenue ("Net Rental Pool Revenue") is payable *pro rata* to each Owner, to the extent of his or her participation in the Rental Pool, net of certain fees and charges that are payable by the Owner in respect of his or her own Condohotel Unit.

20. The Rental Pool Agreement will have an initial term of 25 years, commencing on the opening date of the Condohotel, and it will be subject to

renewal by the Rental Pool Manager, on the same term and conditions, for up to 4 additional consecutive terms of 10 years each unless terminated in accordance with its terms upon the occurrence of certain events and the approval of not less than 66⅔% of the Owners.

21. In accordance with the terms of the Rental Pool Agreement, each Owner will be entitled to occupy his or her own Condohotel for his or her own personal use for at least 56 days per year subject to the Summer Season Restriction and certain Condohotel Unit advanced reservation procedures and certain seasonal and peak period use restrictions which are considered by Marriott to be essential to the commercial viability of the Condohotel.

22. In addition to the short notice booking privileges described below, an Owner may reserve his or her own Condohotel Unit for his or her own personal use during the summer, fall, winter or spring season, by booking the Condohotel Unit at any time up to six months in advance of the beginning of the relevant season provided the Rental Pool Manager has not accepted any prior reservation of the Condohotel Unit from a member of the public in accordance with the terms and conditions of the Rental Pool Agreement.

23. The Rental Pool Agreement provides that the Rental Pool Manager may accept Condohotel Unit reservations from the public at any time more than six months in advance of the fall, winter and spring seasons for up to 40% of the total number of days available for all Condohotel Units during that season. On any day falling within the summer season or within the March break, Christmas break, Easter weekend or Thanksgiving weekend, the Rental Pool Manager may accept Condohotel Unit reservations from the public for that day for up to 40% of the Condohotel Units in the Condohotel.

24. Seasonal use restrictions will limit each Owner's personal use of his or her Condohotel Unit to 14 days during each seasonal quarter of a calendar year and it will require any personal Unit occupation during a seasonal quarter to include at least one weekly period comprising 7 consecutive days.

25. Peak period use restrictions will permit an Owner to occupy his or her Condohotel Unit for his or her own personal use for a minimum of 3 days which includes either, but not both, of Christmas or New Years. Such restrictions will also limit an Owner's personal use to one statutory holiday weekend during the summer season and either, but not both, of the Thanksgiving weekend or the Easter weekend.

26. In addition to each Owner's seasonal use entitlements, an Owner may also book his or her Condohotel Unit for his or her own personal use on short notice provided his or her Condohotel Unit has not already been reserved for use by a member of the public. Short notice bookings cannot be made more than 30 days in advance of the date required. Short notice bookings that are made more than 7 days in advance of the date required will count toward an Owner's annual 56 day personal use allotment. Short notice bookings that are made 7 days or less in advance of the date required will not count toward an Owner's annual personal use allotment. The Rental Pool Manager reserves the right to refuse to accept a short notice booking if at the time of an Owner's request, the Condohotel has a vacancy rate of 20% or less for the dates required.

27. If an Owner's Condohotel Unit is not available at the time the Owner seeks a personal use booking, the Rental Pool Manager may offer the Owner a substitute Condohotel Unit which is similar to the Owner's Condohotel Unit and the Owner may either accept or reject the Rental Pool Manger's offer.

28. The Rental Pool Agreement contemplates the Rental Pool Manager entering into a hotel operating agreement (the "Hotel Operating Agreement") and related agreements with Marriott which will appoint Marriott to perform a substantial portion of the obligations of the Rental Pool Manager under the Rental Pool Agreement as part of Marriott's general obligation to operate and manage the Condohotel.

29. As the operator and manager of the Condohotel, Marriott will be acting as an independent contractor only and not as an agent of the Rental Pool Manager. Accordingly, when entering into the Rental Pool Agreement with the Rental Pool Manager, each Owner will be required to authorize the Rental Pool Manager to delegate some or all of its obligations, rights and privileges under the Rental Pool Agreement to Marriott and he or she will also be required to acknowledge that Marriott will have no liability to the Owner under the Hotel Operating Agreement and that his or her only recourse for non-performance of the Rental Pool Manager's obligations to the Owner will be as against the Rental Pool Manager.

30. As compensation for the services which Marriott will provide to the Rental Pool by operating and managing the Condohotel under its name, Marriott will be entitled to receive a base royalty fee and an incentive royalty fee. The base royalty fee will be an amount that is equal to a prescribed percentage of the Gross Rental Pool Revenue. The incentive royalty fee will be an amount that is equal to a prescribed percentage of the amount by which actual Condohotel net operating income

exceeds a threshold amount of Condohotel net operating income that has been negotiated with Marriott.

31. Like the Rental Pool Agreement, the Hotel Operating Agreement will have an initial term of 25 years, commencing on the opening date of the Condohotel, and it will be subject to renewal by Marriott, on the same terms and conditions, for up to four additional consecutive terms of 10 years each unless terminated in accordance with its terms and conditions.

32. Condohotel Units will be offered for sale in Ontario by one or more of the Developer, the Rental Pool Manager, or an agent thereof licensed under the *Real Estate and Business Brokers Act*, R.S.O. 1990, Chapter R.4 ("Licensed Agents").

33. The offering of Condohotel Units will be made in compliance with the Condominium Act.

34. The Developer, the Rental Pool Manager or a Licensed Agent will deliver to an initial purchaser of a Condohotel Unit, before an agreement of purchase and sale is entered into, an offering memorandum (the "Disclosure Document") in the form of a disclosure statement required under the Condominium Act which will also include additional information in the body of the disclosure statement relating to the real estate securities aspects of the offering prepared substantially in accordance with the form and content requirements of BC Form 45-906F under the *Securities Act* (British Columbia) R.S.B.C. 1996, c. 418, as amended ("Form 45-906F"), including, but not limited to:

(a) a description of the Resort and the offering of Condohotel Units by the Developer;

(b) a summary of the material features of the Rental Pool Agreement;

(c) a description of the continuous reporting obligations of the Developer and the Rental Pool Manager to Owners of Condohotel Units as more particularly described in paragraph 39 below;

(d) a description of the risk factors that make the offering of Condohotel Units a risk or speculation;

(e) a description of the contractual right of action available to purchasers of Condohotel Units as more particularly described in paragraph 36 below; and

(f) a certificate signed by the president or chief executive officer and chief financial officer of the Developer in the following form:

"The foregoing contains no untrue statement of a material fact and does not omit to state a material fact that is required to be stated or that is necessary to prevent a statement that is made from being false or misleading in the circumstances in which it was made".

35. An initial purchaser of a Condohotel Unit will have a statutory right under the Condominium Act to rescind an agreement to purchase a Condohotel Unit within 10 days of receiving the Disclosure Document or a material amendment to the Disclosure Document.

36. Initial purchasers of Condohotel Units will be provided with a contractual right of action as defined in Commission Rule 14-501 – "Definitions". The Disclosure Document will describe the contractual right of action, including any defences available to the Developer, the limitation periods applicable to the exercise of the contractual right of action, and will indicate that the rights are in addition to any other right or remedy available to the purchaser.

37. Prospective purchasers of Condohotel Units will not be provided with rental or cash flow guarantees or any other form of financial projection or commitment on the part of the Developer or the Rental Pool Manager, save and except for the budget that must be delivered to an initial purchaser of a Condohotel Unit pursuant to the Condominium Act.

38. The economic value of a Condohotel will be attributable primarily to its real estate component because Condohotel Units will be advertised and marketed as resort properties and will not be advertised or marketed with reference to the expected economic benefits of the Rental Pool Agreement.

39. The Rental Pool Agreement will impose an irrevocable obligation on the Developer or Rental Pool Manager to send to each Owner of a Condohotel Unit:

(a) audited annual financial statements for the Rental Pool that have been prepared and delivered in accordance with sections 78 and 79 of the Act as if the Rental Pool was a reporting issuer for purposes of the Act; and

(b) interim unaudited financial statements for the Rental Pool that have been prepared and delivered in accordance with sections 77 and 79 of the Act as if the

Rental Pool was a reporting issuer for purposes of the Act.

40. The Rental Pool Agreement will impose an irrevocable obligation on the Developer or Rental Pool Manager to deliver to a subsequent prospective purchaser of the Condohotel Unit, upon reasonable notice of an intended sale by the Owner of the Condohotel Unit, and before an agreement of purchase and sale is entered into, the most recent audited annual financial statements (which include financial statements for the prior comparative year) and, if applicable, the most recent interim unaudited financial statements for the Rental Pool (collectively, the "Financial Statements").

41. The Rental Pool Agreement will impose an irrevocable obligation on,

(a) the Developer or Rental Pool Manger to deliver the Disclosure Document to a subsequent prospective purchaser of a Condohotel Unit upon receiving reasonable notice of a proposed sale of the Condohotel Unit that is to take place either prior to, or within 12 months of, the issuance of permission to occupy the relevant Condohotel Unit, and

(b) the Developer or Renal Pool Manager to deliver a summary of the Disclosure Document (the "Disclosure Document Summary") to a subsequent prospective purchaser of a Condohotel Unit upon receiving reasonable notice of a proposed sale of the Condohotel Unit that is to take place any time following the expiration of a period of 12 months from the date of issuance of permission to occupy the relevant Condohotel Unit,

and it will also require the Disclosure Document or the Disclosure Document Summary, as the case may be, to be delivered to a subsequent prospective purchaser before an agreement of purchase and sale has been entered into.

42. A Disclosure Document Summary that is delivered to a prospective purchaser of a Condohotel Unit will include:

(a) items 1, 3(1), 6, 7, 9(1), (2), (3) and (4), 10(b) and 16 of Form 45-906F with respect to the proposed sale, modified as necessary to reflect the operation of the Rental Pool and the form of disclosure; and

(b) items 12(2), (3) and (4) of Form 45-906F with respect to the Rental Pool Manager under the Rental Pool Agreement modified so that the period of disclosure runs from the date of the certificate attached to the Disclosure Document Summary.

and will be certified by the Rental Pool Manager in the form of the certificate required pursuant to item 19 of Form 45-906F.

43. The Rental Pool Agreement will impose an irrevocable obligation on each Owner of a Condohotel Unit to provide:

(a) the Developer or Rental Pool Manager with reasonable notice of a proposed sale of the Condohotel Unit; and

(b) a subsequent prospective purchaser of a Condohotel Unit with notice of his, her or its right to obtain from the Developer or Rental Pool Manager, the Financial Statements and either the Disclosure Document or the Disclosure Document Summary, as the case may be.

44. The Rental Pool Agreement will not require purchasers of Condohotel Units to give any person any assignment of their right to vote in accordance with the Condominium Act or condominium by-laws, or to waive notice of meetings of the Residential Condominium Corporation in respect of the Resort and the Condohotel.

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

IT IS RULED, pursuant to subsection 74(1) of the Act, that the distribution of a Condohotel Unit by the Developer, the Rental Pool Manager or a Licensed Agent is exempt from sections 25 and 53 of the Act, provided that:

(i) every purchaser of a Condohotel Unit receives prior to the completion of the purchase transaction all of the documents and information referred to in paragraph 34 above as well as a copy of this Ruling; and

(ii) any subsequent trade of a Condohotel Unit acquired pursuant to this Ruling shall be a distribution unless:

A. the seller of the Condohotel Unit (the "Seller") is not the Developer or an agent acting on the Developer's behalf;

B. notice is given by the Seller to the Developer or Rental Pool Manager of the Seller's intent to sell his or her Condohotel Unit;

C. the prospective purchaser of the Condohotel Unit receives, before an agreement of purchase and sale is entered into, all of the documents and information referred to in paragraphs 40 and 41 above; and

D. the Seller, or an agent acting on the Seller's behalf, does not advertise or market the expected economic benefits of the Rental Pool Agreement to the prospective purchaser of the Condohotel Unit.

April 13, 2004.

"Paul Moore" "Susan Wolburgh Jenah"

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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		

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Chapter 5

Rules and Policies

5.1.1 Notice of Amendments to OSC Rule 61-501 – Insider Bids, Issuer Bids, Going Private Transactions and Related Party Transactions and Companion Policy 61-501CP

NOTICE OF AMENDMENTS TO RULE 61-501 – *INSIDER BIDS, ISSUER BIDS, GOING PRIVATE TRANSACTIONS AND RELATED PARTY TRANSACTIONS* AND COMPANION POLICY 61-501CP

Notice of Amendments

The Commission has amended Rule 61-501 – *Insider Bids, Issuer Bids, Going Private Transactions and Related Party Transactions* (the "Rule") under section 143 of the *Securities Act* (the "Act").

The amendments and the other material required by the Act to be delivered to the Chair of the Management Board of Cabinet (the "Minister") were delivered on April 28, 2004. If the Minister approves the amendments, the amendments will come into force 15 days after the approval. If the Minister does not approve or reject the amendments, or return them to the Commission for further consideration, the amendments will come into force on July 12, 2004.

The Commission has also made amendments to Companion Policy 61-501CP (the "Companion Policy") under section 143.8 of the Act. Those amendments will come into force on the date that the amendments to the Rule come into force.

Substance and Purpose of the Amendments

The Rule provides security holders of issuers involved in specified types of transactions with the benefits of enhanced disclosure requirements and, in certain cases, independent valuations and majority of minority security holder approval. The amendments are primarily intended to clarify grey areas, reduce the necessity for applications for exemptive relief and generally make the Rule more user friendly.

Details of the proposed amendments were contained in a notice and request for comments, published in (2003), 26 OSCB 1822 (February 28, 2003). After reviewing the comments, the Commission made some changes and published a revised version of the amendments in (2004), 27 OSCB 550 (January 9, 2004) with another request for comments. A list of commenters who responded to the second request for comments, a summary of those comments and the Commission's responses are contained in Appendix A of this Notice. Following review of the comments, the Commission has made a small number of additional changes.

The changes from the proposal that was published on January 9, 2004 are indicated in the black-lined versions of the amended Rule and Companion Policy that accompany this Notice. The Commission does not consider these changes to be material.

Quebec Policy Statement Q-27

Policy Statement Q-27 ("Q-27") is Quebec's equivalent of the Rule. Staff of the Agence nationale d'encadrement du secteur financier (also known as the Autorité des marchés financiers or "AMF") have advised the Commission that the AMF proposes to make the same amendments to Q-27 as are to be made to the Rule and Companion Policy (while maintaining the small number of current differences between the Rule and Q-27), and that it expects to publish them for comment. AMF staff have also advised that they intend to accommodate transactions that comply with the Rule after the amendments come into force in Ontario if they are not yet in force in Quebec.

Authority for the Proposed Amendments

The following provisions of the Act provide the Commission with the authority to make the amendments to the Rule. Subsection 1(1.1) of the Act provides that "going private transaction", "insider bid" and "related party transactions" may be defined in a rule. (Section 1.6 of the proposed amended Rule defines "going private transaction", for purposes of the Act, as having the meaning ascribed to the term "business combination" in the Rule.) Paragraph 143(1)28 authorizes the Commission to make rules to regulate issuer bids, insider bids, going private transactions and related party transactions, including, in clause v, prescribing requirements for disclosure, valuations, review by independent committees of boards of directors and approval by minority security holders.

Unpublished Materials

In proposing these amendments, the Commission has not relied on any significant unpublished study, report or other materials.

Anticipated Costs and Benefits

The Commission believes that the proposed amendments will enhance efficiency for market participants that are subject to the Rule, as there will be greater clarity regarding the application of the Rule and reduced circumstances requiring valuations and exemptive relief. To the extent that the amendments are substantive in nature, they will have benefits in terms of increased fairness to security holders and reduced regulatory burdens that will outweigh the costs.

Text of Proposed Amendments

The text of the proposed amendments is as follows:

Rule 61-501 – *Insider Bids, Issuer Bids, Going Private Transactions and Related Party Transactions* and Companion Policy 61-501CP are amended by deleting them in their entirety, including their titles, and substituting the following:

[The amended Rule and Companion Policy are set out after Appendix A which follows. To assist readers of the Bulletin, the amended Rule and Companion Policy are black-lined to the versions that were published on January 9, 2004.]

May 7, 2004.

APPENDIX A

SUMMARY OF WRITTEN COMMENTS RECEIVED AND RESPONSES OF THE COMMISSION

The Commission received submissions from the following:

Simon Romano
Davies Ward Phillips & Vineberg LLP
TSX Venture Exchange
Torys LLP

The Commission has considered the submissions and thanks the commenters for taking the time to provide their views. The following is a summary of the comments received, together with the Commission's responses.

Section 1.1 – Definitions

1. "business combination"

Comment

Since the amended Rule will expressly cover income trusts, and given the growth in their numbers, one commenter suggested explicitly excluding from the definition of "business combination" a transaction that is similar to an acquisition of securities under a statutory right of acquisition. This would address the circumstance where a trust indenture for an income trust provides for a process similar to that contained in corporate statutes.

Response

The Commission agrees with the commenter and has added wording that contemplates that a non-corporate entity such as an income trust may have a contractual mechanism that is substantially equivalent to the statutory right of acquisition described in section 188 of the *Business Corporations Act* (Ontario). To qualify for the exclusion from the definition, this mechanism must necessarily include a process that is substantially equivalent to the statutory procedure that applies to security holders who choose to demand payment of the fair value of their securities.

2. "collateral benefit"

Comments

One commenter was of the view that the proposed definition was flawed for reasons summarized as follows:

- the definition should not include pre-existing rights, such as contractual rights, and rights represented by loans, leases, purchase agreements, and director-related compensation arrangements;

- in disregarding offsetting costs in the definition, the Commission was ignoring both economic reality and its past decisions – as an example, the commenter referred to a decision of the Commission in which arrangements such as mutual rights of first refusal among controlling shareholders were seen to be normal and, in the context of a take-over bid, the Commission determined that a put option granted to one shareholder was permissible because it was totally counter-balanced by a call option granted by the same shareholder;

- a collateral benefit currently must have the effect of providing greater value to a security holder in order for the benefit to cause the transaction to be a "going private transaction" – apart from employment arrangements, there has been no evidence of any abuse that calls for an approach that ignores business and economic reality by pretending that benefits are without cost;

- the proposed materiality exceptions seem insufficient to handle many common situations – the commenter provided an example of a mid-sized company in which the senior officers would receive golden parachutes exceeding 5 per cent of the value of their equity holdings – another example was the repayment of a demand loan or redemption of publicly traded preferred shares at a pre-established redemption price at the closing of a merger, where the issuer's chief executive officer was the lender or a preferred shareholder – similarly, usual treatments of warrants or stock options could be caught by the definition;

- in one of the proposed materiality exceptions, offsetting costs are taken into account, which seems inconsistent with the general approach;

- the materiality exception thresholds should be raised or changed to a requirement that the board (or independent directors) must come to the conclusion that the benefits, net of offsetting costs, are not material in the circumstances;

- often a growth-oriented small or mid-sized company underpays its senior management to keep costs down and on the basis that they will benefit through their equity stakes – when the company is acquired by a larger enterprise, members of the target's management and board of directors who join the acquirer will likely benefit from higher compensation and directors' and officers' ("D&O") insurance, and those leaving will likely benefit from run-off D&O insurance – there should therefore be an exemption for persons who will be compensated or receive benefits in accordance with the acquirer's practices or for run-off D&O insurance; and

- if a benefit prevents a director or officer's votes from being counted as part of the minority vote of shareholders, even in the absence of any real value attached to the benefit, his or her ability to vote as a director or act as a committee member may be seen to be affected as well.

One commenter thought the materiality exceptions in the definition should apply to a person who was formerly an employee or director of the issuer and has subsequently been retained as a consultant of the successor to the business of the issuer. As proposed in the amended Rule, the exceptions only applied to services as an employee or director.

One commenter agreed with the general approach of requiring minority approval to address the policy concern that a related party receiving a collateral benefit might favour a business combination for reasons other than the consideration it would receive for its equity securities. However, the commenter thought the materiality exceptions should apply to all benefits, not just employee or director-related benefits.

One commenter was supportive of the new proposed exceptions, but thought the Commission's earlier proposed exception where related parties receiving benefits held, in the aggregate, less than 10% of the outstanding securities should be retained. In the commenter's view, it was unlikely that those persons would affect the outcome of the vote, the public policy rationale underlying minority approval would not be compromised by such an approach, and the minority approval requirement would not be unduly imposed on transactions where potential conflicts of interest were limited to a small number of security holders.

Response

The main implication of a benefit falling into the definition of "collateral benefit" in the amended Rule is that the votes of the related party receiving the benefit will not be counted in a minority approval vote on a business combination. The amended Rule will not prohibit the transactions described by the first commenter, nor will it attribute any impropriety to those transactions. The definition and its related provisions are based on the principle that when a majority vote of security holders can force the minority to relinquish their securities against their will at a price they may regard as inadequate, it is reasonable to require that the security holders comprising the majority be as free from conflicts of interest as possible so that their interests are aligned with those of the minority. The magnitude of a conflict of interest, or its possible effect on the outcome of a vote of security holders, does not depend on when the collateral benefit giving rise to the conflict was negotiated.

The existence of offsetting costs does not eliminate the conflict of interest. It is reasonable to assume that a related party entering into a transaction with an issuer or with an acquirer of an issuer generally does so for the purpose of deriving a benefit, even after offsetting costs are taken into account. The benefit, or value, is obtained from the transaction as a whole, and the related party cannot be said to derive no value from a transaction simply because consideration is flowing both ways.

Based on submissions in response to the previous request for comments, the originally proposed amendments were modified to accommodate the changes to employee and director-related benefits that typically occur in a business combination. In determining whether the amended Rule's materiality exception applies when these types of arrangements are adjusted (such as where one type of employee benefit is increased and another decreased), it is reasonable for the independent committee to examine the benefit package as a whole. Given the materiality exceptions, it would not normally be expected that D&O insurance would cause the recipient's votes to be excluded from a vote on a business combination.

The Commission believes that the proposed materiality exceptions strike a reasonable balance between the interests of related parties who receive employee or director-related benefits from business combinations on the one hand, and persons whose securities are expropriated on the other. Raising the materiality thresholds would increase unduly the likelihood of security holders with a significant conflict of interest influencing the outcome of a minority vote. In addition, replacing the proposed exceptions with an exception where the board or independent committee concludes that the benefits are immaterial would reduce the level of certainty and could result in inconsistent interpretations by boards of different issuers in similar fact situations.

On the comment regarding the possible effect the amended Rule's treatment of collateral benefits could have on a person's perceived ability to vote as a director or act as a committee member, the Commission does not consider this to be a concern that would justify compromising fairness to security holders in the context of a conflict of interest.

The Commission agrees with the comment that the materiality exceptions should apply to a consultant (as defined in Multilateral Instrument 45-105) and has made this change.

The materiality exceptions reflect the general public acceptance of the fact that adjustments to employee benefits and similar service-related arrangements are often integral components of a business combination. Other types of extra benefits that related parties receive from a business combination do not necessarily share this acceptance. Extending the materiality exceptions to other types of benefits would indicate that related parties are generally entitled to premiums of up to 5% above the consideration that other security holders receive in a business combination, without minority approval. This is not the intent of the exceptions. The materiality of those benefits can be a factor for the minority security holders to take into account when voting on the business combination.

The Commission believes that the two materiality exceptions in the amended Rule are appropriate as replacements for, rather than additions to, the previously proposed exception where related parties receiving benefits held, in the aggregate, less than 10% of the outstanding securities. While in most circumstances, holdings of less than 10% would not be expected to determine the outcome of a vote, this may not be the case for a controversial transaction where the vote is close.

3. "income trust"

Comment

One commenter thought the amended Rule's definition may not extend to real estate investment trusts owning their assets directly. The commenter also thought the definition may be too broad and that perhaps the term should be left undefined.

Response

For a real estate investment trust that owns its assets directly, the amended Rule will operate in the same way as for other entities that do not fall within the definition of "income trust". The Commission believes that the definition helps to clarify the circumstances in which section 1.4 of the amended Rule applies and that its meaning will generally be understood to apply to the structure typically associated with income trusts. If unusual circumstances arise, exemptive relief may be sought.

4. "interested party"

Comment

One commenter referred to one of the Commission's responses in the summary of comments and responses contained in the January 9, 2004 notice. The Commission said that for a related party transaction, a "party to the transaction" does not include a person whose sole connection with the transaction arises from the fact that his or her employment arrangements will be affected by it. The commenter found the word "sole" a little worrying and asked what would be the case if the person was also a security holder, director or officer of a party.

Response

"Party" in the definition should be interpreted as having its normal meaning, which does not include a security holder, director or officer of a named party. Where the Rule is intended to cover indirect parties (as interpreted in section 2.4 of the amended Companion Policy), this is made explicit.

5. "related party transaction"

Comments

The definition includes, in paragraph (l), a material amendment to the terms of an outstanding debt, liability or credit facility as between an issuer and a related party. One commenter was concerned that, particularly in a default or troubled company scenario, the paragraph would require a lender who is a related party to seek minority approval to amend a loan to involve equity or voting securities. The commenter said that this may discourage credit and/or be unfair to lenders if parties without a real stake or legitimate economic interest get a veto right. The commenter also asked whether paragraph (f) of the definition of "related party" (which includes a person who manages the issuer under a contractual arrangement) could capture a lender under a credit agreement in a troubled company situation. To avoid this possibility, the commenter thought a bona fide lender should be excluded from that definition, as it is in the amended Rule's definition of "control block holder".

Response

The financial hardship exemption in the Rule was designed to address the types of circumstances on which these comments were mainly focused. In the absence of financial hardship, minority approval may be appropriate (including where the related

party falls within the Rule's definition of "bona fide lender" but also manages the affairs of the issuer to a substantial degree), or exemptive relief may be sought to address unusual situations.

6. Section 1.3 – Transactions by Wholly-Owned Subsidiary Entity

Comment

This section deems a transaction of a wholly-owned subsidiary of an issuer to be a transaction of the issuer for the purposes of the Rule. One commenter raised the scenario of a wholly-owned subsidiary that was a reporting issuer with preferred shares outstanding, and its parent being a non-reporting issuer. The commenter asked if a transaction by the subsidiary would be exempted from the Rule on the basis of the parent not being a reporting issuer.

Response

"Also" has been inserted into the section to clarify that the deeming provision does not preclude the application of the Rule to a wholly-owned subsidiary that is a reporting issuer.

7. Section 1.4 – Transactions by Underlying Operating Entity of Income Trust

Comment

One commenter said that in some cases income trusts do not have control of one or more underlying businesses, making the section inappropriate in those cases. The commenter asked if the section was necessary.

Response

The Commission believes that the section is necessary to address conflicts of interest in connection with transactions that can affect materially the assets on which the value of an income trust depends. If an income trust is unable to comply with the Rule due to its lack of control over a transaction undertaken by its underlying operating entity, it may seek exemptive relief.

8. Section 1.5 – Redeemable Securities as Consideration in Business Combinations

Comment

One commenter thought the section should clarify that, for the purposes of the Rule, only the cash proceeds of redemption, and not the redeemable securities, are deemed to be consideration received by security holders in a business combination.

Response

The Commission agrees with the commenter and has made the change.

9. Paragraph 4.4(2)(b) – Determining Outstanding Securities for Previous Arm's Length Negotiations Exemption

Comment

One commenter asked if the paragraph should be amended in light of its reference to National Instrument 62-102 – *Disclosure of Outstanding Share Data*, which was to be repealed.

Response

The subject matter of National Instrument 62-102 is being shifted to section 5.4 of the recently enacted National Instrument 51-102 - *Continuous Disclosure Obligations* over a transitional period that ends on May 19, 2005. References to the new provision have been added to this and other applicable parts of the amended Rule, including the corresponding exemption for insider bids.

10. Section 4.5 – Minority Approval for Business Combination

Comments

One commenter thought a related party transaction that is connected with a business combination should not trigger the minority approval requirement for the business combination if the related party transaction does not meet a materiality test, as is the case for certain types of collateral benefits in the amended Rule. The commenter also thought a materiality test should apply where a related party receives consideration for non-equity securities. Even where the consideration for the non-equity securities exceeds the materiality threshold, the commenter suggested that it would not be appropriate to require minority approval if there

are non-related parties who are receiving the same consideration as the related party on a per security basis (such as where the securities consist of publicly held debt or preferred shares). According to the commenter, the arm's length participation should provide comfort that the terms of those arrangements are commercial and fair.

Response

As discussed in section 2 above, the materiality exceptions for collateral benefits are confined to employee and other service-related benefits, which are generally accepted as integral components of a typical business combination. In other conflict of interest situations, it is reasonable to allow the unconflicted security holders to make the decision on the business combination. Attaching a value to a connected transaction can be subjective, and its significance can be addressed by the minority security holders through their vote. This includes a transaction where a related party receives consideration for non-equity securities that are unrelated to services as an employee, director or consultant.

If there are non-related parties that receive the same consideration as a related party for non-equity securities, this does not necessarily demonstrate that the related party is not deriving a benefit from the transaction. It may just be evidence that the consideration represents at least (and possibly more than) the fair market value of those securities.

11. Current Paragraph 5.1(k) – Exercise of Conversion Right

Comment

One commenter said that current paragraph 5.1(k) of the Rule was designed to confirm that if a related party bought a convertible security or similar instrument, the exercise of the conversion or similar right would not be subject to the Rule's requirements for related party transactions. The commenter thought it seemed useful to preserve the paragraph.

Response

The amended Rule maintains, and expands on, this exception in subparagraph 5.1(h)(iii).

12. Section 5.5, Para. 4 – Formal Valuation Exemption for Distribution of Securities for Cash

Comment

This exemption is conditional on neither the issuer nor, to the knowledge of the issuer after reasonable inquiry, the related party having knowledge of material, undisclosed information regarding the issuer or its securities. One commenter had previously commented that the proposed transaction itself should be excluded from this condition. The Commission had responded that this was not considered necessary because a transaction that was significant enough to be covered by the exemption would normally be publicly announced before it was carried out. The commenter agreed with this response if "carried out" meant "closed", but said if it meant "agreed to", as might be expected, normally an issuer would not want to publicly disclose a possible transaction until it had a binding agreement. Therefore, the commenter thought it essential that the proposed transaction be excluded from the condition to make the exemption workable.

Response

The Commission believes that the Rule's definition of "related party transaction" makes it clear that an issuer has not done a related party transaction merely by agreeing to do one. Since the exemption in question does not refer to the time the transaction is agreed to, the proper time for determining whether the condition is met is the time of the closing of the transaction, not the time of the agreement. Accordingly, the Commission still considers it unnecessary to add extra wording to exclude the transaction itself from the condition.

13. Subsection 5.7(1), Para. 3 – Minority Approval Exemption for Distribution for Cash Not Exceeding $2,500,000

Comments

This exemption will apply to issuers listed or quoted on the TSX Venture Exchange ("TSX Venture") and other junior markets. The exemption will be conditional on the issuer having at least one non-employee director who is independent from the transaction (i.e. is not one of the purchasers of securities in the transaction and does not have an association with a purchaser, as described in the Rule), and on approval of the transaction by at least two-thirds of the directors meeting that description.

TSX Venture commented that it was particularly supportive of the introduction of this exemption, but objected to the condition of approval by non-employee, independent directors. According to TSX Venture,

- the condition will severely limit the ability of junior issuers to qualify for the exemption;

- the condition is not consistent with the requirements and realities of the financing process for junior issuers;

- the pool of independent directors for junior issuers is very limited, and the condition effectively prohibits them from participating in small private placements, as the costs of obtaining minority approval in relation to their participation will often make a small financing uneconomic in terms of cost and time required to complete;

- the burdens to the issuer of the requirement for minority approval of private placements far outweighs any shareholder protection that would be afforded by the condition, particularly for the smaller financings frequently undertaken by junior issuers; and

- if a minority approval requirement is to be imposed, the exemption should take into account the realities of board composition for junior issuers and require only approval by directors that do not have a direct interest in the financing.

TSX Venture also submitted that, in order to relieve emerging issuers from the cost burdens of holding a meeting to obtain minority approval, the Rule should permit issuers to obtain shareholder approval by means of informal written consents from shareholders.

One commenter was unclear of the meaning of subparagraph (b), which describes the size test for the exemption in terms of fair market values, given that the exemption deals with transactions in which the consideration is cash. On the same basis, the commenter also thought it was unclear how subsection 5.7(2), which requires aggregation of the fair market values of connected transactions in determining whether a minority approval exemption based on transaction size is available, applied to the $2,500,000 exemption.

Response

TSX Venture policies require each of its listed issuers to have at least two non-employee directors. The concerns outlined by TSX Venture will only come into play when every non-employee director of an issuer is a purchaser of securities in a related party transaction, or has a significant relationship with a purchaser. Where an issuer proposes to increase the number of its outstanding equity securities by more than 25% by issuing securities to related parties at a price that could be up to 25% below the market price without security holder approval, it is reasonable to require that there be at least one director to approve it who is free from an actual or reasonably perceived conflict of interest.

Section 3.1 of the amended Companion Policy provides for the possibility of a discretionary exemption being granted to permit an issuer to satisfy the minority approval requirement without a meeting of security holders by demonstrating that the approval would be obtained if a meeting were held. The exemption has not been made automatic, mainly because the Director should be satisfied that the security holders who advise of their approval have adequate disclosure regarding the transaction, and this should be accomplished as part of the exemption application process.

Minor drafting changes have been made in response to the comments regarding the clarity of subparagraph (b) and the application of subsection 5.7(2) to the exemption.

14. Subsection 5.7(3) – Amendment to Security, Loan or Credit Facility – Minority Approval Exemptions

Comment

Under this provision, if a related party transaction is a material amendment to the terms of a security, loan or credit facility, the size of the whole transaction, not just the amendment, must be taken into account in determining whether the minority approval exemptions based on the size of the transaction apply. Under other provisions of the Rule, if the transaction, as amended, involves warrants, the size calculation must include the current market value of the maximum number of securities or other consideration issuable or payable by the issuer on exercise of the warrants. One commenter thought that since this applies even though the warrants may have no current value, the provisions seem to ignore economic reality, and to be inappropriate.

Response

Among other things, subsection 5.7(3) reflects the fact that an amendment involving the introduction of new warrants, or a change in the terms of existing warrants (such as the lowering of the exercise price), can create the possibility of substantial dilution to security holders under circumstances where that possibility may have been remote or non-existent prior to the amendment. Although the exercise of the warrants may not be a certainty immediately after the amendment occurs (for example, if they are “out of the money” at that point in time), a transaction that gives rise to, or increases, the likelihood of a substantial issuance of securities to related parties of the issuer should be addressed by the Rule, based on the size of the potential dilution.

15. Subsection 8.1(2) – Minority Approval – General

Comment

One commenter thought paragraph (c) seems hard to apply to a person who is a related party of an interested party solely in his or her capacity as a director of the issuer. The commenter asked if it should be clarified that such a director can vote.

Response

While not referring explicitly to a director of the issuer, paragraph (c) does not prohibit such a director from voting if he or she is independent from interested parties. The Commission is reluctant to add to the length of the provision if it is not strictly necessary.

16. Companion Policy – Subsection 2.1(5) – Principle of Equal Treatment in Business Combinations

Comment

One commenter thought the intention behind this subsection was unclear, especially given the exemptive relief the Commission had granted in the past to allow issuers to purchase their own shares from a shareholder, often subject to minority approval. The commenter said that it is somewhat hard to weigh differential treatment against a principle and asked what the Commission's concern was if minority approval was obtained.

Response

The subsection reflects the Commission's view that in a transaction where publicly held securities are expropriated, the Commission may have public interest concerns if related parties are given an unfair advantage. Minority approval will usually address conflict of interest concerns, but there may be circumstances where a proposed transaction that is fundamentally unfair to minority security holders should not be imposed on those who object to it, even if a majority of the others are willing to acquiesce to it. An example would be an expropriation transaction where large security holders are paid substantially more than other holders for the sole reason that the large holders have demanded more. Among other things, this would run directly contrary to the principles of fairness underlying take-over bid law.

17. Stock Exchange Bids

Comment

One commenter said that since the Toronto Stock Exchange has indicated that it intends to eliminate the possibility of formal bids being carried out through its facilities, perhaps references to stock exchange bids in the Rule should be removed.

Response

TSX Venture has now indicated a similar intention to the Commission, and the references have accordingly been removed from the amended Rule. The stock exchanges have advised the Commission that if they have not removed their formal bid provisions by the time the amended Rule goes into effect, they will notify the Commission of any proposed formal bid through their facilities so that the Rule's safeguards can be applied if necessary.

18. References to Security Holders in Canada

Comments

One commenter asked if the provisions in the Rule that refer to security holders in Canada should refer to Ontario holders instead, given that other provinces generally do not have the Rule. (Quebec is the only other jurisdiction that has the equivalent of the Rule.) The commenter also asked how the Rule would be affected by the Uniform Securities Law Project of the Canadian Securities Administrators.

Response

The Rule's references to security holders in Canada are made primarily in the descriptions of circumstances in which identical treatment of security holders will cause certain definitions or requirements in the Rule to not apply. The references recognize that there may be circumstances where laws of a foreign country may justify differential treatment of security holders in that country. The references are to Canada and not Ontario because there generally will not be similar justifications for non-identical treatment of security holders within Canada, where the laws regarding take-over bids and distributions of securities are similar

among the jurisdictions. This view is reinforced in National Policy 62-201 – *Bids Made Only in Certain Jurisdictions*. Any effect that the Uniform Securities Law Project may have on the Rule has not yet been determined.

19. Transitional Considerations

Comments

One commenter thought transitional provisions seemed necessary to enable the completion of any transaction that, prior to the amendments coming into force, are agreed to and proceeding under an exemption that will be amended or repealed.

Response

Due to the nature of the amendments, which for the most part ease the Rule's regulation of related party transactions, the Commission does not expect a significant number of transitional issues to arise. Rather than lengthening the Rule to address a very temporary situation that is unlikely to have an appreciable effect on transactions, the Commission intends to address any transitional issue that may arise in a manner that does not unduly impede the completion of a transaction.

5.1.2 OSC Rule 61-501 Insider Bids, Issuer Bids, Business Combinations and Related Party Transactions

ONTARIO SECURITIES COMMISSION RULE 61-501
INSIDER BIDS, ISSUER BIDS, BUSINESS COMBINATIONS
AND RELATED PARTY TRANSACTIONS

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ONTARIO SECURITIES COMMISSION RULE 61-501
INSIDER BIDS, ISSUER BIDS, BUSINESS COMBINATIONS
AND RELATED PARTY TRANSACTIONS

PART 1 INTERPRETATION

1.1 Definitions and Interpretations

In this Rule

"affected security" means

(a) for a business combination of an issuer, an equity security of the issuer in which the interest of a holder would be terminated as a consequence of the transaction, and

(b) for a related party transaction of an issuer, an equity security of the issuer;

"affiliated entity": a person or company is considered to be an affiliated entity of another person or company if one is a subsidiary entity of the other or if both are subsidiary entities of the same person or company;

"arm's length" has the meaning ascribed to that term in section 251 of the *Income Tax Act* (Canada), or any successor to that legislation, and, in addition to that meaning, an entity is deemed not to deal at arm's length with a related party of the entity;

"associated entity", where used to indicate a relationship with an entity, has the meaning ascribed to the term "associate" in subsection 1(1) of the Act and also includes any person of which the entity beneficially owns voting securities carrying more than 10 per cent of the voting rights attached to all the outstanding voting securities of the person;

"beneficially owns" includes direct or indirect beneficial ownership, and

(a) despite subsections 1(5) and 1(6) of the Act, a person or company is not deemed to beneficially own securities that are beneficially owned by its affiliated entity, unless the affiliated entity is also its subsidiary entity, and

(b) for the purposes of the definitions of control block holder and related party, section 90 of the Act applies in determining beneficial ownership of securities;

"bona fide lender" means a person or company that

(a) ~~holds securities sufficient to affect materially the control~~is an issuer insider of an issuer solely through the holding of, or the exercise of control or direction over, securities used as collateral for a debt under a written agreement entered into by the person or company as a lender, assignee, transferee or participant,

(b) is not yet legally entitled to dispose of the securities for the purpose of applying proceeds of realization in repayment of the secured debt, and

(c) was not a related party of the issuer at the time the agreement referred to in paragraph (a) was entered into;

"business combination" means, for an issuer, an amalgamation, arrangement, consolidation, amendment to the terms of a class of equity securities or any other transaction of the issuer, as a consequence of which the interest of a holder of an equity security of the issuer may be terminated without the holder's consent, regardless of whether the equity security is replaced with another security, but does not include

(a) an acquisition of an equity security of the issuer under a statutory right of compulsory acquisition~~,~~ or, if the issuer is not a corporation, under provisions substantially equivalent to those comprising section 188 of the OBCA,

(b) a consolidation of securities that does not have the effect of terminating the interests of holders of equity securities of the issuer in those securities without their consent, through the elimination of

post-consolidated fractional interests or otherwise, except to an extent that is nominal in the circumstances,

(c) a termination of a holder's interest in a security, under the terms attached to the security, for the purpose of enforcing an ownership or voting constraint that is necessary to enable the issuer to comply with legislation, lawfully engage in a particular activity or have a specified level of Canadian ownership,

(d) a downstream transaction for the issuer, or

(e) a transaction in which no person or company that is a related party of the issuer at the time the transaction is agreed to

(i) would, as a consequence of the transaction, directly or indirectly acquire the issuer or the business of the issuer, or combine with the issuer, through an amalgamation, arrangement or otherwise, whether alone or with joint actors,

(ii) is a party to any connected transaction to the transaction, or

(iii) is entitled to receive, directly or indirectly, as a consequence of the transaction

(A) consideration per equity security that is not identical in amount and form to the entitlement of the general body of holders in Canada of securities of the same class,

(B) a collateral benefit, or

(C) consideration for securities of a class of equity securities of the issuer if the issuer has more than one outstanding class of equity securities, unless that consideration is not greater than the entitlement of the general body of holders in Canada of every other class of equity securities of the issuer in relation to the voting and financial participating interests in the issuer represented by the respective securities;

"class" includes a series of a class;

"collateral benefit", for a transaction of an issuer or for a formal bid for securities of an issuer, means any benefit that a related party of the issuer is entitled to receive, directly or indirectly, as a consequence of the transaction or bid, including, without limitation, an increase in salary, a lump sum payment, a payment for surrendering securities, or other enhancement in benefits related to past or future services as an employee ~~or,~~ director or consultant of the issuer or of another entity, regardless of the existence of any offsetting costs to the related party or whether the benefit is provided, or agreed to, by the issuer, another party to the transaction or the offeror in the bid, but does not include

(a) a payment or distribution per equity security that is identical in amount and form to the entitlement of the general body of holders in Canada of securities of the same class,

(b) an enhancement of employee benefits resulting from participation by the related party in a group plan, other than an incentive plan, for employees of a successor to the business of the issuer, if the benefits provided by the group plan are generally provided to employees of the successor to the business of the issuer who hold positions of a similar nature to the position held by the related party, or

(c) a benefit, not described in paragraph (b), that is received solely in connection with the related party's services as an employee ~~or,~~ director or consultant of the issuer, of an affiliated entity of the issuer or of a successor to the business of the issuer, if

(i) the benefit is not conferred for the purpose, in whole or in part, of increasing the value of the consideration paid to the related party for securities relinquished under the transaction or bid,

(ii) the conferring of the benefit is not, by its terms, conditional on the related party supporting the transaction or bid in any manner,

(iii) full particulars of the benefit are disclosed in the disclosure document for the transaction, or in the directors' circular in the case of a take-over bid, and

(iv) (A) at the time the transaction is agreed to or the bid is publicly announced, the related party and its associated entities beneficially own or exercise control or direction over less than one per cent of the outstanding securities of each class of equity securities of the issuer, or

(B) if the transaction is a business combination for the issuer or a formal bid for securities of the issuer,

(I) the related party discloses to an independent committee of the issuer the amount of consideration that the related party expects it will be beneficially entitled to receive, under the terms of the transaction or bid, in exchange for the equity securities beneficially owned by the related party,

(II) the independent committee, acting in good faith, determines that the value of the benefit, net of any offsetting costs to the related party, is less than five per cent of the value referred to in subclause (I), and

(III) the independent committee's determination is disclosed in the disclosure document for the transaction, or in the directors' circular in the case of a take-over bid;

"connected transactions" means two or more transactions that have at least one party in common, directly or indirectly, and

(a) are negotiated or completed at approximately the same time, or

(b) the completion of at least one of the transactions is conditional on the completion of each of the other transactions,

other than transactions related solely to services as an employee ~~or director;~~, director or consultant;

"consultant" has the meaning ascribed to that term in section 1.1 of Multilateral Instrument 45-105 - *Trades to Employees, Senior Officers, Directors, and Consultants*;

"control block holder" of an entity means a person or company, other than a bona fide lender, that, whether alone or with joint actors, beneficially owns or exercises control or direction over securities of the entity sufficient to affect materially the control of the entity, and in the absence of evidence to the contrary, beneficial ownership or control or direction over voting securities to which are attached more than 20 per cent of the votes attached to all the outstanding voting securities of the entity is considered sufficient to affect materially the control of the entity;

"controlled": for the purposes only of the definition of "subsidiary entity", an entity is considered to be controlled by a person or company if

(a) in the case of an entity that has directors

(i) the person or company beneficially owns or exercises control or direction over voting securities of the entity carrying more than 50 per cent of the votes for the election of directors, and

(ii) the votes carried by the securities entitle the holder to elect a majority of the directors of the entity,

(b) in the case of a partnership or other entity that does not have directors, other than a limited partnership, the person or company beneficially owns or exercises control or direction over more than 50 per cent of the voting interests in the partnership or other entity, or

(c) in the case of an entity that is a limited partnership, the person or company is the general partner or controls the general partner within the meaning of paragraph (a) or (b);

"convertible" means convertible into, exchangeable for, or carrying the right to purchase or cause the purchase of, another security;

"director", for an issuer that is a limited partnership, includes a director of the general partner of the issuer, except for the purposes of the definition of "controlled";

"disclosure document" means

(a) for a take-over bid (including an insider bid),

~~(i) a take-over bid circular sent to holders of offeree securities, or~~

~~(ii) if the take-over bid takes the form of a stock exchange take-over bid, the disclosure document sent to holders of offeree securities that is deemed to be a take-over bid circular under subsection 131(10) of the Act,~~

(b) for an issuer bid,

~~(i)~~ an issuer bid circular sent to holders of offeree securities, ~~or~~

~~(ii) if the issuer bid takes the form of a stock exchange issuer bid, the disclosure document sent to holders of offeree securities that is deemed to be an issuer bid circular under subsection 131(10) of the Act,~~

(c) for a business combination, an information circular sent to holders of affected securities, or, if no information circular is required, another document sent to holders of affected securities in connection with a meeting of holders of affected securities, and

(d) for a related party transaction,

(i) an information circular sent to holders of affected securities,

(ii) if no information circular is required, another document sent to holders of affected securities in connection with a meeting of holders of affected securities, or

(iii) if no information circular or other document referred to in subparagraph (ii) is required, a material change report filed for the transaction;

"downstream transaction" means, for an issuer, a transaction between the issuer and a related party of the issuer if, at the time the transaction is agreed to

(a) the issuer is a control block holder of the related party, and

(b) to the knowledge of the issuer after reasonable inquiry, no related party of the issuer, other than a wholly-owned subsidiary entity of the issuer, beneficially owns or exercises control or direction over, other than through its interest in the issuer, more than five per cent of any class of voting or equity securities of the related party that is a party to the transaction;

"entity" means a person or company;

"equity security" has the meaning ascribed to that term in subsection 89(1) of the Act;

"fair market value" means, except as provided in paragraph 6.4(2)(d), the monetary consideration that, in an open and unrestricted market, a prudent and informed buyer would pay to a prudent and informed seller, each acting at arm's length with the other and under no compulsion to act;

"formal bid" has the meaning ascribed to that term in subsection 89(1) of the Act;

"formal valuation" means a valuation prepared in accordance with Part 6;

"freely tradeable" means, for securities, that

(a) the securities are transferable,

(b) the securities are not subject to any escrow requirements,

(c) the securities do not form part of the holdings of any person or company or combination of persons or companies referred to in paragraph (c) of the definition of "distribution" in the Act,

(d) the securities are not subject to any cease trade order imposed by a Canadian securities regulatory authority,

(e) all hold periods imposed by Canadian securities legislation before the securities can be traded without a prospectus or in reliance on a prospectus exemption have expired, and

(f) any period of time imposed by Canadian securities legislation for which the issuer has to have been a reporting issuer in a jurisdiction before the securities can be traded without a prospectus or in reliance on a prospectus exemption has passed;

"incentive plan" means a group plan that provides for stock options or other equity incentives, profit sharing, bonuses, or other performance-based payments;

"income trust" means a trust or other entity that issues securities that entitle the holders to net cash flows generated by another entity;

"independent committee" means, for an issuer, a committee consisting exclusively of one or more independent directors of the issuer;

"independent director" means, for an issuer in respect of a transaction, a director who is independent as determined in section 7.1;

"independent valuator" means, for a transaction, a valuator that is independent of all interested parties in the transaction, as determined in section 6.1;

"insider bid" means a take-over bid made by

(a) an issuer insider of the offeree issuer,

(b) an associated or affiliated entity of an issuer insider of the offeree issuer,

(c) an associated or affiliated entity of the offeree issuer,

(d) a person or company described in paragraph (a), (b) or (c) at any time within 12 months preceding the commencement of the bid, or

(e) a joint actor with a person or company referred to in paragraph (a), (b), (c) or (d);

"interested party" means

(a) for a take-over bid (including an insider bid), the offeror or a joint actor with the offeror,

(b) for an issuer bid

(i) the issuer, and

(ii) any control block holder of the issuer, or any person or company that would reasonably be expected to be a control block holder of the issuer upon successful completion of the issuer bid,

(c) for a business combination, a related party of the issuer at the time the transaction is agreed to, if the related party

(i) would, as a consequence of the transaction, directly or indirectly acquire the issuer or the business of the issuer, or combine with the issuer, through an amalgamation, arrangement or otherwise, whether alone or with joint actors,

(ii) is a party to any connected transaction to the business combination, or

(iii) is entitled to receive, directly or indirectly, as a consequence of the transaction

(A) consideration per affected security that is not identical in amount and form to the entitlement of the general body of holders in Canada of securities of the same class,

(B) a collateral benefit, or

(C) consideration for securities of a class of equity securities of the issuer if the issuer has more than one outstanding class of equity securities, unless that consideration is not greater than the entitlement of the general body of holders in Canada of every other class of equity securities of the issuer in relation to the voting and financial participating interests in the issuer represented by the respective securities, and

(d) for a related party transaction, a related party of the issuer at the time the transaction is agreed to, if the related party

(i) is a party to the transaction, unless it is a party only in its capacity as a holder of affected securities and is treated identically to the general body of holders in Canada of securities of the same class on a per security basis, or

(ii) is entitled to receive, directly or indirectly, as a consequence of the transaction

(A) a collateral benefit, or

(B) a payment or distribution made to one or more holders of a class of equity securities of the issuer if the issuer has more than one outstanding class of equity securities, unless the amount of that payment or distribution is not greater than the entitlement of the general body of holders in Canada of every other class of equity securities of the issuer in relation to the voting and financial participating interests in the issuer represented by the respective securities;

"issuer insider" means, for an issuer

(a) ~~every~~a director or senior officer of the issuer,

(b) ~~every~~a director or senior officer of an entity that is itself an issuer insider or subsidiary entity of the issuer, ~~and~~or

(c) a person or company that beneficially owns ~~voting securities of the issuer or that~~or exercises control or direction over voting securities of the issuer~~, or a combination of both,~~ carrying more than 10 per cent of the voting rights attached to all ~~voting securities of~~ the ~~issuer for the time being~~ outstanding~~, other than~~ voting securities ~~beneficially owned by the person or company as an underwriter in the course of a distribution~~of the issuer;

"joint actors", when used to describe the relationship among two or more entities, means persons or companies "acting jointly or in concert" as defined in section 91 of the Act, with necessary modifications where the term is used in the context of a transaction that is not a take-over bid or issuer bid, but a security holder is not considered to be a joint actor with an offeror making a formal bid, or with a person or company involved in a business combination or related party transaction, solely because there is an agreement, commitment or understanding that the security holder will tender to the bid or vote in favour of the transaction;

"liquid market" means a market that meets the criteria specified in section 1.2;

"market capitalization" of an issuer means, for a transaction, the aggregate market price of all outstanding securities of all classes of equity securities of the issuer, the market price of the outstanding securities of a class being

(a) in the case of equity securities of a class for which there is a published market, the product of

(i) the number of securities of the class outstanding as of the close of business on the last business day of the calendar month preceding the calendar month in which the transaction is agreed to or, if no securities of the class were outstanding on that day, on the first

business day after that day that securities of the class became outstanding, so long as that day precedes the date the transaction is agreed to, and

(ii) the market price of the securities at the time referred to in subparagraph (i), on the published market on which the class of securities is principally traded, as determined in accordance with subsections 183(1), (2) and (4) of the Regulation,

(b) in the case of equity securities of a class for which there is no published market but that are currently convertible into a class of equity securities for which there is a published market, the product of

(i) the number of equity securities into which the convertible securities were convertible as of the close of business on the last business day of the calendar month preceding the calendar month in which the transaction is agreed to or, if no convertible securities were outstanding or convertible on that day, on the first business day after that day that the convertible securities became outstanding or convertible, so long as that day precedes the date the transaction is agreed to, and

(ii) the market price of the securities into which the convertible securities were convertible, at the time referred to in subparagraph (i), on the published market on which the class of securities is principally traded, as determined in accordance with subsections 183(1), (2) and (4) of the Regulation, and

(c) in the case of equity securities of a class not referred to in paragraph (a) or (b), the amount determined by the issuer's board of directors in good faith to represent the fair market value of the outstanding securities of that class;

"minority approval" means, for a business combination or related party transaction of an issuer, approval of the proposed transaction by a majority of the votes as specified in Part 8, cast by holders of each class of affected securities at a meeting of security holders of that class called to consider the transaction;

"OBCA" means the *Business Corporations Act*;

"offeree security" means a security that is subject to a take-over bid or issuer bid;

"offeror" has the meaning ascribed to that term in subsection 89(1) of the Act;

"prior valuation" means a valuation or appraisal of an issuer or its securities or material assets, whether or not prepared by an independent valuator, that, if disclosed, would reasonably be expected to affect the decision of a security holder to vote for or against a transaction, or to retain or dispose of affected securities or offeree securities, other than

(a) a report of a valuation or appraisal prepared by an entity other than the issuer, if

(i) the report was not solicited by the issuer, and

(ii) the entity preparing the report did so without knowledge of any material information concerning the issuer, its securities or any of its material assets, that had not been generally disclosed at the time the report was prepared,

(b) an internal valuation or appraisal prepared for the issuer in the ordinary course of business that has not been made available to, and has been prepared without the participation of

(i) the board of directors of the issuer, or

(ii) any director or senior officer of an interested party, except a senior officer of the issuer in the case of an issuer bid,

(c) a report of a market analyst or financial analyst that

(i) has been prepared by or for and at the expense of an entity other than the issuer, an interested party, or an associated or affiliated entity of the issuer or an interested party, and

(ii) is either generally available to clients of the analyst or of the analyst's employer or of an associated or affiliated entity of the analyst's employer or, if not, is not based, so far as the

entity required to disclose a prior valuation is aware, on any material information concerning the issuer, its securities or any of its material assets, that had not been generally disclosed at the time the report was prepared,

(d) a valuation or appraisal prepared by an entity or a person or company retained by the entity, for the purpose of assisting the entity in determining the price at which to propose a transaction that resulted in the entity becoming an issuer insider, if the valuation or appraisal is not made available to any of the independent directors of the issuer, or

(e) a valuation or appraisal prepared by an interested party or an entity retained by the interested party, for the purpose of assisting the interested party in determining the price at which to propose a transaction that, if pursued, would be an insider bid, business combination or related party transaction, if the valuation or appraisal is not made available to any of the independent directors of the issuer;

"related party" of an entity means a person or company that, at the relevant time and after reasonable inquiry, is known by the entity or a director or senior officer of the entity to be

(a) a control block holder of the entity,

(b) a person or company of which a person or company referred to in paragraph (a) is a control block holder,

(c) a person or company of which the entity is a control block holder,

(d) a person or company, other than a bona fide lender, that beneficially owns or exercises control or direction over voting securities of the entity carrying more than 10 per cent of the voting rights attached to all the outstanding voting securities of the entity,

(e) a director or senior officer of

(i) the entity, or

(ii) a person or company described in any other paragraph of this definition,

(f) a person or company that manages or directs, to any substantial degree, the affairs or operations of the entity under an agreement, arrangement or understanding between the person or company and the entity, including the general partner of an entity that is a limited partnership, but excluding a person or company acting under bankruptcy or insolvency law,

(g) a person or company of which persons or companies described in any paragraph of this definition beneficially own, in the aggregate, more than 50 per cent of the securities of any outstanding class of equity securities, or

(h) an affiliated entity of any person or company described in any other paragraph of this definition;

"related party transaction" means, for an issuer, a transaction between the issuer and a person or company that is a related party of the issuer at the time the transaction is agreed to, whether or not there are also other parties to the transaction, as a consequence of which, either through the transaction itself or together with connected transactions, the issuer directly or indirectly

(a) purchases or acquires an asset from the related party for valuable consideration,

(b) purchases or acquires, as a joint actor with the related party, an asset from a third party if the proportion of the asset acquired by the issuer is less than the proportion of the consideration paid by the issuer,

(c) sells, transfers or disposes of an asset to the related party,

(d) sells, transfers or disposes of, as a joint actor with the related party, an asset to a third party if the proportion of the consideration received by the issuer is less than the proportion of the asset sold, transferred or disposed of by the issuer,

(e) leases property to or from the related party,

(f) acquires the related party, or combines with the related party, through an amalgamation, arrangement or otherwise, whether alone or with joint actors,

(g) issues a security to the related party or subscribes for a security of the related party,

(h) amends the terms of a security of the issuer if the security is beneficially owned, or is one over which control or direction is exercised, by the related party, or agrees to the amendment of the terms of a security of the related party if the security is beneficially owned by the issuer or is one over which the issuer exercises control or direction,

(i) assumes or otherwise becomes subject to a liability of the related party,

(j) borrows money from or lends money to the related party, or enters into a credit facility with the related party,

(k) releases, cancels or forgives a debt or liability owed by the related party,

(l) materially amends the terms of an outstanding debt or liability owed by or to the related party, or the terms of an outstanding credit facility with the related party, or

(m) provides a guarantee or collateral security for a debt or liability of the related party, or materially amends the terms of the guarantee or security;

"senior officer", for an issuer that is a limited partnership, includes a senior officer of the general partner of the issuer;

~~"stock exchange insider bid" means an insider bid described in subclause (b)(i) of the definition of "formal bid" in subsection 89(1) of the Act;~~

~~"stock exchange issuer bid" means an issuer bid described in subclause (b)(i) of the definition of "formal bid" in subsection 89(1) of the Act;~~

"subsidiary entity": a person or company is considered to be a subsidiary entity of another person or company if

(a) it is controlled by

(i) that other,

(ii) that other and one or more persons or companies, each of which is controlled by that other, or

(iii) two or more persons or companies, each of which is controlled by that other, or

(b) it is a subsidiary entity of a person or company that is that other's subsidiary entity; and

"wholly-owned subsidiary entity": a person or company is considered to be a wholly-owned subsidiary entity of an issuer if the issuer owns, directly or indirectly, all the voting and equity securities and securities convertible into voting and equity securities of the person or company.

1.2 Liquid Market

(1) For the purposes of this Rule, a liquid market in a class of securities of an issuer in respect of a transaction exists at a particular time only

(a) if

(i) there is a published market for the class of securities,

(ii) during the period of 12 months before the date the transaction is agreed to in the case of a business combination, or 12 months before the date the transaction is publicly announced in the case of an insider bid or issuer bid

(A) the number of outstanding securities of the class was at all times at least 5,000,000, excluding securities beneficially owned, or over which control or direction was exercised, by related parties and securities that were not freely tradeable,

(B) the aggregate trading volume of the class of securities on the published market on which the class was principally traded was at least 1,000,000 securities,

(C) there were at least 1,000 trades in securities of the class on the published market on which the class was principally traded, and

(D) the aggregate value of the trades in securities of the class on the published market on which the class was principally traded was at least $15,000,000, and

(iii) the market value of the class of securities on the published market on which the class was principally traded, as determined in accordance with subsection (2), was at least $75,000,000 for the calendar month preceding the calendar month

(A) in which the transaction is agreed to, in the case of a business combination, or

(B) in which the transaction is publicly announced, in the case of an insider bid or issuer bid; or

(b) if the test set out in paragraph (a) is not met,

(i) there is a published market for the class of securities,

(ii) a person or company that is qualified and independent of all interested parties to the transaction, as determined on the same basis applicable to a valuator preparing a formal valuation under section 6.1, provides an opinion to the issuer that there is a liquid market in the class at the date the transaction is agreed to in the case of a business combination, or at the date the transaction is publicly announced in the case of an insider bid or issuer bid,

(iii) the opinion is included in the disclosure document for the transaction, together with a statement that the published market on which the class is principally traded has sent a letter to the Director indicating concurrence with the opinion or providing a similar opinion, and

(iv) the disclosure document for the transaction includes the same disclosure regarding the person or company providing the opinion as is required for a valuator under section 6.2.

(2) For the purpose of determining whether an issuer satisfies the market value requirement of subparagraph (1)(a)(iii), the market value of a class of securities for a calendar month is calculated by multiplying

(a) the number of securities of the class outstanding as of the close of business on the last business day of the calendar month, excluding securities beneficially owned, or over which control or direction was exercised, by related parties of the issuer and securities that were not freely tradeable; by

(b) if

(i) the published market provides a closing price for the securities, the arithmetic average of the closing prices of the securities of that class on the published market on which that class was principally traded for each of the trading days during the calendar month, or

(ii) the published market does not provide a closing price, but provides only the highest and lowest prices of securities traded on a particular day, the arithmetic average of the simple averages of the highest and lowest prices of the securities of that class on the published market on which that class was principally traded for each of the trading days for which the securities traded during the calendar month.

(3) An issuer that relies on an opinion referred to in subparagraph (1)(b)(ii) shall cause the letter referred to in subparagraph (1)(b)(iii) to be sent promptly to the Director.

1.3 Transactions by Wholly-Owned Subsidiary Entity - In this Rule, a transaction of a wholly-owned subsidiary entity of an issuer is deemed to be also a transaction of the issuer, and, for greater certainty, a formal bid made by a wholly-owned subsidiary entity of an issuer for securities of the issuer is deemed to be also an issuer bid made by the issuer.

1.4 Transactions by Underlying Operating Entity of Income Trust - In this Rule, a transaction of an underlying operating entity of an income trust is deemed to be a transaction of the income trust, and a related party of the underlying operating entity is deemed to be a related party of the income trust.

1.5 Redeemable Securities as Consideration in Business Combination - In this Rule, if all or part of the consideration that holders of affected securities receive in a business combination consists of securities that are redeemed for cash within seven days of their issuance, the cash proceeds of the redemption, rather than the redeemed securities, are deemed to be consideration that the holders of the affected securities receive in the business combination.

1.6 Application to Act, Regulation and Other Rules - For the purposes of the Act, the Regulation and the rules, "going private transaction" has the meaning ascribed to the term "business combination" in section 1.1 of this Rule, and "insider bid" and "related party transaction" have the meanings ascribed to those terms in section 1.1 of this Rule.

PART 2 INSIDER BIDS

2.1 Application

(1) This Part does not apply to an insider bid that is exempt from sections 95 to 100 of the Act under

(a) ~~clause~~subsection 93(1)~~(a)~~ of the Act~~, unless it is a stock exchange insider bid~~; or

(b~~)~~ ~~clauses 93(1)(b) to (f) of the Act or section 184 of the Regulation; or~~(c) a decision made by the Commission under clause 104(2)(c) of the Act, unless the decision provides otherwise.

(2) This Part does not apply to a take-over bid that is an insider bid solely because of the application of section 90 of the Act to an agreement between the offeror and a security holder of the offeree issuer that offeree securities beneficially owned by the security holder, or over which the security holder exercises control or direction, will be tendered to the bid, if

(a) the security holder is not a joint actor with the offeror; and

(b) the general nature and material terms of the agreement to tender are disclosed in a news release and report filed under section 101 of the Act, or are otherwise generally disclosed.

(3) This Part does not apply to an insider bid in respect of which the offeror complies with National Instrument 71-101 - *The Multijurisdictional Disclosure System*, unless persons or companies whose last address as shown on the books of the offeree issuer is in Canada, as determined in accordance with subsections 12.1(2) to (4) of National Instrument 71-101, hold 20 per cent or more of the class of securities that is the subject of the bid.

2.2 Disclosure

(1) The offeror shall disclose in the disclosure document for an insider bid

(a) the background to the insider bid;

(b) in accordance with section 6.8, every prior valuation in respect of the offeree issuer

(i) that has been made in the 24 months before the date of the insider bid, and

(ii) the existence of which is known, after reasonable inquiry, to the offeror or any director or senior officer of the offeror; and

(c) the formal valuation exemption, if any, on which the offeror is relying under section 2.4 and the facts supporting that reliance.

~~(2) The offeror shall include in the disclosure document for a stock exchange insider bid the disclosure required by Form 33 of the Regulation, appropriately modified.~~

~~(3~~) The board of directors of the offeree issuer shall include in the directors' circular for an insider bid

(a) disclosure, in accordance with section 6.8, of every prior valuation in respect of the offeree issuer not disclosed in the disclosure document for the insider bid

(i) that has been made in the 24 months before the date of the insider bid, and

(ii) the existence of which is known, after reasonable inquiry, to the offeree issuer or to any director or senior officer of the offeree issuer;

(b) a description of the background to the insider bid to the extent the background has not been disclosed in the disclosure document for the insider bid;

(c) disclosure of any bona fide prior offer that relates to the offeree securities or is otherwise relevant to the insider bid, which offer was received by the issuer during the 24 months before the insider bid was publicly announced, and a description of the offer and the background to the offer; and

(d) a discussion of the review and approval process adopted by the board of directors and the special committee, if any, of the offeree issuer for the insider bid, including a discussion of any materially contrary view or abstention by a director and any material disagreement between the board and the special committee.

2.3 Formal Valuation

(1) Subject to section 2.4, the offeror in an insider bid shall

(a) obtain, at its own expense, a formal valuation;

(b) provide the disclosure required by section 6.2;

(c) include, in accordance with section 6.5, a summary of the formal valuation in the disclosure document for the insider bid, unless the formal valuation is included in its entirety in the disclosure document; and

(d) comply with the other provisions of Part 6 applicable to it relating to formal valuations.

(2) An independent committee of the offeree issuer shall, and the offeror shall enable the independent committee to

(a) determine who the valuator will be;

(b) supervise the preparation of the formal valuation; and

(c) use its best efforts to ensure that the formal valuation is completed and provided to the offeror in a timely manner.

2.4 Exemptions from Formal Valuation Requirement

(1) Section 2.3 does not apply to an offeror in connection with an insider bid in any of the following circumstances:

1. Discretionary Exemption - The offeror has been granted an exemption from section 2.3 under section 9.1.

2. Lack of Knowledge and Representation - Neither the offeror nor any joint actor with the offeror has, or has had within the preceding 12 months, any board or management representation in respect of the offeree issuer, or has knowledge of any material information concerning the offeree issuer or its securities that has not been generally disclosed.

3. Previous Arm's Length Negotiations - If

(a) the consideration per security under the insider bid is at least equal in value to and is in the same form as the highest consideration agreed to with one or more selling security holders of the offeree issuer in arm's length negotiations in connection with

(i) the making of the insider bid,

(ii) one or more other transactions agreed to within 12 months before the date of the first public announcement of the insider bid, or

(iii) a combination of transactions referred to in clauses (i) and (ii),

(b) at least one of the selling security holders party to an agreement referred to in clause (a)(i) or (ii) beneficially owns or exercises control or direction over, or beneficially owned or exercised control or direction over, and agreed to sell

(i) at least five per cent of the outstanding securities of the class of offeree securities, as determined in accordance with subsection (2), if the person or company that entered into the agreement with the selling security holder beneficially owned 80 per cent or more of the outstanding securities of the class of offeree securities, as determined in accordance with subsection (2), or

(ii) at least 10 per cent of the outstanding securities of the class of offeree securities, as determined in accordance with subsection (2), if the person or company that entered into the agreement with the selling security holder beneficially owned less than 80 per cent of the outstanding securities of the class of offeree securities, as determined in accordance with subsection (2),

(c) one or more of the selling security holders party to any of the transactions referred to in subparagraph (a) beneficially own or exercise control or direction over, or beneficially owned or exercised control or direction over, and agreed to sell, in the aggregate, at least 20 per cent of the outstanding securities of the class of offeree securities, as determined in accordance with subsection (3), beneficially owned, or over which control or direction was exercised, by entities other than the person or company, and joint actors with the person or company, that entered into the agreements with the selling security holders,

(d) the offeror reasonably believes, after reasonable inquiry, that at the time of each of the agreements referred to in subparagraph (a)

(i) each selling security holder party to the agreement had full knowledge and access to information concerning the offeree issuer and its securities, and

(ii) any factors peculiar to a selling security holder party to the agreement, including non-financial factors, that were considered relevant by that selling security holder in assessing the consideration did not have the effect of reducing the price that would otherwise have been considered acceptable by that selling security holder,

(e) at the time of each of the agreements referred to in subparagraph (a), the offeror did not know of any material information in respect of the offeree issuer or the offeree securities that

(i) had not been generally disclosed, and

(ii) if generally disclosed, could have reasonably been expected to increase the agreed consideration,

(f) any of the agreements referred to in subparagraph (a) was entered into with a selling security holder by a person or company other than the offeror, the offeror reasonably believes, after reasonable inquiry, that at the time of that agreement, the person or company did not know of any material information in respect of the offeree issuer or the offeree securities that

(i) had not been generally disclosed, and

(ii) if disclosed, could have reasonably been expected to increase the agreed consideration, and

(g) the offeror does not know, after reasonable inquiry, of any material information in respect of the offeree issuer or the offeree securities since the time of each of the agreements referred to in subparagraph (a) that has not been generally disclosed and could reasonably be expected to increase the value of the offeree securities.

4. Auction - If

(a) the insider bid is publicly announced or made while

(i) one or more formal bids for securities of the same class that is the subject of the insider bid have been made and are outstanding, or

(ii) one or more proposed transactions are outstanding that

(A) are business combinations in respect of securities of the same class that is the subject of the insider bid, or

(B) would be business combinations in respect of securities of the same class that is the subject of the insider bid, except that they come within the exception in paragraph (e) of the definition of business combination,

and ascribe a per security value to those securities,

(b) at the time the insider bid is made, the offeree issuer has provided equal access to the offeree issuer, and to information concerning the offeree issuer and its securities, to the offeror in the insider bid, all offerors in the other formal bids, and all parties to the proposed transactions described in clause (a)(ii), and

(c) the offeror, in the disclosure document for the insider bid,

(i) includes all material information concerning the offeree issuer and its securities that is known to the offeror after reasonable inquiry but has not been generally disclosed, together with a description of the nature of the offeror's access to the issuer, and

(ii) states that the offeror does not know, after reasonable inquiry, of any material information concerning the offeree issuer and its securities other than information that has been disclosed under clause (i) or that has otherwise been generally disclosed.

(2) For the purposes of subparagraph 3(b) of subsection (1), the number of outstanding securities of the class of offeree securities

(a) is calculated at the time of the agreement referred to in clause 3(a)(i) or (ii) of subsection (1), if the offeror knows the number of securities of the class outstanding at that time; or

(b) if paragraph (a) does not apply, is determined based on the information most recently provided by the offeree issuer in a material change report, or under section 2.1 of National Instrument 62-102 - *Disclosure of Outstanding Share Data* or section 5.4 of National Instrument 51-102 - *Continuous Disclosure Obligations*, immediately preceding the date of the agreement referred to in clause 3(a)(i) or (ii) of subsection (1).

(3) For the purposes of subparagraph 3(c) of subsection (1), the number of outstanding securities of the class of offeree securities

(a) is calculated at the time of the last of the agreements referred to in subparagraph 3(a) of subsection (1), if the offeror knows the number of securities of the class outstanding at that time; or

(b) if paragraph (a) does not apply, is determined based on the information most recently provided by the offeree issuer in a material change report, or under section 2.1 of National Instrument 62-102 or section 5.4 of National Instrument 51-102, immediately preceding the date of the last of the agreements referred to in subparagraph 3(a) of subsection (1).

PART 3 ISSUER BIDS

3.1 Application

(1) This Part does not apply to an issuer bid that is exempt from sections 95 to 100 of Part XX of the Act under

(a) ~~clauses~~subsection 93(3)~~(a) to (d) and (f) to (i)~~ of the Act;~~(b) clause 93(3)(e) of the Act, unless it is a stock exchange issuer bid~~; or

(~~c~~b) a decision made by the Commission under clause 104(2)(c) of the Act, unless the decision provides otherwise.

(2) This Part does not apply to an issuer bid that complies with National Instrument 71-101 - *The Multijurisdictional Disclosure System*, unless persons or companies whose last address as shown on the books of the issuer is in Canada, as determined in accordance with subsections 12.1(2) to (4) of National Instrument 71-101, hold 20 per cent or more of the class of securities that is the subject of the bid.

3.2 Disclosure~~(1) -~~ The issuer shall include in the disclosure document for an issuer bid

(a) the disclosure required by Item 16, "Right of Appraisal and Acquisition", of Form 32 of the Regulation, to the extent applicable;

(b) a description of the background to the issuer bid;

(c) disclosure, in accordance with section 6.8, of every prior valuation in respect of the issuer

(i) that has been made in the 24 months before the date of the issuer bid, and

(ii) the existence of which is known, after reasonable inquiry, to the issuer or to any director or senior officer of the issuer;

(d) disclosure of any bona fide prior offer that relates to the offeree securities or is otherwise relevant to the issuer bid, which offer was received by the issuer during the 24 months before the issuer bid was publicly announced, and a description of the offer and the background to the offer;

(e) a discussion of the review and approval process adopted by the board of directors and the special committee, if any, of the issuer for the issuer bid, including a discussion of any materially contrary view or abstention by a director and any material disagreement between the board and the special committee;

(f) a statement of the intention, if known to the issuer after reasonable inquiry, of every interested party to accept or not to accept the issuer bid;

(g) a description of the effect that the issuer anticipates the issuer bid, if successful, will have on the direct or indirect voting interest in the issuer of every interested party; and

(h) disclosure of the formal valuation exemption, if any, on which the issuer is relying under section 3.4 and the facts supporting that reliance.

~~(2) The issuer shall include in the disclosure document for a stock exchange issuer bid the applicable disclosure required by Form 33 of the Regulation.~~

3.3 Formal Valuation

(1) Subject to section 3.4, an issuer that makes an issuer bid shall

(a) obtain a formal valuation;

(b) provide the disclosure required by section 6.2;

(c) include, in accordance with section 6.5, a summary of the formal valuation in the disclosure document for the issuer bid, unless the formal valuation is included in its entirety in the disclosure document;

(d) if there is an interested party other than the issuer, state in the disclosure document who will pay or has paid for the valuation; and

(e) comply with the other provisions of Part 6 applicable to it relating to formal valuations.

(2) The board of directors of the issuer or an independent committee of the board shall

(a) determine who the valuator will be; and

(b) supervise the preparation of the formal valuation.

3.4 Exemptions from Formal Valuation Requirement - Section 3.3 does not apply to an issuer in connection with an issuer bid in any of the following circumstances:

1. Discretionary Exemption - The issuer has been granted an exemption from section 3.3 under section 9.1.

2. Bid for Non-Convertible Securities - The issuer bid is for securities that are not equity securities and that are not, directly or indirectly, convertible into equity securities.

3. Liquid Market - The issuer bid is made for securities for which

(a) a liquid market exists,

(b) it is reasonable to conclude that, following the completion of the bid, there will be a market for holders of the securities who do not tender to the bid that is not materially less liquid than the market that existed at the time of the making of the bid, and

(c) if an opinion referred to in subparagraph (b)(ii) of subsection 1.2(1) is provided, the person or company providing the opinion reaches the conclusion described in subparagraph 3(b) of this section 3.4 and so states in its opinion.

PART 4 BUSINESS COMBINATIONS

4.1 Application - This Part does not apply to an issuer carrying out a business combination if

(a) the issuer is not a reporting issuer;

(b) the issuer is a mutual fund; or

(c) (i) at the time the business combination is agreed to,

(A) persons or companies whose last address as shown on the books of the issuer is in Ontario hold less than two per cent of the outstanding securities of each class of affected securities of the issuer, and

(B) the issuer reasonably believes that persons or companies who are in Ontario beneficially own less than two per cent of the outstanding securities of each class of affected securities of the issuer, and

(ii) all documents concerning the transaction that are sent generally to other holders of affected securities of the issuer are concurrently sent to all holders of the securities whose last address as shown on the books of the issuer is in Ontario.

4.2 Meeting and Information Circular

(1) Without limiting the application of any other legal requirements that apply to meetings of security holders and information circulars, this section applies only to a business combination for which section 4.5 requires the issuer to obtain minority approval.

(2) An issuer proposing to carry out a business combination shall call a meeting of holders of affected securities and send an information circular to those holders.

(3) The issuer shall include in the information circular

(a) the disclosure required by Form 33 of the Regulation, to the extent applicable and with necessary modifications;

(b) the disclosure required by Item 16, "Right of Appraisal and Acquisition", of Form 32 of the Regulation, to the extent applicable, together with a description of rights that may be available to security holders opposed to the transaction;

(c) a description of the background to the business combination;

(d) disclosure in accordance with section 6.8 of every prior valuation in respect of the issuer

(i) that has been made in the 24 months before the date of the information circular, and

(ii) the existence of which is known, after reasonable inquiry, to the issuer or to any director or senior officer of the issuer;

(e) disclosure of any bona fide prior offer that relates to the subject matter of or is otherwise relevant to the transaction, which offer was received by the issuer during the 24 months before the business combination was agreed to, and a description of the offer and the background to the offer;

(f) a discussion of the review and approval process adopted by the board of directors and the special committee, if any, of the issuer for the transaction, including a discussion of any materially contrary view or abstention by a director and any material disagreement between the board and the special committee;

(g) disclosure of the formal valuation exemption, if any, on which the issuer is relying under section 4.4 and the facts supporting that reliance; and

(h) disclosure of the number of votes attached to the securities that, to the knowledge of the issuer after reasonable inquiry, will be excluded in determining whether minority approval for the business combination is obtained.

(4) If, after sending the information circular and before the meeting, a change occurs that, if disclosed, would reasonably be expected to affect the decision of a holder of affected securities to vote for or against the business combination or to retain or dispose of affected securities, the issuer shall promptly disseminate disclosure of the change

(a) in a manner that the issuer reasonably determines will inform beneficial owners of affected securities of the change; and

(b) sufficiently in advance of the meeting that the beneficial owners of affected securities will be able to assess the impact of the change.

(5) If subsection (4) applies, the issuer shall file a copy of the disseminated information contemporaneously with its dissemination.

4.3 Formal Valuation

(1) Subject to section 4.4, an issuer shall obtain a formal valuation for a business combination if

(a) an interested party would, as a consequence of the transaction, directly or indirectly acquire the issuer or the business of the issuer, or combine with the issuer, through an amalgamation, arrangement or otherwise, whether alone or with joint actors, or

(b) an interested party is a party to any connected transaction to the business combination, if the connected transaction is a related party transaction for which the issuer is required to obtain a formal valuation under section 5.4.

(2) If a formal valuation is required under subsection (1), the issuer shall

(a) provide the disclosure required by section 6.2;

(b) include, in accordance with section 6.5, a summary of the formal valuation in the disclosure document for the business combination, unless the formal valuation is included in its entirety in the disclosure document;

(c) state in the disclosure document for the business combination who will pay or has paid for the valuation; and

(d) comply with the other provisions of Part 6 applicable to it relating to formal valuations.

(3) The board of directors of the issuer or an independent committee of the board shall

(a) determine who the valuator will be; and

(b) supervise the preparation of the formal valuation.

4.4 Exemptions from Formal Valuation Requirement

(1) Section 4.3 does not apply to an issuer carrying out a business combination in any of the following circumstances:

1. Discretionary Exemption - The issuer has been granted an exemption from section 4.3 under section 9.1.

2. Issuer Not Listed on Specified Markets - No securities of the issuer are listed or quoted on the Toronto Stock Exchange, the New York Stock Exchange, the American Stock Exchange, the NASDAQ Stock Market, or a stock exchange outside of Canada and the United States.

3. Previous Arm's Length Negotiations - If

(a) the consideration per affected security under the business combination is at least equal in value to and is in the same form as the highest consideration agreed to with one or more selling security holders of the issuer in arm's length negotiations in connection with

(i) the business combination,

(ii) one or more other transactions agreed to within 12 months before the date of the first public announcement of the business combination, or

(iii) a combination of transactions referred to in clauses (i) and (ii),

(b) at least one of the selling security holders party to an agreement referred to in clause (a)(i) or (ii) beneficially owns or exercises control or direction over, or beneficially owned or exercised control or direction over, and agreed to sell

(i) at least five per cent of the outstanding securities of the class of affected securities, as determined in accordance with subsection (2), if the person or company that entered into the agreement with the selling security holder beneficially owned 80 per cent or more of the outstanding securities of the class of affected securities, as determined in accordance with subsection (2), or

(ii) at least 10 per cent of the outstanding securities of the class of affected securities, as determined in accordance with subsection (2), if the person or company that entered into the agreement with the selling security holder beneficially owned less than 80 per cent of the outstanding securities of the class of affected securities, as determined in accordance with subsection (2),

(c) one or more of the selling security holders party to any of the transactions referred to in subparagraph (a) beneficially owns or exercises control or direction over, or beneficially owned or exercised control or direction over, and agreed to sell, in the aggregate, at least 20 per cent of the outstanding securities of the class of affected securities, as determined in accordance with subsection (3), beneficially owned or over which control or direction was exercised by entities other than the person or company, and joint actors with the person or company, that entered into the agreements with the selling security holders,

(d) the person or company proposing to carry out the business combination with the issuer reasonably believes, after reasonable inquiry, that at the time of each of the agreements referred to in subparagraph (a)

(i) each selling security holder party to the agreement had full knowledge of and access to information concerning the issuer and its securities, and

(ii) any factors peculiar to a selling security holder party to the agreement, including non-financial factors, that were considered relevant by the selling security holder in assessing the consideration did not have the effect of reducing the price that would otherwise have been considered acceptable by that selling security holder,

(e) at the time of each of the agreements referred to in subparagraph (a), the person or company proposing to carry out the business combination with the issuer did not know of any material information in respect of the issuer or the affected securities that

(i) had not been generally disclosed, and

(ii) if disclosed, could have reasonably been expected to increase the agreed consideration,

(f) any of the agreements referred to in subparagraph (a) was entered into with a selling security holder by an entity other than the person or company proposing to carry out the business combination with the issuer, the person or company proposing to carry out the business combination with the issuer reasonably believes, after reasonable inquiry, that at the time of that agreement, the entity did not know of any material information in respect of the issuer or the affected securities that

(i) had not been generally disclosed, and

(ii) if disclosed, could have reasonably been expected to increase the agreed consideration, and

(g) the person or company proposing to carry out the business combination with the issuer does not know, after reasonable inquiry, of any material information in respect of the issuer or the affected securities since the time of each of the agreements referred to in subparagraph (a) that has not been generally disclosed and could reasonably be expected to increase the value of the affected securities.

4. Auction - If

(a) the business combination is publicly announced while

(i) one or more proposed transactions are outstanding that

(A) are business combinations in respect of the affected securities, or

(B) would be business combinations in respect of the affected securities, except that they come within the exception in paragraph (e) of the definition of business combination,

and ascribe a per security value to those securities, or

(ii) one or more formal bids for the affected securities have been made and are outstanding, and

(b) at the time the disclosure document for the business combination is sent to the holders of affected securities, the issuer has provided equal access to the issuer, and to information concerning the issuer and its securities, to the person or company proposing to carry out the business combination with the issuer, all parties to the proposed transactions described in clause (a)(i), and all offerors in the formal bids.

5. Second Step Business Combination - If

(a) the business combination is being effected by an offeror that made a formal bid, or an affiliated entity of that offeror, and is in respect of the securities of the same class for which the bid was made and that were not acquired in the bid,

(b) the business combination is completed no later than 120 days after the date of expiry of the formal bid,

(c) the consideration per security that the security holders would be entitled to receive in the business combination is at least equal in value to and is in the same form as the consideration that the tendering security holders were entitled to receive in the formal bid,

(d) the disclosure document for the formal bid

(i) disclosed that if the offeror acquired securities under the formal bid, the offeror intended to acquire the remainder of the securities under a statutory right of acquisition or under a business combination that would satisfy the conditions in subparagraphs (b) and (c),

(ii) described the expected tax consequences of both the formal bid and the business combination if, at the time the bid was made, the tax consequences arising from the business combination

(A) were reasonably foreseeable to the offeror, and

(B) were reasonably expected to be different from the tax consequences of tendering to the bid, and

(iii) disclosed that the tax consequences of the formal bid and the business combination may be different if, at the time the bid was made, the offeror could not reasonably foresee the tax consequences arising from the business combination.

6. Non-redeemable Investment Fund - The issuer is a non-redeemable investment fund that

(a) at least once each quarter calculates and publicly disseminates the net asset value of its securities, and

(b) at the time of publicly announcing the business combination, publicly disseminates the net asset value of its securities as of the business day before the announcement.

(2) For the purposes of subparagraph 3(b) of subsection (1), the number of outstanding securities of the class of affected securities

(a) is calculated at the time of the agreement referred to in clause 3(a)(i) or (ii) of subsection (1), if the person or company proposing to carry out the business combination with the issuer knows the number of securities of the class outstanding at that time; or

(b) if subparagraph (a) does not apply, is determined based on the information most recently provided by the issuer in a material change report, or under section 2.1 of National Instrument 62-102 - *Disclosure of Outstanding Share Data* or section 5.4 of National Instrument 51-102 - *Continuous Disclosure Obligations*, immediately preceding the date of the agreement referred to in clause 3(a)(i) or (ii) of subsection (1).

(3) For the purposes of subparagraph 3(c) of subsection (1), the number of outstanding securities of the class of affected securities

(a) is calculated at the time of the last of the agreements referred to in subparagraph 3(a) of subsection (1), if the person or company proposing to carry out the business combination with the issuer knows the number of securities of the class outstanding at that time; or

(b) if paragraph (a) does not apply, is determined based on the information most recently provided by the issuer in a material change report, or under section 2.1 of National Instrument 62-102 or section 5.4 of National Instrument 51-102, immediately preceding the date of the last of the agreements referred to in subparagraph 3(a) of subsection (1).

4.5 Minority Approval - Subject to section 4.6, an issuer shall not carry out a business combination unless the issuer has obtained minority approval for the business combination under Part 8.

4.6 Exemptions from Minority Approval Requirement

(1) Section 4.5 does not apply to an issuer carrying out a business combination in any of the following circumstances if the exemption relied on, any formal valuation exemption relied on, and the facts supporting reliance on those exemptions are disclosed in the disclosure document for the business combination:

1. Discretionary Exemption - The issuer has been granted an exemption from section 4.5 under section 9.1.

2. 90 Per Cent Exemption - Subject to subsection (2), one or more persons or companies that are interested parties within the meaning of subparagraph (c)(i) of the definition of interested party beneficially own, in the aggregate, 90 per cent or more of the outstanding securities of a class of affected securities at the time that the business combination is agreed to, and either

   (a) an appraisal remedy is available to holders of the class of affected securities under the statute under which the issuer is organized or is governed as to corporate law matters, or

   (b) if an appraisal remedy referred to in subparagraph (a) is not available, holders of the class of affected securities are given an enforceable right that is substantially equivalent to the appraisal remedy provided for in subsection 185(4) of the OBCA and that is described in the disclosure document for the business combination.

(2) If there are two or more classes of affected securities, paragraph 2 of subsection (1) applies only to a class of which the applicable interested parties beneficially own, in the aggregate, 90 per cent or more of the outstanding securities.

4.7 Conditions for Relief from OBCA Requirements - An issuer that is governed by the OBCA and proposes to carry out a "going private transaction", as defined in subsection 190(1) of the OBCA, is exempt from subsections (2), (3) and (4) of section 190 of the OBCA, and is not required to make an application for exemption from those subsections under subsection 190(6) of the OBCA, if

(a) the transaction is not a business combination;

(b) Part 4 does not apply to the transaction by reason of section 4.1; or

(c) the transaction is carried out in compliance with Part 4, and, for this purpose, compliance includes reliance on any applicable exemption from a requirement of Part 4, including a discretionary exemption granted by the Director under section 9.1.

PART 5 RELATED PARTY TRANSACTIONS

5.1 Application - This Part does not apply to an issuer carrying out a related party transaction if

(a) the issuer is not a reporting issuer;

(b) the issuer is a mutual fund;

(c) (i) at the time the transaction is agreed to,

   (A) persons or companies whose last address as shown on the books of the issuer is in Ontario hold less than two per cent of the outstanding securities of each class of affected securities of the issuer, and

   (B) the issuer reasonably believes that persons or companies who are in Ontario beneficially own less than two per cent of the outstanding securities of each class of affected securities of the issuer, and

   (ii) all documents concerning the transaction that are sent generally to other holders of affected securities of the issuer are concurrently sent to all holders of the securities whose last address as shown on the books of the issuer is in Ontario;

(d) the parties to the transaction consist solely of

(i) an entity and one or more of its wholly-owned subsidiary entities, or

(ii) wholly-owned subsidiary entities of the same entity;

(e) the transaction is a business combination for the issuer;

(f) the transaction would be a business combination for the issuer except that it comes within an exception in any of paragraphs (a) to (e) of the definition of business combination;

(g) the transaction is a downstream transaction for the issuer;

(h) the issuer is obligated to and does carry out the transaction substantially under the terms

(i) that were agreed to, and generally disclosed, before May 1, 2000,

(ii) that were agreed to, and generally disclosed, before the issuer became a reporting issuer, or

(iii) of a previous transaction the terms of which were generally disclosed, including an issuance of a convertible security, if the previous transaction was carried out in compliance with this Rule, including in reliance on any applicable exemption or exclusion, or was not subject to this Rule;

(i) the transaction is a distribution

(i) of securities of the issuer and is a related party transaction for the issuer solely because the interested party is an underwriter of the distribution, and

(ii) carried out in compliance with, including in reliance on any applicable exemption from, National Instrument 33-105 - *Underwriting Conflicts*;

(j) the issuer is subject to the requirements of Part IX of the *Loan and Trust Corporations Act*, Part XI of the *Bank Act* (Canada), Part XI of the *Insurance Companies Act* (Canada), or Part XI of the *Trust and Loan Companies Act* (Canada), or any successor to that legislation, and the issuer complies with those requirements; or

(k) the transaction is a rights offering, dividend, or any other transaction in which the general body of holders in Canada of affected securities of the same class are treated identically on a per security basis, if

(i) the transaction has no interested party within the meaning of paragraph (d) of the definition of interested party, or

(ii) the transaction is a rights offering, there is an interested party only because a related party of the issuer provides a stand-by commitment for the rights offering, and the stand-by commitment complies with Rule 45-101 - *Rights Offerings*.

5.2 Material Change Report

(1) An issuer shall include in a material change report, if any, required to be filed under the Act for a related party transaction

(a) a description of the transaction and its material terms;

(b) the purpose and business reasons for the transaction;

(c) the anticipated effect of the transaction on the issuer's business and affairs;

(d) a description of

(i) the interest in the transaction of every interested party and of the related parties and associated entities of the interested parties, and

(ii) the anticipated effect of the transaction on the percentage of securities of the issuer, or of an affiliated entity of the issuer, beneficially owned or controlled by each person or company referred to in subparagraph (i) for which there would be a material change in that percentage;

(e) unless this information will be included in another disclosure document for the transaction, a discussion of the review and approval process adopted by the board of directors and the special committee, if any, of the issuer for the transaction, including a discussion of any materially contrary view or abstention by a director and any material disagreement between the board and the special committee;

(f) subject to subsection (3), a summary, in accordance with section 6.5, of the formal valuation, if any, obtained for the transaction, unless the formal valuation is included in its entirety in the material change report or will be included in its entirety in another disclosure document for the transaction;

(g) disclosure, in accordance with section 6.8, of every prior valuation in respect of the issuer that relates to the subject matter of or is otherwise relevant to the transaction

(i) that has been made in the 24 months before the date of the material change report, and

(ii) the existence of which is known, after reasonable inquiry, to the issuer or to any director or senior officer of the issuer;

(h) the general nature and material terms of any agreement entered into by the issuer, or a related party of the issuer, with an interested party or a joint actor with an interested party, in connection with the transaction; and

(i) disclosure of the formal valuation and minority approval exemptions, if any, on which the issuer is relying under sections 5.5 and 5.7, respectively, and the facts supporting reliance on the exemptions.

(2) If the issuer files a material change report less than 21 days before the expected date of the closing of the transaction, the issuer shall explain in the news release required to be issued under the Act and in the material change report why the shorter period is reasonable or necessary in the circumstances.

(3) Despite paragraphs (1)(f) and 5.4(2)(a), if the issuer is required to include a summary of the formal valuation in the material change report and the formal valuation is not available at the time the issuer files the material change report, the issuer shall file a supplementary material change report containing the disclosure required by paragraph (1)(f) as soon as the formal valuation is available.

(4) The issuer shall send a copy of any material change report prepared by it in respect of the transaction to any security holder of the issuer upon request and without charge.

5.3 Meeting and Information Circular

(1) Without limiting the application of any other legal requirements that apply to meetings of security holders and information circulars, this section applies only to a related party transaction for which section 5.6 requires the issuer to obtain minority approval.

(2) An issuer proposing to carry out a related party transaction to which this section applies shall call a meeting of holders of affected securities and send an information circular to those holders.

(3) The issuer shall include in the information circular

(a) the disclosure required by Form 33 of the Regulation, to the extent applicable and with necessary modifications;

(b) the disclosure required by Item 16, “Right of Appraisal and Acquisition”, of Form 32 of the Regulation, to the extent applicable, together with a description of rights that may be available to security holders opposed to the transaction;

(c) a description of the background to the transaction;

(d) disclosure, in accordance with section 6.8, of every prior valuation in respect of the issuer that relates to the subject matter of or is otherwise relevant to the transaction

(i) that has been made in the 24 months before the date of the information circular, and

(ii) the existence of which is known, after reasonable inquiry, to the issuer or to any director or senior officer of the issuer;

(e) disclosure of any bona fide prior offer that relates to the subject matter of or is otherwise relevant to the transaction, which offer was received by the issuer during the 24 months before the transaction was agreed to, and a description of the offer and the background to the offer;

(f) a discussion of the review and approval process adopted by the board of directors and the special committee, if any, of the issuer for the transaction, including a discussion of any materially contrary view or abstention by a director and any material disagreement between the board and the special committee;

(g) disclosure of the formal valuation exemption, if any, on which the issuer is relying under section 5.5 and the facts supporting that reliance; and

(h) disclosure of the number of votes attached to the securities that, to the knowledge of the issuer after reasonable inquiry, will be excluded in determining whether minority approval for the related party transaction is obtained.

(4) If, after sending the information circular and before the meeting, a change occurs that, if disclosed, would reasonably be expected to affect the decision of a holder of affected securities to vote for or against the related party transaction or to retain or dispose of affected securities, the issuer shall promptly disseminate disclosure of the change

(a) in a manner that the issuer reasonably determines will inform beneficial owners of affected securities of the change; and

(b) sufficiently in advance of the meeting that the beneficial owners of affected securities will be able to assess the impact of the change.

(5) If subsection (4) applies, the issuer shall file a copy of the disseminated information contemporaneously with its dissemination.

5.4 Formal Valuation

(1) Subject to section 5.5, an issuer shall obtain a formal valuation for a related party transaction described in any of paragraphs (a) to (g) of the definition of related party transaction.

(2) If a formal valuation is required under subsection (1), the issuer shall

(a) include, in accordance with section 6.5, a summary of the formal valuation in the disclosure document for the related party transaction, unless the formal valuation is included in its entirety in the disclosure document;

(b) state in the disclosure document who will pay or has paid for the valuation; and

(c) comply with the other provisions of Part 6 applicable to it relating to formal valuations.

(3) The board of directors of the issuer or an independent committee of the board shall

(a) determine who the valuator will be; and

(b) supervise the preparation of the formal valuation.

5.5 Exemptions from Formal Valuation Requirement - Section 5.4 does not apply to an issuer carrying out a related party transaction in any of the following circumstances:

1. Discretionary Exemption - The issuer has been granted an exemption from section 5.4 under section 9.1.

2. Fair Market Value Not More Than 25% of Market Capitalization - At the time the transaction is agreed to, neither the fair market value of the subject matter of, nor the fair market value of the consideration for, the transaction, insofar as it involves interested parties, exceeds 25 per cent of the issuer's market capitalization, and for this purpose

(a) if either of the fair market values is not readily determinable, any determination as to whether that fair market value exceeds the threshold for this exemption shall be made by the issuer's board of directors acting in good faith,

(b) if the transaction is one in which the issuer or a wholly-owned subsidiary entity of the issuer combines with a related party, through an amalgamation, arrangement or otherwise, the subject matter of the transaction shall be deemed to be the securities of the related party held, at the time the transaction is agreed to, by persons or companies other than the issuer or a wholly-owned subsidiary entity of the issuer, and the consideration for the transaction shall be deemed to be the consideration received by those persons or companies,

(c) if the transaction is one of two or more connected transactions that are related party transactions and would, without the exemption in this paragraph 2, require formal valuations under this Rule, the fair market values for all of those transactions shall be aggregated in determining whether the ~~fair market value~~ tests for this exemption are met, and

(d) if the assets involved in the transaction (the "initial transaction") include warrants, options or other instruments providing for the possible future purchase of securities or other assets (the "future transaction"), the calculation of the fair market value for the initial transaction shall include the fair market value, as of the time the initial transaction is agreed to, of the maximum number of securities or other consideration that the issuer may be required to issue or pay in the future transaction.

3. Issuer Not Listed on Specified Markets - No securities of the issuer are listed or quoted on the Toronto Stock Exchange, the New York Stock Exchange, the American Stock Exchange, the NASDAQ Stock Market, or a stock exchange outside of Canada and the United States.

4. Distribution of Securities for Cash - The transaction is a distribution of securities of the issuer to a related party for cash consideration, if

(a) neither the issuer nor, to the knowledge of the issuer after reasonable inquiry, the related party has knowledge of any material information concerning the issuer or its securities that has not been generally disclosed, and the disclosure document for the transaction includes a statement to that effect, and

(b) the disclosure document for the transaction includes a description of the effect of the distribution on the direct or indirect voting interest of the related party.

5. Certain Transactions in the Ordinary Course of Business - The transaction is

(a) a purchase or sale, in the ordinary course of business of the issuer, of inventory consisting of personal property under an agreement that has been approved by the board of directors of the issuer and the existence of which has been generally disclosed, or

(b) a lease of real or personal property under an agreement on reasonable commercial terms that, considered as a whole, are not less advantageous to the issuer than if the lease was with a person or company dealing at arm's length with the issuer and the existence of which has been generally disclosed.

6. Transaction Supported by Arm's Length Control Block Holder - The interested party beneficially owns, or exercises control or direction over, voting securities of the issuer that carry fewer voting rights than the voting securities beneficially owned, or over which control or direction is exercised, by another security holder of the issuer who is a control block holder of the issuer and who, in the circumstances of the transaction

(a) is not also an interested party,

(b) is at arm's length to the interested party, and

(c) supports the transaction.

7. Bankruptcy, Insolvency, Court Order - If

(a) the transaction is subject to court approval, or a court orders that the transaction be effected, under

(i) bankruptcy or insolvency law, or

(ii) section 191 of the *Canada Business Corporations Act*, any successor to that section, or equivalent legislation of a jurisdiction,

(b) the court is advised of the requirements of this Rule regarding formal valuations for related party transactions, and of the provisions of this paragraph 7, and

(c) the court does not require compliance with section 5.4.

8. Financial Hardship - If

(a) the issuer is insolvent or in serious financial difficulty,

(b) the transaction is designed to improve the financial position of the issuer,

(c) paragraph 7 is not applicable,

(d) the issuer has one or more independent directors in respect of the transaction, and

(e) the issuer's board of directors, acting in good faith, determines, and at least two-thirds of the issuer's independent directors, acting in good faith, determine that

(i) subparagraphs (a) and (b) apply, and

(ii) the terms of the transaction are reasonable in the circumstances of the issuer.

9. Amalgamation or Equivalent Transaction with No Adverse Effect on Issuer or Minority - The transaction is a statutory amalgamation, or substantially equivalent transaction, resulting in the combination of the issuer or a wholly-owned subsidiary entity of the issuer with an interested party, that is undertaken in whole or in part for the benefit of another related party, if

(a) the transaction does not and will not have any adverse tax or other consequences to the issuer, the entity resulting from the combination, or beneficial owners of affected securities generally,

(b) no material actual or contingent liability of the interested party with which the issuer or a wholly-owned subsidiary entity of the issuer is combining will be assumed by the issuer, the wholly-owned subsidiary entity of the issuer or the entity resulting from the combination,

(c) the related party benefiting from the transaction agrees to indemnify the issuer against any liabilities of the interested party with which the issuer, or a wholly-owned subsidiary entity of the issuer, is combining,

(d) after the transaction, the nature and extent of the voting and financial participating interests of holders of affected securities in the entity resulting from the combination will be the same as, and the value of their financial participating interests will not be less than, that of their interests in the issuer before the transaction, and

(e) the related party benefiting from the transaction pays for all of the costs and expenses resulting from the transaction.

10. Asset Resale - The subject matter of the related party transaction was acquired by the issuer or an interested party, as the case may be, in a prior arm's length transaction that was agreed to not more than 12 months before the date that the related party transaction is agreed to, and a qualified, independent valuator provides a written opinion that, after making such adjustments, if any, as the valuator considers appropriate in the exercise of the valuator's professional judgment

(a) the value of the consideration payable by the issuer for the subject matter of the related party transaction is not more than the value of the consideration paid by the interested party in the prior arm's length transaction, or

(b) the value of the consideration to be received by the issuer for the subject matter of the related party transaction is not less than the value of the consideration paid by the issuer in the prior arm's length transaction,

and the disclosure document for the related party transaction includes the same disclosure regarding the valuator as is required in the case of a formal valuation under section 6.2.

11. Non-redeemable Investment Fund - The issuer is a non-redeemable investment fund that

(a) at least once each quarter calculates and publicly disseminates the net asset value of its securities, and

(b) at the time of publicly announcing the related party transaction, publicly disseminates the net asset value of its securities as of the business day before the announcement.

5.6 Minority Approval - Subject to section 5.7, an issuer shall not carry out a related party transaction unless the issuer has obtained minority approval for the transaction under Part 8.

5.7 Exemptions from Minority Approval Requirement

(1) Subject to subsections (2), (3), (4) and (5), section 5.6 does not apply to an issuer carrying out a related party transaction in any of the following circumstances if the exemption relied on, any formal valuation exemption relied on, and the facts supporting reliance on those exemptions are disclosed in the disclosure document, if any, for the transaction:

1. Discretionary Exemption - The issuer has been granted an exemption from section 5.6 under section 9.1.

2. Fair Market Value Not More Than 25 Per Cent of Market Capitalization - The circumstances described in paragraph 2 of section 5.5.

3. Fair Market Value Not More Than $2,500,000 – Distribution of Securities for Cash - The circumstances described in paragraph 4 of section 5.5, if

(a) no securities of the issuer are listed or quoted on the Toronto Stock Exchange, the New York Stock Exchange, the American Stock Exchange, the NASDAQ Stock Market, or a stock exchange outside of Canada and the United States,

(b) at the time the transaction is agreed to, neither the fair market value of the ~~subject matter of, nor the fair market value of~~securities to be distributed in the transaction nor the consideration to be received for~~, the transaction~~those securities, insofar as it~~t~~the transaction involves interested parties, exceeds $2,500,000,

(c) the issuer has one or more independent directors in respect of the transaction who are not employees of the issuer, and

(d) at least two-thirds of the directors described in subparagraph (c) approve the transaction.

4. Other Transactions Exempt from Formal Valuation - The circumstances described in paragraphs 5, 6 and 9 of section 5.5.

5. Bankruptcy, Insolvency, Court Order - The circumstances described in subparagraph 7(a) of section 5.5, if the court is advised of the requirements of this Rule regarding minority approval for related party transactions, and of the provisions of this paragraph 5, and the court does not require compliance with section 5.6.

6. Financial Hardship - The circumstances described in paragraph 8 of section 5.5, if there is no other requirement, corporate or otherwise, to hold a meeting to obtain any approval of the holders of any class of affected securities.

7. Loan to Issuer, No Equity or Voting Component - The transaction is a loan, or the creation of a credit facility, that is obtained by the issuer from a related party on reasonable commercial terms that are not less advantageous to the issuer than if the loan or credit facility were obtained from a person or

company dealing at arm's length with the issuer, and the loan, or each advance under the credit facility, as the case may be, is not

(a) convertible, directly or indirectly, into equity or voting securities of the issuer or a subsidiary entity of the issuer, or otherwise participating in nature, or

(b) repayable as to principal or interest, directly or indirectly, in equity or voting securities of the issuer or a subsidiary entity of the issuer,

and for this purpose, any amendment to the terms of a loan or credit facility shall be deemed to create a new loan or credit facility.

8. 90 Per Cent Exemption - One or more persons or companies that are interested parties within the meaning of subparagraph (d)(i) of the definition of interested party beneficially own, in the aggregate, 90 per cent or more of the outstanding securities of a class of affected securities at the time the transaction is agreed to, and either

(a) an appraisal remedy is available to holders of the class of affected securities under the statute under which the issuer is organized or is governed as to corporate law matters, or

(b) if an appraisal remedy referred to in subparagraph (a) is not available, holders of the class of affected securities are given an enforceable right that is substantially equivalent to the appraisal remedy provided for in subsection 185(4) of the OBCA and that is described in an information circular or other document sent to holders of that class of affected securities in connection with a meeting to approve the related party transaction, or, if there is no such meeting, in another document that is sent to those security holders not later than the time by which an information circular or other document would have been required to be sent to them if there had been a meeting.

(2) Despite subparagraph 2(c) of section 5.5, if the transaction is one of two or more connected transactions that are related party transactions and would, without the exemptions in paragraphs 2 and 3 of subsection (1), require minority approval under this Rule, the fair market values for all of those transactions shall be aggregated in determining whether the ~~fair market value~~ tests for those exemptions are met.

(3) If the transaction is a material amendment to the terms of a security, or of a loan or credit facility to which the exemption in paragraph 7 of subsection (1) does not apply, the fair market value tests for the exemptions in paragraphs 2 and 3 of subsection (1) shall be applied to the whole transaction as amended, insofar as it involves interested parties, rather than just to the amendment, and, for this purpose, any addition of, or amendment to, a term involving a right to convert into or otherwise acquire equity or voting securities is deemed to be a material amendment.

(4) Subparagraphs 2(a), (b) and (d) of section 5.5 apply to paragraph 3 of subsection 5.7(1).

(5) If there are two or more classes of affected securities, paragraph 8 of subsection (1) applies only to a class of which the applicable interested parties beneficially own, in the aggregate, 90 per cent or more of the outstanding securities.

PART 6 FORMAL VALUATIONS AND PRIOR VALUATIONS

6.1 Independence and Qualifications of Valuator

(1) Every formal valuation required by this Rule for a transaction shall be prepared by a valuator that is independent of all interested parties in the transaction and that has appropriate qualifications.

(2) Subject to subsections (3) and (4), it is a question of fact as to whether a valuator is independent of an interested party or has appropriate qualifications.

(3) A valuator is not independent of an interested party in connection with a transaction if

(a) the valuator is an associated or affiliated entity or issuer insider of the interested party;

(b) except in the circumstances described in paragraph (e), the valuator acts as an adviser to the interested party in respect of the transaction, but for this purpose, a valuator that is retained by an

issuer to prepare a formal valuation for an issuer bid is not, for that reason alone, considered to be an adviser to the interested party in respect of the transaction;

(c) the compensation of the valuator depends in whole or in part on an agreement, arrangement or understanding that gives the valuator a financial incentive in respect of the conclusion reached in the formal valuation or the outcome of the transaction;

(d) the valuator is

(i) a manager or co-manager of a soliciting dealer group for the transaction, or

(ii) a member of a soliciting dealer group for the transaction, if the valuator, in its capacity as a soliciting dealer, performs services beyond the customary soliciting dealer's function or receives more than the per security or per security holder fees payable to other members of the group;

(e) the valuator is the external auditor of the issuer or of an interested party, unless the valuator will not be the external auditor of the issuer or of an interested party upon completion of the transaction and that fact is publicly disclosed at the time of or prior to the public disclosure of the results of the valuation; or

(f) the valuator has a material financial interest in the completion of the transaction,

and for the purposes of this subsection, references to the valuator include any affiliated entity of the valuator.

(4) A valuator that is paid by one or more interested parties in a transaction, or paid jointly by the issuer and one or more interested parties in a transaction, to prepare a formal valuation for the transaction is not, by virtue of that fact alone, not independent.

6.2 Disclosure Re Valuator - An issuer or offeror required to obtain a formal valuation for a transaction shall include in the disclosure document for the transaction

(a) a statement that the valuator has been determined to be qualified and independent;

(b) a description of any past, present or anticipated relationship between the valuator and the issuer or an interested party that may be relevant to a perception of lack of independence;

(c) a description of the compensation paid or to be paid to the valuator;

(d) a description of any other factors relevant to a perceived lack of independence of the valuator;

(e) the basis for determining that the valuator is qualified; and

(f) the basis for determining that the valuator is independent, despite any perceived lack of independence, having regard to the amount of the compensation and any factors referred to in paragraphs (b) and (d).

6.3 Subject Matter of Formal Valuation

(1) An issuer or offeror required to obtain a formal valuation shall provide the valuation in respect of

(a) the offeree securities, in the case of an insider bid or issuer bid;

(b) the affected securities, in the case of a business combination;

(c) subject to subsection (2), any non-cash consideration being offered to, or to be received by, the holders of securities referred to in paragraph (a) or (b); and

(d) subject to subsection (2), the non-cash assets involved in a related party transaction.

(2) A formal valuation of non-cash consideration or assets referred to in paragraph (1)(c) or (d) is not required if

(a) the non-cash consideration or assets are securities of a reporting issuer or are securities of a class for which there is a published market;

(b) the person or company that would otherwise be required to obtain the formal valuation of those securities states in the disclosure document for the transaction that the person or company has no knowledge of any material information concerning the issuer of the securities, or concerning the securities, that has not been generally disclosed;

(c) in the case of an insider bid, issuer bid or business combination

(i) a liquid market in the class of securities exists,

(ii) the securities constitute 25 per cent or less of the number of securities of the class that are outstanding immediately before the transaction,

(iii) the securities are freely tradeable at the time the transaction is completed, and

(iv) the valuator is of the opinion that a valuation of the securities is not required; and

(d) in the case of a related party transaction for the issuer of the securities, the conditions in subparagraphs 4(a) and (b) of section 5.5 are satisfied, regardless of the form of the consideration for the securities.

6.4 Preparation of Formal Valuation

(1) A formal valuation shall contain the valuator's opinion as to a value or range of values representing the fair market value of the subject matter of the valuation.

(2) A person or company preparing a formal valuation under this Rule shall

(a) prepare the formal valuation in a diligent and professional manner;

(b) prepare the formal valuation as of an effective date that is not more than 120 days before the earlier of

(i) the date that the disclosure document for the transaction is first sent to security holders, if applicable, and

(ii) the date that the disclosure document is filed;

(c) make appropriate adjustments in the formal valuation for material intervening events of which it is aware between the effective date of the valuation and the earlier of the dates referred to in subparagraphs (i) and (ii) of paragraph (b);

(d) in determining the fair market value of offeree securities or affected securities, not include in the formal valuation a downward adjustment to reflect the liquidity of the securities, the effect of the transaction on the securities or the fact that the securities do not form part of a controlling interest; and

(e) provide sufficient disclosure in the formal valuation to allow the readers to understand the principal judgments and principal underlying reasoning of the valuator so as to form a reasoned judgment of the valuation opinion or conclusion.

6.5 Summary of Formal Valuation

(1) An issuer or offeror required to provide a summary of a formal valuation shall ensure that the summary provides sufficient detail to allow the readers to understand the principal judgments and principal underlying reasoning of the valuator so as to form a reasoned judgment of the valuation opinion or conclusion.

(2) In addition to the disclosure referred to in subsection (1), if an issuer or offeror is required to provide a summary of a formal valuation, the issuer or offeror shall ensure that the summary

(a) discloses

(i) the effective date of the valuation, and

(ii) any distinctive material benefit that might accrue to an interested party as a consequence of the transaction, including the earlier use of available tax losses, lower income taxes, reduced costs or increased revenues;

(b) if the formal valuation differs materially from a prior valuation, explains the differences between the two valuations or, if it is not practicable to do so, the reasons why it is not practicable to do so;

(c) indicates an address where a copy of the formal valuation is available for inspection; and

(d) states that a copy of the formal valuation will be sent to any security holder upon request and without charge or, if the issuer or offeror providing the summary so chooses, for a nominal charge sufficient to cover printing and postage.

6.6 Filing of Formal Valuation

(1) An issuer or offeror required to obtain a formal valuation in respect of a transaction shall file a copy of the formal valuation

(a) concurrently with the sending of the disclosure document for the transaction to security holders; or

(b) concurrently with the filing of a material change report for a related party transaction for which no disclosure document is sent to security holders, or if the formal valuation is not available at the time of filing the material change report, as soon as the formal valuation is available.

(2) If the formal valuation is included in its entirety in the disclosure document, an issuer or offeror satisfies the requirement in subsection (1) by filing the disclosure document.

6.7 Valuator's Consent - An issuer or offeror required to obtain a formal valuation shall

(a) obtain the valuator's consent to the filing of the formal valuation and to the inclusion of the formal valuation or its summary in the disclosure document for the transaction for which the formal valuation was obtained; and

(b) include in the disclosure document a statement, signed by the valuator, substantially as follows:

We refer to the formal valuation dated •, which we prepared for (indicate name of the person or company) for (briefly describe the transaction for which the formal valuation was prepared). We consent to the filing of the formal valuation with the Ontario Securities Commission and the inclusion of [a summary of the formal valuation/the formal valuation] in this document.

6.8 Disclosure of Prior Valuation

(1) A person or company required to disclose a prior valuation shall, in the document in which the prior valuation is required to be disclosed

(a) disclose sufficient detail to allow the readers to understand the prior valuation and its relevance to the present transaction;

(b) indicate an address where a copy of the prior valuation is available for inspection; and

(c) state that a copy of the prior valuation will be sent to any security holder upon request and without charge or, if the issuer or offeror providing the summary so chooses, for a nominal charge sufficient to cover printing and postage.

(2) If there are no prior valuations, the existence of which is known after reasonable inquiry, the person or company that would be required to disclose prior valuations, if any existed, shall include a statement to that effect in the document.

(3) Despite anything to the contrary in this Rule, disclosure of the contents of a prior valuation is not required in a document if

(a) the contents are not known to the person or company required to disclose the prior valuation;

(b) the prior valuation is not reasonably obtainable by the person or company required to disclose it, irrespective of any obligations of confidentiality; and

(c) the document contains statements regarding the prior valuation substantially to the effect of paragraphs (a) and (b).

6.9 Filing of Prior Valuation - A person or company required to disclose a prior valuation shall file a copy of the prior valuation concurrently with the filing of the first document in which that disclosure is required.

6.10 Consent of Prior Valuator Not Required - Despite section 196 of the Regulation, a person or company required to disclose a prior valuation under this Rule is not required to obtain or file the valuator's consent to the filing or disclosure of the prior valuation.

PART 7 INDEPENDENT DIRECTORS

7.1 Independent Directors

(1) Subject to subsections (2) and (3), it is a question of fact as to whether a director of an issuer is independent.

(2) A director of an issuer is not independent in connection with a transaction if he or she

(a) is an interested party in the transaction;

(b) is currently, or has been at any time during the 12 months before the date the transaction is agreed to, an employee, associated entity or issuer insider of an interested party, or of an affiliated entity of an interested party, other than solely in his or her capacity as a director of the issuer;

(c) is currently, or has been at any time during the 12 months before the date the transaction is agreed to, an adviser to an interested party in connection with the transaction, or an employee, associated entity or issuer insider of an adviser to an interested party in connection with the transaction, or of an affiliated entity of such an adviser, other than solely in his or her capacity as a director of the issuer;

(d) has a material financial interest in an interested party or an affiliated entity of an interested party; or

(e) would reasonably be expected to receive a benefit as a consequence of the transaction that is not also available on a pro rata basis to the general body of holders in Canada of offeree securities or affected securities, including, without limitation, the opportunity to obtain a financial interest in an interested party, an affiliated entity of an interested party, the issuer or a successor to the business of the issuer.

(3) For the purposes of this section, in the case of an issuer bid, a director of the issuer is not, by that fact alone, not independent of the issuer.

PART 8 MINORITY APPROVAL

8.1 General

(1) If minority approval is required for a business combination or related party transaction, it shall be obtained from the holders of every class of affected securities of the issuer, in each case voting separately as a class.

(2) Subject to section 8.2, in determining minority approval for a business combination or related party transaction, an issuer shall exclude the votes attached to affected securities that, to the knowledge of the issuer or any interested party or their respective directors or senior officers, after reasonable inquiry, are beneficially owned or over which control or direction is exercised by

(a) the issuer;

(b) an interested party;

(c) a related party of an interested party, unless the related party meets that description solely in its capacity as a director or senior officer of one or more entities that are neither interested parties nor issuer insiders of the issuer; or

(d) a joint actor with a person or company referred to in paragraph (b) or (c) in respect of the transaction.

8.2 Second Step Business Combination - Despite subsection 8.1(2), the votes attached to securities acquired under a formal bid may be included as votes in favour of a subsequent business combination in determining whether minority approval has been obtained if

(a) the security holder that tendered the securities to the bid was not a joint actor with the offeror in respect of the bid;

(b) the security holder that tendered the securities to the bid was not

(i) a direct or indirect party to any connected transaction to the formal bid, or

(ii) entitled to receive, directly or indirectly, in connection with the formal bid

(A) consideration per offeree security that was not identical in amount and form to the entitlement of the general body of holders in Canada of securities of the same class,

(B) a collateral benefit, or

(C) consideration for securities of a class of equity securities of the issuer if the issuer had more than one outstanding class of equity securities, unless that consideration was not greater than the entitlement of the general body of holders in Canada of every other class of equity securities of the issuer in relation to the voting and financial participating interests in the issuer represented by the respective securities;

(c) the business combination is being effected by the offeror that made the formal bid, or an affiliated entity of that offeror, and is in respect of the securities of the same class for which the bid was made and that were not acquired in the bid;

(d) the business combination is completed no later than 120 days after the date of expiry of the formal bid;

(e) the consideration per security that the holders of affected securities would be entitled to receive in the business combination is at least equal in value to and is in the same form as the consideration that the tendering security holders were entitled to receive in the formal bid; and

(f) the disclosure document for the formal bid

(i) disclosed that if the offeror acquired securities under the formal bid, the offeror intended to acquire the remainder of the securities under a statutory right of acquisition or under a business combination that would satisfy the conditions in paragraphs (d) and (e),

(ii) contained a summary of a formal valuation of the securities in accordance with the applicable provisions of Part 6, or contained the valuation in its entirety, if the offeror in the formal bid was subject to and not exempt from the requirement to obtain a formal valuation,

(iii) stated that the business combination would be subject to minority approval,

(iv) identified the securities, if known to the offeror after reasonable inquiry, the votes attached to which would be required to be excluded in determining whether minority approval for the business combination had been obtained,

(v) identified each class of securities the holders of which would be entitled to vote separately as a class on the business combination,

(vi) described the expected tax consequences of both the formal bid and the business combination if, at the time the bid was made, the tax consequences arising from the business combination

(A) were reasonably foreseeable to the offeror, and

(B) were reasonably expected to be different from the tax consequences of tendering to the bid, and

(vii) disclosed that the tax consequences of the formal bid and the business combination may be different if, at the time the bid was made, the offeror could not reasonably foresee the tax consequences arising from the business combination.

PART 9 EXEMPTION

9.1 Exemption - The Director may grant an exemption to this Rule, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.

ONTARIO SECURITIES COMMISSION
COMPANION POLICY 61-501CP
TO ONTARIO SECURITIES COMMISSION RULE 61-501
INSIDER BIDS, ISSUER BIDS, BUSINESS COMBINATIONS
AND RELATED PARTY TRANSACTIONS

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ONTARIO SECURITIES COMMISSION
COMPANION POLICY 61-501CP
TO ONTARIO SECURITIES COMMISSION RULE 61-501
INSIDER BIDS, ISSUER BIDS, BUSINESS COMBINATIONS
AND RELATED PARTY TRANSACTIONS

PART 1 GENERAL

1.1 General - The Commission regards it as essential, in connection with the disclosure, valuation, review and approval processes followed for insider bids, issuer bids, business combinations and related party transactions, that all security holders be treated in a manner that is fair and that is perceived to be fair. In the view of the Commission, issuers and others who benefit from access to the capital markets assume an obligation to treat security holders fairly, and the fulfilment of this obligation is essential to the protection of the public interest in maintaining capital markets that operate efficiently, fairly and with integrity.

The Commission does not consider that the types of transactions covered by Rule 61-501 (the "Rule") are inherently unfair. The Commission recognizes, however, that these transactions are capable of being abusive or unfair, and has made the Rule to address this.

This Policy expresses the Commission's views on certain matters related to the Rule.

PART 2 INTERPRETATION

2.1 Equal Treatment of Security Holders

(1) **Security Holder Choice -** The definitions of business combination, collateral benefit and interested party, as well as other provisions in the Rule, include the concept of identical treatment of security holders in a transaction. For the purposes of the Rule, if security holders have an identical opportunity under a transaction, then they are considered to be treated identically. For example, if, under the terms of a business combination, each security holder has the choice of receiving, for each affected security, either $10 in cash or one common share of ABC Co., the Commission regards the security holders as having identical entitlements in amount and form, and as receiving identical treatment, even though they may not all make the same choice. This interpretation also applies where the Rule refers to consideration that is "at least equal in value" and "in the same form", such as in the provisions on second step business combinations.

(2) **Multiple Classes of Equity Securities -** The definitions of business combination and interested party, and the provisions on second step business combinations in section 8.2 of the Rule, refer to circumstances where an issuer carrying out a business combination or related party transaction has more than one class of equity securities. The Rule's treatment of these transactions depends on whether the entitlements of the holders of one class under the transaction are greater than those of the holders of the other classes in relation to the voting and financial participating interests in the issuer represented by the respective securities.

For example: An issuer has outstanding Subordinate Voting Shares carrying one vote per share, and Multiple Voting Shares carrying ten votes per share, with the shares of the two classes otherwise carrying identical rights. Under the terms of a business combination, holders of the Subordinate Voting Shares will receive $10 per share. For the Multiple Voting shareholders to be regarded as not being entitled to greater consideration than the Subordinate Voting shareholders under the Rule, the Multiple Voting shareholders must receive no more than $10 per share. As a second example: An issuer has the same share structure as the issuer in the first example. Under the terms of a business combination, Subordinate Voting shareholders will receive, for each Subordinate Voting Share, $10 and one Subordinate Voting Share of a successor issuer, carrying one vote per share. For the Multiple Voting shareholders to be regarded as not being entitled to greater consideration than the Subordinate Voting shareholders under the Rule, the Multiple Voting shareholders must receive, for each Multiple Voting Share, no more than $10 and one Multiple Voting Share of the successor issuer, carrying no more than ten votes per share and otherwise carrying no greater rights than those of the Subordinate Voting Shares of the successor issuer.

(3) **Related Party Holding Securities of Other Party to Transaction -** The Rule sets out specific criteria for determining related party and interested party status. Without limiting the application of those criteria, a related party of an issuer is not considered to be treated differently from other security holders of the issuer in a transaction, or to receive a collateral benefit, solely by reason of being a security holder of another party to the transaction. For example, if ABC Co. proposes to amalgamate with XYZ Co., the fact that a director of ABC Co., who is not a control block holder of ABC Co., owns common shares of XYZ Co. (but less than 50

per cent) will not, in and of itself, cause the amalgamation to be considered a business combination for ABC Co. under the Rule.

(4) **Consolidation of Securities -** One of the methods that may be used to effect a business combination is a consolidation of an issuer's securities at a ratio that eliminates the entire holdings of most holders of affected securities, through the elimination of post-consolidated fractional interests. Where this or a similar method is used, the security holders whose entire holdings are not eliminated are not considered to be treated identically to the general body of security holders under the Rule.

(5) **Principle of Equal Treatment in Business Combinations -** The Rule contemplates that a related party of an issuer might not be treated identically to all other security holders in the context of a business combination in which a person or company other than that related party acquires the issuer. There are provisions in the Rule, including the minority approval requirement, that are intended to address this circumstance. Despite these provisions, the Commission is of the view that, as a general principle, security holders should be treated equally in the context of a business combination, and that differential treatment is only justified if its benefits to the general body of security holders outweigh the principle of equal treatment. While the Commission will generally rely on an issuer's review and approval process, in combination with the provisions of the Rule, to achieve fairness for security holders, the Commission may intervene if it appears that differential treatment is not reasonably justified. Giving a security holder preferential treatment in order to obtain that holder's support of the transaction will not normally be considered justifiable.

2.2 Joint Actors in Bids - The definition of joint actor in the Rule incorporates the interpretation of the term "acting jointly or in concert" in section 91 of the Act, subject to certain qualifications. Among other things, the concept is relevant in determining whether a take-over bid is an insider bid under the Rule and whether securities acquired by an offeror in a formal bid can be included in a minority approval vote regarding a second step business combination under section 8.2 of the Rule. Without limiting the application of the definition, the Commission is of the view that, for a formal bid, an offeror and an insider may be viewed as joint actors if an agreement, commitment or understanding between the offeror and the insider provides that the insider shall not tender to the bid, or provides the insider with an opportunity not offered to all security holders to maintain or acquire a direct or indirect equity interest in the offeror, the issuer or a material asset of the issuer.

2.3 Director for Purposes of Section 1.2 - **Liquid Market -** Subsection 1.2(3) of the Rule requires a letter to be sent to the Director for purposes of satisfying the liquid market test in certain circumstances. That letter should be sent to the Director, Take-over/Issuer Bids, Mergers & Acquisitions.

2.4 Direct or Indirect Parties to a Transaction

(1) The Rule makes references to direct and indirect parties to a transaction in the definition of connected transactions and in subparagraph 8.2(b)(i) regarding minority approval for a second step business combination. For the purposes of the Rule, a person or company is considered to be an indirect party if, for example, a direct party to the transaction is a subsidiary entity, nominee or agent of the person or company. A person or company is not an indirect party merely because it negotiates or approves the transaction on behalf of a party, holds securities of a party or agrees to support the transaction in the capacity of a security holder of a party.

(2) For the purposes of the Rule, the Commission does not consider an entity to be a direct or indirect party to a business combination solely because the entity receives pro rata consideration in its capacity as a security holder of the issuer carrying out the business combination.

2.5 Amalgamations - Under the Rule, an amalgamation may be a business combination, related party transaction or neither, depending on the circumstances. For example, an amalgamation is a business combination for an issuer if, as a consequence of the amalgamation, holders of equity securities of the issuer become security holders of the amalgamated entity, unless an exception in one of the lettered paragraphs in the definition of business combination applies. An amalgamation is a related party transaction for an issuer rather than a business combination if, for example, a wholly-owned subsidiary entity of the issuer amalgamates with a related party of the issuer, leaving the equity securities of the issuer unaffected.

2.6 Transactions Involving More than One Reporting Issuer - The characterization of a transaction or the availability of a valuation or minority approval exemption under the Rule must be considered individually for each reporting issuer involved in the transaction. For example, an amalgamation may be a downstream transaction for one party and a business combination for the other, in which case the latter party is the only party to whom the requirements of the Rule may apply.

2.7 Previous Arm's Length Negotiations Exemption

(1) For the purposes of the formal valuation exemptions based on previous arm's length negotiations in paragraph 3 of subsection 2.4(1) and paragraph 3 of subsection 4.4(1) of the Rule for insider bids and business combinations, respectively, the arm's length relationship must be between the selling security holder and all persons or companies that negotiated with the selling security holder.

(2) The Commission notes that the previous arm's length negotiations exemption is based on the view that those negotiations can be a substitute for a valuation. An important requirement for the exemption to be available is that the offeror or proponent of the business combination, as the case may be, engages in "reasonable inquiries" to determine whether various circumstances exist. In the Commission's view, if this requirement cannot be satisfied through receipt of representations of the parties directly involved or some other suitable method, the offeror or proponent of the transaction is not entitled to rely on this exemption.

2.8 Connected Transactions

(1) "Connected transactions" is a defined term in the Rule, and reference is made to connected transactions in a number of parts of the Rule. For example, subparagraph 2(c) of section 5.5 of the Rule requires connected transactions to be aggregated, in certain circumstances, for the purpose of determining the availability of the formal valuation exemption for a related party transaction that is not larger than 25 per cent of the issuer's market capitalization. In other circumstances, it is possible for an issuer to rely on an exemption for each of two or more connected transactions. However, the Commission may intervene if it believes that a transaction is being carried out in stages or otherwise divided up for the purpose of avoiding the application of a provision of the Rule.

(2) One method of acquiring all the securities of an issuer is through a plan of arrangement or similar process comprised of a series of two or more interrelated steps. The series of steps is the "transaction" for the purposes of the definition of business combination. However, a related party transaction that is carried out in conjunction with a business combination, and that is not simply one of the procedural steps in implementing the acquisition of the affected securities in the business combination, is subject to the Rule's requirements for related party transactions. This applies where, for example, a related party buys some of the issuer's assets that the acquirer in the business combination does not want.

(3) An agreement, commitment or understanding that a security holder will tender to a formal bid or vote in favour of a transaction is not, in and of itself, a connected transaction to the bid or to the transaction for purposes of the Rule.

2.9 Time of Agreement - A number of provisions in the Rule refer to the time a business combination or related party transaction is agreed to. This should be interpreted as the time the issuer first makes a legally binding commitment to proceed with the transaction, subject to any conditions such as security holder approval. Where the issuer does not technically negotiate the transaction with another party, such as in the case of a share consolidation, the time the transaction is agreed to should be interpreted as the time at which the issuer's board of directors determines to proceed with the transaction, subject to any conditions.

2.10 "Acquire the Issuer" - In some definitions and elsewhere in the Rule, reference is made to a transaction in which a related party would "directly or indirectly acquire the issuer … through an amalgamation, arrangement or otherwise, whether alone or with joint actors". This refers to the acquisition of all of the issuer, not merely the acquisition of a control position. For example, a related party "acquires" an issuer when it acquires all of the securities of the issuer that it does not already own, even if that related party held a control position in the issuer prior to the transaction.

PART 3 MINORITY APPROVAL

3.1 Meeting Requirement - The definition of minority approval and subsections 4.2(2) and 5.3(2) of the Rule provide that minority approval, if required, must be obtained at a meeting of holders of affected securities. The issuer may be able to demonstrate that holders of a majority of the securities that would be eligible to be voted at a meeting would vote in favour of the transaction under consideration. In this circumstance, the Director will consider granting an exemption under section 9.1 of the Rule from the requirement to hold a meeting, conditional on security holders being provided with disclosure similar to that which would be available to them if a meeting were held.

3.2 Second Step Business Combination Following an Unsolicited Take-over Bid - Section 8.2 of the Rule allows the votes attached to securities acquired under a formal bid to be included as votes in favour of a subsequent business combination in determining whether minority approval has been obtained if certain conditions are met. One of the conditions is that the security holder that tendered the securities in the bid not receive an advantage in connection with

the bid, such as a collateral benefit, that was not available to other security holders. There may be circumstances where this condition could cause difficulty for an offeror who wishes to acquire all of an issuer through a business combination following a bid that was unsolicited by the issuer. For example, in order to establish that a benefit received by a tendering security holder is not a collateral benefit under the Rule, the offeror may need the cooperation of an independent committee of the offeree issuer during the bid. This cooperation may not be forthcoming if the bid is unfriendly. In this type of circumstance, the fact that the bid was unsolicited would normally be a factor the Director would take into account in considering whether exemptive relief should be granted to allow the securities to be voted.

3.3 Special Circumstances - As the purpose of the Rule is to ensure fair treatment of minority security holders, abusive minority tactics in a situation involving a minimal minority position may cause the Director to grant an exemption from the requirement to obtain minority approval. Where an issuer has more than one class of equity securities, exemptive relief may also be appropriate if the Rule's requirement of separate minority approval for each class could result in unfairness to security holders who are not interested parties, or if the policy objectives of the Rule would be accomplished by the exclusion of an interested party's votes in one or more, but not all, of the separate class votes.

PART 4 FORM 33 DISCLOSURE

4.1 Insider Bids - Form 33 Disclosure - Form 32 of the Regulation (the form for a take-over bid circular) requires, for an insider bid, ~~and subsection 2.2(2) of the Rule requires for a stock exchange insider bid,~~ the disclosure required by Form 33 of the Regulation, appropriately modified. In the view of the Commission, Form 33 disclosure would generally include, in addition to Form 32 disclosure, disclosure for the following items, with necessary modifications, in the context of an insider bid:

1. Item 10 - Reasons for Bid
2. Item 14 - Acceptance of Bid
3. Item 15 - Benefits from Bid
4. Item 17 - Other Benefits to Insiders, Affiliates and Associates
5. Item 18 - Arrangements Between Issuer and Security Holder
6. Item 19 - Previous Purchases and Sales
7. Item 21 - Valuation
8. Item 24 - Previous Distribution
9. Item 25 - Dividend Policy
10. Item 26 - Tax Consequences
11. Item 27 - Expenses of Bid

4.2 Business Combinations and Related Party Transactions - Form 33 Disclosure - Paragraphs 4.2(3)(a) and 5.3(3)(a) of the Rule require in the information circulars for a business combination and a related party transaction, respectively, the disclosure required by Form 33 of the Regulation, to the extent applicable and with necessary modifications. In the view of the Commission, Form 33 disclosure would generally include disclosure for the following items, with necessary modifications, in the context of those transactions:

1. Item 5 - Consideration Offered
2. Item 10 - Reasons for Bid
3. Item 11 - Trading in Securities to be Acquired
4. Item 12 - Ownership of Securities of Issuer
5. Item 13 - Commitments to Acquire Securities of Issuer
6. Item 14 - Acceptance of Bid

7. Item 15 - Benefits from Bid

8. Item 16 - Material Changes in the Affairs of Issuer

9. Item 17 - Other Benefits to Insiders, Affiliates and Associates

10. Item 18 - Arrangements Between Issuer and Security Holder

11. Item 19 - Previous Purchases and Sales

12. Item 20 - Financial Statements

13. Item 21 - Valuation

14. Item 22 - Securities of Issuer to be Exchanged for Others

15. Item 23 - Approval of Bid

16. Item 24 - Previous Distribution

17. Item 25 - Dividend Policy

18. Item 26 - Tax Consequences

19. Item 27 - Expenses of Bid

20. Item 28 - Judicial Developments

21. Item 29 - Other Material Facts

22. Item 30 - Solicitations

PART 5 FORMAL VALUATIONS

5.1 General

(1) The Rule requires formal valuations in a number of circumstances. The Commission is of the view that a conclusory statement of opinion as to the value or range of values of the subject matter of a valuation does not by itself fulfil this requirement.

(2) The disclosure standards for formal valuations in By-laws 29.14 to 29.23 of the Investment Dealers Association of Canada and Appendix A to Standard No. 110 of the Canadian Institute of Chartered Business Valuators each generally represent a reasonable approach to meeting the applicable legal requirements. Specific disclosure standards, however, cannot be construed as a substitute for the professional judgment and responsibility of the valuator and, on occasion, additional disclosure may be necessary.

(3) An issuer that is required to obtain a formal valuation, or the offeree issuer in the case of an insider bid, should work in cooperation with the valuator to ensure that the requirements of the Rule are satisfied. At the valuator's request, the issuer should promptly furnish the valuator with access to the issuer's management and advisers, and to all material information in the issuer's possession relevant to the formal valuation. The valuator is expected to use that access to perform a comprehensive review and analysis of information on which the formal valuation is based. The valuator should form its own independent views of the reasonableness of this information, including any forecasts, projections or other measurements of the expected future performance of the enterprise, and of any of the assumptions on which it is based, and adjust the information accordingly.

(4) The disclosure in the valuation of the scope of review should include a description of any limitation on the scope of the review and the implications of the limitation on the valuator's conclusion. Scope limitations should not be imposed by the issuer, an interested party or the valuator, but should be limited to those beyond their control that arise solely as a result of unusual circumstances. In addition, it is inappropriate for any interested party to exercise or attempt to exercise any influence over a valuator.

(5) Subsection 2.3(2) of the Rule provides that in the context of an insider bid, an independent committee of the offeree issuer shall, and the offeror shall enable the independent committee to, determine who the valuator will be and supervise the preparation of the formal valuation. Although the subsection also requires the independent committee to use its best efforts to ensure that the valuation is completed and provided to the offeror in a timely manner, the Commission is aware that an independent committee could attempt to use the subsection to delay or impede an insider bid viewed by the committee as unfriendly. In a situation where an offeror is of the view that an independent committee is not acting in a timely manner in having the formal valuation prepared, the offeror may seek relief under section 9.1 of the Rule from the requirement that the offeror obtain a valuation.

(6) Similarly, in circumstances where an independent committee is of the view that a bid that has been announced will not actually be made or that the bid is not being made in good faith, the independent committee may apply for relief from the requirements of subsection 2.3(2) of the Rule.

(7) National Policy 48 - *Future-Oriented Financial Information* does not apply to a formal valuation for which financial forecasts and projections are relied on and disclosed.

5.2 Independent Valuators - While, except in certain prescribed situations, the Rule provides that it is a question of fact as to whether a valuator (which for the purposes of this section includes a person or company providing a liquidity opinion) is independent, situations have been identified in the past that raise serious concerns for the Commission. These situations, which are set out below, must be assessed for materiality by the board or committee responsible for choosing the valuator, and disclosed in the disclosure document for the transaction. In determining the independence of the valuator from an interested party, relevant factors may include whether

(a) the valuator or an affiliated entity of the valuator has a material financial interest in future business under an agreement, commitment or understanding involving the issuer, the interested party or an associated or affiliated entity of the issuer or interested party;

(b) during the 24 months before the valuator was first contacted for the purpose of the formal valuation or opinion, the valuator or an affiliated entity of the valuator

(i) had a material involvement in an evaluation, appraisal or review of the financial condition of the interested party, or an associated or affiliated entity of the interested party, other than the issuer,

(ii) had a material involvement in an evaluation, appraisal or review of the financial condition of the issuer, or an associated or affiliated entity of the issuer, if the evaluation, appraisal or review was carried out at the direction or request of the interested party or paid for by the interested party, other than the issuer in the case of an issuer bid,

(iii) acted as a lead or co-lead underwriter of a distribution of securities by the interested party, or acted as a lead or co-lead underwriter of a distribution of securities by the issuer if the retention of the underwriter was carried out at the direction or request of the interested party or paid for by the interested party, other than the issuer in the case of an issuer bid,

(iv) had a material financial interest in a transaction involving the interested party, other than the issuer in the case of an issuer bid, or

(v) had a material financial interest in a transaction involving the issuer other than by virtue of performing the services referred to in subparagraph (b)(ii) or (b)(iii); or

(c) the valuator or an affiliated entity of the valuator is

(i) a lead or co-lead lender or manager of a lending syndicate in respect of the transaction in question, or

(ii) a lender of a material amount of indebtedness in a situation where the interested party or the issuer is in financial difficulty, and the transaction would reasonably be expected to have the effect of materially enhancing the lender's position.

PART 6 ROLE OF DIRECTORS

6.1 Role of Directors

(1) Paragraphs 2.2(~~3~~2)(d), 3.2(~~1~~)(e), 4.2(3)(~~e~~f), 5.2(1)(e) and 5.3(3)(f) of the Rule require that the disclosure for the applicable transaction include a discussion of the review and approval process adopted by the board of directors and the special committee, if any, of the issuer, including any materially contrary view or abstention by a director and any material disagreement between the board and the special committee.

(2) An issuer involved in any of the types of transactions regulated by the Rule should provide sufficient information to security holders to enable them to make an informed decision. Accordingly, the directors should disclose their reasonable beliefs as to the desirability or fairness of the proposed transaction and make useful recommendations regarding the transaction. A statement that the directors are unable to make or are not making a recommendation regarding the transaction, without detailed reasons, generally would be viewed as insufficient disclosure.

(3) In reaching a conclusion as to the fairness of a transaction, the directors should disclose in reasonable detail the material factors on which their beliefs regarding the transaction are based. Their disclosure should discuss fully the background of deliberations by the directors and any special committee, and any analysis of expert opinions obtained.

(4) The factors that are important in determining the fairness of a transaction to security holders and the weight to be given to those factors in a particular context will vary with the circumstances. Normally, the factors considered should include whether the transaction is subject to minority approval, whether the transaction has been reviewed and approved by a special committee and, if there has been a formal valuation, whether the consideration offered is fair in relation to the valuation conclusion arrived at through the application of the valuation methods considered relevant for the subject matter of the formal valuation. A statement that the directors have no reasonable belief as to the desirability or fairness of the transaction or that the transaction is fair in relation to values arrived at through the application of valuation methods considered relevant, without more, generally would be viewed as insufficient disclosure.

(5) The directors of an issuer involved in a transaction regulated by the Rule are generally in the best position to assess the formal valuation to be provided to security holders. Accordingly, the Commission is of the view that, in discharging their duty to security holders, the directors should consider the formal valuation and all prior valuations disclosed and discuss them fully in the applicable disclosure document.

(6) To safeguard against the potential for an unfair advantage for an interested party as a result of that party's conflict of interest or informational or other advantage in connection with the proposed transaction, it is good practice for negotiations for a transaction involving an interested party to be carried out by or reviewed and reported upon by a special committee of disinterested directors. Following this practice normally would assist in addressing the Commission's interest in maintaining capital markets that operate efficiently, fairly and with integrity. While the Rule only mandates an independent committee in limited circumstances, the Commission is of the view that it generally would be appropriate for issuers involved in a material transaction to which the Rule applies to constitute an independent committee of the board of directors for the transaction. Where a formal valuation is involved, the Commission also would encourage an independent committee to select the valuator, supervise the preparation of the valuation and review the disclosure regarding the valuation.

(7) A special committee should, in the Commission's view, include only directors who are independent from the interested party. While a special committee may invite non-independent board members and other persons possessing specialized knowledge to meet with, provide information to, and carry out instructions from, the committee, in the Commission's view non-independent persons should not be present at or participate in the decision-making deliberations of the special committee.

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
15-Apr-2004	3 Purchasers	3683249 Canada Inc. c/o Mourguard Corporation - Notes	60,000,000.00	3.00
14-Apr-2004	Ralph Robb	Acuity Pooled Social Values Canadian Equity Fund - Trust Units	176,471.00	11,627.00
30-Mar-2004	15 Purchasers	Adobe Ventures Inc. - Units	9,493,200.00	5,274,000.00
14-Apr-2004	9 Purchasers	African Gold Group, Inc. - Special Warrants	545,600.00	909,334.00
29-Mar-2004	4 Purchasers	Alterna Technologies Group Inc. - Preferred Shares	717,004.00	9,514,576.00
27-Feb-2004	Toronto Dominion	American Home Mortgage Investment Corp. - Shares	33,362.50	1,000.00
31-Mar-2004	Michael A. Doran;Joseph Sutherland & Associates Inc.	Appulse Corporation - Units	110,000.00	137,500.00
20-Apr-2004	Joery Hermanns	Audera Acoustics Inc. - Preferred Shares	44,200.00	33,334.00
22-Mar-2004	CI Mutal Funds Inc.	belgacom - Shares	2,437,137.00	125,000.00
07-Apr-2004 15-Apr-2004	20 Purchasers	Cabo Mining Enterprises Corp. - Subscription Receipts	1,985,609.00	2,399,300.00
06-Apr-2004	Spartan Investments of Canada Inc.	Canaco Resources Inc. - Common Shares	6,250.00	25,000.00
07-Apr-2004	3 Purchasers	Capex Exploration Ltd. - Common Shares	1,050,000.00	1,050,000.00
12-Apr-2004	5 Purchasers	Central China Goldfields Inc. - Common Shares	111,000.00	1,387,500.00
15-Apr-2004	James P. Mahoney	Cirrus Energy Corporation - Special Warrants	50,100.00	167,000.00
16-Apr-2004	S.G. Hawkins	Colonia Corporation - Units	5,000.00	100,000.00

15-Apr-200	25 Purchasers	Committee Bay Resources Ltd. - Units	4,249,350.00	2,023,500.00
15-Apr-2004	AIM International Growth Class and Trimark Europlus Fund	Corporacion Mapfre, S.A. - Shares	1,626,436.00	115,512.00
07-Apr-2004	Business Development Bank of Canada	Datec Coating Corporation - Debentures	500,000.00	1.00
20-Apr-2004	5 Purchasers	Digital Atheneum Technology Corp. - Common Shares	30,000.00	200,000.00
17-Mar-2004	ING Bank of Canada	DR Residential Mortgage Trust - Notes	10,000,000.00	1.00
05-Apr-2004	J.L. Albright III Venture Fund	eDeal Services Corp. - Notes	1,500,000.00	1.00
29-Mar-2004	10 Purchasers	Eagle Plains Resources Ltd. - Units	75,000.00	50,000.00
02-Apr-2004	Bank of Montreal	Encore Acquisition Company - Notes	700,000.00	700,000.00
13-Apr-2004	10 Purchasers	Epocket Inc. - Common Shares	211,000.00	211,000.00
02-Apr-2004	5 Purchasers	Escape Enterprises (Canada) Limited - Common Shares	10.00	50.00
01-Apr-2004	Hayley Hung	First Leaside Wealth Management Inc. - Preferred Shares	50,000.00	50,000.00
13-Apr-2004	3 Purchasers	Gallery Gold Limited - Shares	875,000.00	3,500,000.00
12-Mar-2004	6 Purchasers	General Electric Company - Common Shares	32,562,090.00	1,023,000.00
15-Apr-2004	3 Purchasers	Halo Resources Ltd. - Units	312,000.00	1,040,000.00
16-Mar-2004	Slofam International Ltd.	Hawaiian Electric Industries, Inc. - Common Shares	2,398,525.00	46,250.00
31-Mar-2004	Becker Capital Mgmt.	Horneck Offshore Services, Inc. - Common Shares	682,500.00	52,500.00
20-Apr-2004	David Margolis	Indigo Books and Music Inc. - Common Shares	500,340.00	107,600.00
15-Apr-2004	GMP Securities Ltd.	Inex International Holdings, Ltd. - Notes	40,870,000.00	2.00
08-Apr-2004	4 Purchasers	Innergex Power Income Fund - Trust Units	11,103,750.00	945,000.00
14-Apr-2004	8 Purchasers	International Steel Group Inc. - Notes	5,589,012.00	3,140,000.00
13-Apr-2004	Ronald D. Barnes	Kaieteur Resource Corporation - Units	20,400.00	30,000.00
20-Apr-2004	6 Purchasers	Kensington Energy Ltd. - Flow-Through Shares	7,316,429.00	5,226,021.00

29-Mar-2004	3 Purchasers	KGK Synergize Inc. - Shares	3,750,000.00	107,813.00
21-Nov-2003 19-Feb-2004	3 Purchasers	Knightsbridge Human Capital Management Inc. - Common Shares	701,000.00	737,895.00
21-Apr-2004	3 Purchasers	Lalo Ventures Ltd. - Units	330,000.00	550,000.00
30-Mar-2004 01-Mar-2004	1192792 Ontario Inc.;CJM Holdings	Lantzville Foothills Estates Inc. - Common Shares	60,000.00	70,000.00
31-Mar-2004	Dinnamon Investments Ltd.;Philip J. Olsson	MaryLand Financial Bank - Shares	393,150.00	15,000.00
05-Apr-2004	29 Purchasers	Momentas Corporation - Convertible Debentures	499,500.00	100.00
16-Apr-2004	Guy Laberge;Ken R. Yamashita	Mountain Boy Minerals Ltd. - Units	9,600.00	32,000.00
16-Apr-2004	17 Purchasers	Mythum Interactive Inc. - Convertible Debentures	562,314.00	170.00
13-Apr-2004	Jim Balkwill	N-able Technologies Inc. - Shares	7,500.00	1.00
01-Jan-2002	Quin Investment Inc.	N-able Technologies Inc. - Units	75,000.00	33,333.00
02-Apr-2004	Royal Bank Investment Management	National Financial Partners Corp. - Shares	613,727.40	15,000.00
26-Mar-2004	31 Purchasers	New Hudson Television Corp. - Shares	80,700.00	26,900.00
13-Apr-2004	Bank of Montreal	NTL Cable PLC - Shares	80,000.00	80,000.00
22-Mar-2004	3 Purchasers	Oil and Natural Gas Corporation Limited - Shares	16,889,955.36	756,670.00
20-Apr-2004	3 Purchasers	One Signature Financial Corporation - Shares	52,500.00	105,000.00
19-Mar-2004	Salida Capital Corp.	Providian Financial Corporation - Notes	50,000,000.00	500,000.00
31-Mar-2004	Matthias Wandei	Recognia Inc. - Notes	50,000.00	1.00
14-Apr-2004	Sheldon Inwentash	Redhawk Resources, Inc. - Units	45,000.00	150,000.00
23-Apr-2004	Phil Strathy Strathy Investments	Rogers Cable Inc. - Notes	0.00	1,000.00
15-Apr-2004	10 Purchasers	Royal Standard Minerals Inc. - Units	728,000.00	2,080,000.00
16-Apr-2004	20 Purchasers	Slam Exploration Ltd. - Common Shares	4,000,000.00	5,000,000.00
14-Apr-2004	Credit Union Central of Ontario Limited	SMART Trust - Notes	1,203,965.00	1.00
08-Apr-2004	Ian Taylor	Softrock Minerals Ltd. - Units	14,000.00	14.00

15-Apr-2004	6 Purchasers	The OAL Limited Partnership - Limited Partnership Units	1,380,000.00	35.00
01-Apr-2004	19 Purchasers	Tower Hedge Fund L.P. - Units	4,280,248.27	313,298.00
13-Apr-2004	8 Purchasers	Tudor Corporation Ltd. - Common Shares	2,861,000.00	2,861,000.00
16-Apr-2004	Kensington Fund of Funds and Whitecastle Investments Limited	Whitecastle Private Equity Partners Fund LP - Units	20,000,000.00	20,000.00
29-Mar-2004 05-Mar-2004	7 Purchasers	Wimberly Apartments Limited - Notes	811,410.00	7.00
23-Mar-2004	BMO Nesbitt Burns Inc. and Context Capital Mgmt LLC	XL Capital Ltd. - Units	600,000.00	24,000.00

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
Michael R. Faye	Spectra Inc. - Common Shares	350,000.00

Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
Augen Limited Partnership 2004-1
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated April 28, 2004
Mutual Reliance Review System Receipt dated April 29, 2004
Offering Price and Description:
20,000,000 (maximum offering) $5,000,000 (minimum offering)
A maximum of 200,000 Limited Partnership Units and a minimum of 50,000 Limited Partnership Units
Subscription Price: $100 per Unit. Minimum Subscription: $5,000.
Underwriter(s) or Distributor(s):
IPC Securities Corporation
Berkshire Securities Inc.
Wellington West Capital Inc.
McFarlane Gordon Inc.
Foster & Associates Financial Services Inc.
Promoter(s):
Augen General Partner X Inc.
Project #635990

Issuer Name:
Dominion Equity 2004 Flow-Through Limited Partnership
Principal Regulator - Alberta
Type and Date:
Preliminary Prospectus dated April 30, 2004
Mutual Reliance Review System Receipt dated May 3, 2004
Offering Price and Description:
$30,000,000 (Maximum Offering); $5,000,000 (Minimum Offering)
A maximum of 30,000 and a minimum of 5,000 Limited Partnership Units
Subscription Price: $1,000 per Unit
Minimum Purchase: 10 Units ($10,000)
Underwriter(s) or Distributor(s):
Canaccord Capital Corporation
J.F. Mackie & Company Ltd.
Promoter(s):
Network Portfolio Management Inc.
Project #637859

Issuer Name:
First One Capital Inc.
Principal Regulator - Ontario
Type and Date:
Second Amended and Restated Preliminary CPC Prospectus dated May 4, 2004
Mutual Reliance Review System Receipt dated May 4, 2004
Offering Price and Description:
$600,000.00 - Offering of : 2,000,000 Common Shares
Price: $0.30 per Common Shares
Underwriter(s) or Distributor(s):
Investpro Securities Inc.
Promoter(s):
Owen Menzel
Project #591722

Issuer Name:
Global Preferred Securities Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated April 29, 2004
Mutual Reliance Review System Receipt dated April 30, 2004
Offering Price and Description:
$ * - * Units Price: $10.00 per Unit Minimum Purchase: 250 Units
Underwriter(s) or Distributor(s):
TD Securities Inc.
CIBC World Markets Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
Scotia Capital Inc.
HSBC Securities (Canada) Inc.
Desjardins Securities Inc.
Raymond James Ltd.
Canaccord Capital Corporation
Dundee Securities Corporation
First Associates Investments Inc.
Berkshire Securities Inc.
Research Capital Corporation
Wellington West Capital Inc.
Promoter(s):
Fairway Advisors Inc.
Fairway Capital Management Corp.
Project #637064

Issuer Name:
MethylGene Inc.
Principal Regulator - Quebec
Type and Date:
Amended and Restated Preliminary dated May 3, 2004
Mutual Reliance Review System Receipt dated May 4, 2004
Offering Price and Description:
$ * - * Common Shares Price: $ * per Common Share
Underwriter(s) or Distributor(s):
Orion Securities Inc.
RBC Dominion Securities Inc.
Desjardins Securities Inc.
Raymond James Ltd.
Promoter(s):
-
Project #635307

Issuer Name:
Norrep Performance 2004 Flow-Through Limited Partnership
Principal Regulator - Alberta
Type and Date:
Preliminary Prospectus dated May 3, 2004
Mutual Reliance Review System Receipt dated
Offering Price and Description:
$60,000,000 (Maximum Offering); $10,000,000 (Minimum Offering)
A maximum of 6,000,000 and a minimum of 1,000,000 Limited Partnership Units
Purchase Price: $10.00 per Unit Minimum Purchase: 1,000 Units ($10,000)
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
TD Securities Inc.
First Associates Investments Inc.
Bieber Securities Inc.
Desjardins Securities Inc.
Dundee Securities Corporation
HSBC Securities (Canada) Inc.
Raymond James Ltd.
Wolverton Securities Ltd.
Promoter(s):
Hesperian Capital Management Ltd.
Project #638223

Issuer Name:
Northwater Five-Year Market-Neutral Trust
Principal Regulator - Ontario
Type and Date:
Amended Preliminary Prospectus dated April 27, 2004
Mutual Reliance Review System Receipt dated April 28, 2004
Offering Price and Description:
$ * Maximum * Trust Units Price: $25.00 per Unit Minimum Purchase: 100 Units ($2,500)
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
CIBC World Markets Inc.
BMO Nesbitt Burns 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.
Promoter(s):
Northwater Fund Management Inc.
Project #635566

Issuer Name:
NovAtel Inc.
Principal Regulator - Alberta
Type and Date:
Amended and Restated Preliminary Prospectus dated April 30, 2004
Mutual Reliance Review System Receipt dated May 3, 2004
Offering Price and Description:
$50,000,000.00 - * Common Shares Price: $ * per Common Share
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
Scotia Capital Inc.
RBC Dominion Securities Inc.
National Bank Financial Inc.
Acumen Capital Finance Partners Limited
Paradigm Capital Inc.
Promoter(s):
-
Project #628298

Issuer Name:
Paramount Energy Trust
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated May 3, 2004
Mutual Reliance Review System Receipt dated May 3, 2004
Offering Price and Description:
$40,320,000.00 - 3,600,000 Trust Units Price: $11.20 per Trust Unit
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
TD Securities Inc.
Scotia Capital Inc.
National Bank Financial Inc.
FirstEnergy Capital Corp.
Peters & Co. Limited
Promoter(s):
-
Project #637863

Issuer Name:
South Atlantic Ventures Ltd.
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated April 29, 2004
Mutual Reliance Review System Receipt dated May 3, 2004
Offering Price and Description:
$ * - * Common Shares Price: $ * per Common Share
Underwriter(s) or Distributor(s):
GMP Securities Ltd.
BMO Nesbitt Burns Inc.
Haywood Securities Inc.
Macquarie North America Ltd.
Promoter(s):
-
Project #637448

Issuer Name:
St. Genevieve Resources Ltd.
Principal Regulator - Quebec
Type and Date:
Preliminary Prospectus dated April 30, 2004
Mutual Reliance Review System Receipt dated May 3, 2004
Offering Price and Description:
Minimum offering: $ * through the issuance of a minimum of * units
Maximum offering: $ * through the issuance of a maximum of * units
Price: $ * per unit (the Offered Securities) and 40,000,000 common shares and 40,000,000 common share purchase warrants to be issued upon the exercise of 40,000,000 previously issued special warrants
Underwriter(s) or Distributor(s):
Jones Gable & Company Limited
Promoter(s):
-
Project #637512

Issuer Name:
Xceed Mortgage Corporation
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated April 30, 2004
Mutual Reliance Review System Receipt dated April 30, 2004
Offering Price and Description:
$ * - * Common Shares Price: $ * per Common Share
Underwriter(s) or Distributor(s):
Sprott Securities Inc.
TD Securities Inc.
GMP Securities Ltd.
Desjardins Securities Inc.
Promoter(s):
-
Project #637062

Issuer Name:
Acuity All Cap & Income Trust
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated April 29, 2004
Mutual Reliance Review System Receipt dated April 29, 2004
Offering Price and Description:
-
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.
HSBC Securities (Canada) Inc.
First Associates Investments Inc.
Canaccord Capital Corporation
Raymond James Ltd.
Desjardins Securities Inc.
Dundee Securities Corporation
Wellington West Capital Inc.
Promoter(s):
Acuity Fund Ltd.
Project #626132

Issuer Name:
Calloway Real Estate Investment Trust
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated April 30, 2004
Mutual Reliance Review System Receipt dated April 30, 2004
Offering Price and Description:
$55,000,000.00 - 6.00% Convertible Unsecured Subordinated Debentures $100,500,000.00 - 6,700,000 Units at a Price of $15.00 per Unit
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
TD Securities 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 #633867

Issuer Name:
Calpine Power Income Fund
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated April 30, 2004
Mutual Reliance Review System Receipt dated May 3, 2004
Offering Price and Description:
$99,844,604.25 - 9,740,937 Subscription Receipts, each representing the right to receive one Trust Unit - Price: $10.25 per Subscription Receipt
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
TD Securities Inc.
National Bank Financial Inc.
CIBC World Markets Inc.
Canaccord Capital Corporation
Dundee Securities Corporation
FirstEnergy Capital Corp.
Raymond James Ltd.
Promoter(s):
Calpine Corporation
Project #630758

Issuer Name:
Canada Dominion Resources 2004 Limited Partnership
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated April 26, 2004
Mutual Reliance Review System Receipt dated April 28, 2004
Offering Price and Description:
Maximum: 6,000,000 Limited Partnership Units @ $25 Per Unit = $150,000,000
Minimum: 400,000 Limited Partnership Units @ $25 Per Unit = $10,000,000
Underwriter(s) or Distributor(s):
-
Promoter(s):
Canada Dominion Resources 2004 Limited Partnership
Project #627210

Issuer Name:
Digital Dispatch Systems Inc.
Principal Regulator - British Columbia
Type and Date:
Final Prospectus dated April 30, 2004
Mutual Reliance Review System Receipt dated May 3, 2004
Offering Price and Description:
$18,800,004.00 - 3,133,334 Common Shares
Underwriter(s) or Distributor(s):
GMP Securities Ltd.
Sprott Securities Inc.
CIBC World Markets Inc.
National Bank Financial Inc.
Canaccord Capital Corporation
Haywood Securities Inc.
Promoter(s):
Vari Ghai
Project #624447

Issuer Name:
Dynamic Focus+ Energy Income Trust Fund
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated April 23, 2004 to Final Simplified Prospectus and Annual Information Form (NI 81-101) dated January 22, 2004
Mutual Reliance Review System Receipt dated April 29, 2004
Offering Price and Description:
Series F Units @ Net Asset Value
Underwriter(s) or Distributor(s):
Gooodman & Company, Investment Counsel Ltd.
Goodman & Company, Investment Counsel Ltd.
Promoter(s):
Gooodman & Company, Investment Counsel Ltd.
Project #586034

Issuer Name:
Flaherty & Crumrine Investment Grade Preferred Fund
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated April 28, 2004
Mutual Reliance Review System Receipt dated April 29, 2004
Offering Price and Description:
Maximum: 12,000,000 Units @ $25 Per Unit = $300,000,000
Minimum: 4,000,000 Units @ $25 Per Unit = $100,000,000
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.
HSBC Securities (Canada) Inc.
Canaccord Capital Corporation
Desjardins Securities Inc.
Dundee Securities Corporation
First Associates Investments Inc.
Raymond James Ltd.
Acadian Securities Incorporated
Newport Securities Inc.
Research Capital Corporation
Wellington West Capital Inc.
Promoter(s):
Brompton Preferred Management Limited
Project #623437

Issuer Name:
Grande Cache Coal Corporation
Principal Regulator - Alberta
Type and Date:
Final Prospectus dated April 29, 2004
Mutual Reliance Review System Receipt dated April 29, 2004
Offering Price and Description:
$52,000,000.00 - 20,000,000 Common Shares Price: $2.60 per Common Share
Underwriter(s) or Distributor(s):
Salman Partners Inc.
BMO Nesbitt Burns Inc.
Haywood Securities Inc.
Promoter(s):
Robert H. Stan
Project #623868

Issuer Name:
Mackenzie 2004 Resource Limited Partnership
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated April 28, 2004
Mutual Reliance Review System Receipt dated April 29, 2004
Offering Price and Description:
Maximum: 2,000,000 Limited Partnership Units @ $25 Per Unit = $50,000,000
Minimum: 400,000 @ $25 Limited Partnership Units @ $25 Per Unit = $10,000,000
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.
Promoter(s):
Mackenzie 2004 GP Inc.
Project #622958

Issuer Name:
McLean Budden Canadian Equity Fund
Principal Regulator - Ontario
Type and Date:
Amended and Restated Simplified Prospectus dated April 27th, 2004, amending and restating Simplified Prospectus of the above Issuer dated March 25, 2004; and for an Amendment No. 1 dated April 27th, 2004 to the Annual Information Form of the above Issuer dated March 25, 2004.
Mutual Reliance Review System Receipt dated May 4, 2004
Offering Price and Description:
Class A Units and Class B Units
Underwriter(s) or Distributor(s):
McLean Budden Funds Inc.
McLean Budden Limited
McLean, Budden Limited
Mclean Budden Limited
Promoter(s):
McLean Budden Funds Inc.
Project #616709

Issuer Name:
R Split II Corp.
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated April 28, 2004
Mutual Reliance Review System Receipt dated April 29, 2004
Offering Price and Description:
Capital Shares: 2,550,000 Capital Shares @ $17.55 per share = $44,752,500
Preferred Shares: 1,275,000 Preferred Shares @ $30.50 = $38,887,500
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
TD Securities Inc.
HSBC Securities (Canada) Inc.
Canaccord Capital Corporation
Desjardins Securities Inc.
Raymond James Ltd.
Promoter(s):
Scotia Capital Inc.
Project #620212

Issuer Name:
Roman Corporation Limited
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated April 30, 2004
Mutual Reliance Review System Receipt dated May 3, 2004
Offering Price and Description:
Maximum: $16,973,914 (1,944,320 Units) - 4,114,748 Rights to Purchase 1,371,582 Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
Sprott Securities Inc.
Project #627205

Issuer Name:
The Hartford U.S. Stock Fund
The Hartford U.S. Capital Appreciation Fund
The Hartford Global Leaders Fund
The Hartford Bond Fund
The Hartford Advisors Fund
The Hartford Canadian Stock Fund
and
Sales Charge Class Units, Deferred Sales Charge Class Units,
DCA Sales Charge Class Units and DCA Deferred Sales Charge Class Units of:
The Hartford Money Market Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated April 29, 2004
Mutual Reliance Review System Receipt dated April 30, 2004
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
Hartford Investments Canada Corp.
Project #619414

Issuer Name:
Hawk Precious Minerals Inc.
Type and Date:
Preliminary Prospectus dated March 4th, 2004
Closed on May 4th, 2004
Offering Price and Description:
1,212,500 Common Shares, 485,000 Flow-Through Shares and 909,375 Warrants
issuable on the exercise of Special Warrants
909,375 Common Shares issuable on the exercise of the Warrants
Underwriter(s) or Distributor(s):
-
Promoter(s):
H. Vance White
Project #619451

Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
New Registration	Stonecroft+Partners Inc.	Limited Market Dealer	May 3, 2004
New Registration	Diversified Global Asset Management Inc.	Limited Market Dealer and Investment Counsel and Portfolio Manager	May 3, 2004
New Registration	Charles Schwab & Co., Inc.	International Dealer	April 30, 2004
Surrender of Registration	Murray Johnstone International Limited		April 28, 2004
Surrender of Registration	SciVest Canadian Holdings Inc.		April 27, 2004
New Registration	Kayne Anderson Rudnick Investment Management	International Advisor (Investment Counsel and Portfolio Manager)	April 29, 2004

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Chapter 13

SRO Notices and Disciplinary Proceedings

13.1.1 IDA Discipline Penalties Imposed on Paul Alexander Bishop – Violations of By-law 29.1 and Regulation 200.1(i)(3)

Contact:
Elsa Renzella
Enforcement Counsel
(416) 943-5877

BULLETIN #3276
May 4, 2004

DISCIPLINE

DISCIPLINE PENALTIES IMPOSED ON PAUL ALEXANDER BISHOP – VIOLATIONS OF BY-LAW 29.1 AND REGULATION 200.1(I)(3).

Person Disciplined

The Ontario District Council of the Investment Dealers Association ("the Association") has imposed discipline penalties on Paul Alexander Bishop, at the material times a Registered Futures Contract Representative Options at various Toronto offices of CFG Financial Group Inc. or its predecessor firms (LFG Futures Canada Inc. and CFG Futures Canada Inc.).

By-laws, Regulations, Policies Violated

Prior to the commencement of the disciplinary hearing held on April 19, 2004, Mr. Bishop admitted to the facts and violations as alleged in the Notice of Hearing. Specifically, Mr. Bishop acknowledged that he engaged in several instances of conduct unbecoming contrary to By-law 29.1 in that he misappropriated funds from six clients, issued fictitious account statements to six clients, engaged in unauthorized trading, and compensated a client for trading losses without the Member's firms knowledge. He also admitted to effecting trades for a client account on instructions from a third party without written authorization, contrary to Regulation 200.1(i)(3).

Penalty Assessed

In light of the admissions made by Mr. Bishop, the only issue to be addressed by the Ontario District Council was penalty. Following submissions by both parties to the proceeding, the Ontario District Council agreed with the recommendation put forth by Enforcement Counsel of the Association and imposed the following discipline penalties upon Mr. Bishop:

- A lifetime ban from acting in any registered capacity with the Association;
- Disgorgement of commissions in the amount of $450.82; and
- A global fine of $410,000.

The Ontario District Council also ordered Mr. Bishop to pay Association costs in this matter in the amount of $39,816.25.

Summary of Facts

Client DK

In April 2002, DK opened a futures trading account with Mr. Bishop. Although the account was in DK's name, DK left the trading in the account to be directed exclusively by his brother. Despite verbal authorization, there was no proper written third party authorization permitting DK's brother to trade in the account.

On August 27, 2002, Mr. Bishop bought and sold six U.S. T-bonds futures contracts in DK's account at a total loss of USD$1,968.75, without the client or his brother's authorization. Total commission charged for these transactions was USD$520.68, 50% of which was paid to Mr. Bishop.

When confronted by the client's brother about these trades, Mr. Bishop advised him that these were trading errors and undertook to correct them. However, despite repeated assurances from Mr. Bishop, the corrections were not made. After being told by the client's brother that he was going to complain to head office, Mr. Bishop deposited $2,000 of his personal monies into DK's

account to partially compensate DK for the losses sustained in his account. Although Mr. Bishop used his own personal funds, Mr. Bishop led him to believe that the funds came from the firm, CFG Financial Group Inc. ("CFG").

Client DW

In August 2001, DW provided Mr. Bishop with USD$2,000 to be deposited in an account in the name of Cancomm Capital Management Inc. ("Cancomm"), Mr. Bishop's own personal corporate account. The arrangement was for DW to engage in futures trading through the Cancomm account.

On September 28, 2001, Mr. Bishop and DW entered in a written agreement whereby Mr. Bishop would guarantee a return of 100% by the end of October 2001, for an investment amount of $7,000 to be provided by D.W. According to the agreement, the investment was to be used in three ways:

(1) To promote Mr. Bishop's website Techcan.com, a purported options advisory service;

(2) To trade in the Cancomm account, with such trading also to train DW as a fund manager for Cancomm's fund account; and

(3) In consideration for 1,000 shares of Cancomm

Pursuant to this agreement, the client provided Mr. Bishop with $7,000 on October 2, 2001. Prior to this, in September 2001, DW also invested $1,700 in the promotion of Mr. Bishop's website.

None of the investments funds provided by the client were deposited in the Cancomm account or used for their intended purpose as understood by the client. Instead, Mr. Bishop misappropriated the said funds and used it for his own personal benefit.

During the period from December 2001 to January 2003, the client placed numerous trade orders with Mr. Bishop to be executed through the Cancomm account , but Mr. Bishop did not execute any of them. However, Mr. Bishop would regularly provide the client with fictitious account statements that led the client to mistakenly believe that the trades did in fact take place in an account in the name of "DW, c/o Cancomm Capital Management Inc."

Client JH

On or about September 6, 2002, DW's friend, JH, provided $3,500 to Mr. Bishop for the purpose of trading in the Cancomm account on his own behalf. DW was given written authorization to trade on behalf of JH. The arrangement was for DW to request the same trades for both himself and JH.

Mr. Bishop did not execute any of the trades that were supposed to have been executed on JH's behalf and used the $3,500 for his own benefit. In September and October 2002, Mr. Bishop provided the client with fictitious account statements that led JH to mistakenly believe that the trades did in fact take place in an account in the name of "JH, c/o Cancomm Capital Management Inc."

Client JM

JM opened an account with Mr. Bishop in January 2002. In May 2001, the client lost almost his entire investment. After complaining to Mr. Bishop in August 2001, Mr. Bishop arranged with the client to trade in what he called an "omnibus account".

In September 2002, Mr. Bishop provided JM with fictitious statements for the "omnibus account". As of September 30, 2002, the fictitious account statement indicated a closing balance of over USD$13,000. The client only discovered this was false information in December 2002 when the branch manager at CFG advised him that he only had $65.00 in his account.

Client BK

During the month of January 2002, BK provided $39,050 to Mr. Bishop to be deposited in the Cancomm account for the purpose of trading on the client's behalf. Mr. Bishop did not deposit these funds in the Cancomm account, but instead placed the funds in Cancomm's bank account

and used them for his own personal benefit.

During the year 2002, Mr. Bishop provided BK with fictitious account statements that led the client to mistakenly believe that the trades in fact took place in an account in the name of "BK, c/o Cancomm Capital Management Inc."

(vii) Clients CF and BF

CF and BF became clients of Mr. Bishop in January 2000. Over the course of approximately the next two years, these clients provided Mr. Bishop with funds totalling CAD$80,000 and USD$10,000, which was to be deposited in the Cancomm account for the purpose of trading on their behalf.

Mr. Bishop has admitted that approximately 60% of these funds were deposited in the Cancomm account and used for his own personal benefit. The remaining funds were used for other purposes including covering client losses.

Mr. Bishop did not execute any of the trade orders placed by BF. However, he provided the clients with fictitious account statements until his termination in December 2002 that led the clients to mistakenly believe that the trades did in fact take place in an account in the name of "CF and BF, c/o Cancomm Capital Management Inc."

Client SS

In the spring of 2002, Mr. Bishop approached one of his clients, SS, to invest in two funds that he purportedly managed: (i) Diversified Futures Limited Partnership Fund ("Diversified Fund"), and (ii) Techcan.com Long Equity Options Fund ("Techcan Options Fund"). The Diversified Fund was not an active fund by 2002 and the Techcan Options Fund was a fictitious fund never registered with any provincial securities commission.

On June 3, 2002, SS subscribed to 1 unit of the Diversified Fund at a total cost of USD$10,000. Mr. Bishop subsequently misappropriated the USD$10,000 provided by the client and used it either for his own personal benefit or to compensate other clients for losses incurred. In order to conceal this misappropriation, Mr. Bishop issued fictitious monthly account statements for June, July, November and December 2002.

On May 17, 2002, SS subscribed to 3 shares of the Techcan Options Fund at a total cost of $6,000. Mr. Bishop misappropriated the $6,000 and used it either for his own personal benefit or to compensate other clients for losses incurred.

Client RK

In March 2001, Mr. Bishop solicited investments from his client, RK, in two funds that Mr. Bishop purportedly managed: (i) Cancomm Capital Management Options Fund ("Cancomm Fund"), and (ii) Techcan.com Short Options Fund ("Techcan Short Fund"). Both funds were fictitious and never registered with the Commission or any other provincial securities commission.

RK provided Mr. Bishop with $4000, with $2,000 to be invested in each fund. Mr. Bishop misappropriated the $4,000 and used it for either his own personal benefit or to compensate other clients for losses incurred. In order to conceal his misappropriation, sometime in and around the end of November 2002, Mr. Bishop issued a fictitious consolidated Portfolio statement for the Cancomm Fund covering the period from May 21, 2002 to November 20, 2002.

Mr. Bishop has provided compensation to clients DW. JH and JM.

One of the aggravating factors of this case was Mr. Bishop's prior disciplinary record. The conduct which was the subject-matter of this discipline hearing took place while Mr. Bishop was being investigated for other regulatory violations and continued while he was being formally disciplined by the Ontario District Council on September 30, 2002. At that time, Mr. Bishop was disciplined for engaging in conduct unbecoming and detrimental to the public interest for altering a Futures Account Application Form so that it would conform to the minimum requirements for opening such an account. (For further information of this previous matter, see IDA Bulletin #3056)

Mr. Bishop is currently not registered in any capacity with the Association.

Kenneth A. Nason
Association Secretary

Chapter 25

Other Information

25.1 Exemptions

25.1.1 Global Asset Management (Canada) Co. - s. 6.1 of OSC Rule 13-502

Headnote

Item E(1) of Appendix C of OSC Rule 13-502 Fees – exemption for pooled funds from paying an activity fee of $5,500 in connection with an application brought under subsection 147 of the Act, provided an activity fee be paid on the basis that the application be treated as an application for other regulatory relief under item E(3) of Appendix C of the Rule.

Rules Cited

Ontario Securities Commission Rule 13-502, Fees, (2003) 26 OSCB 891.
Securities Act, R.S.O. 1990, c. S.5 as am., ss. 77(2) and ss. 78(1).
National Instrument 13-101 – System for Electronic Document Analysis and Retrieval (SEDAR), s. 2.1(1)1.

March 1, 2004

UBS Global Asset Management (Canada)
P.O. Box 85
Toronto-Dominion Centre
Toronto, M5K 1G8

Attention: Mr. Thomas Johnson

Dear Sirs/Mesdames:

Re: UBS Global Asset Management (Canada) Co. (UBS)
Application for Exemptive Relief under OSC Rule 13-502 Fees (Rule 13-502) Application No. 219/04

By letter dated February 11, 2004 (the Application), UBS, the manager of certain existing pooled funds and other pooled funds to be created and managed by UBS from time to time (collectively, the Pooled Funds), applied to the Ontario Securities Commission (the Commission), under section 147 of the *Securities Act* (Ontario) (the Act), for relief from subsections 77(2) and 78(1) of the Act, which require every mutual fund in Ontario to file interim and comparative annual financial statements (the Financial Statements) with the Commission.

In the same letter, UBS also applied to the Director for an exemption, pursuant to section 6.1 of Rule 13-502, from the requirement to pay an activity fee of $5,500 in connection with the Application in accordance with item E(1) of Appendix C of Rule 13-502, on the condition that fees be paid on the basis that the Application be treated as an application for other regulatory relief under item E(3) of Appendix C, and from the requirement to pay an activity fee of $1,500 in connection with making this request (the "Fees Exemption").

Item E of Appendix C of Rule 13-502 specifies the activity fee applicable for applications for discretionary relief. Item E(1) specifies that applications under section 147 of the Act pay an activity fee of $5,500, whereas item E(3) specifies that applications for other regulatory relief pay an activity fee of $1,500.

From our review of the Application and other information communicated to staff, we understand the relevant facts and representations to be as follows:

1. UBS is a corporation existing under the laws of Nova Scotia with its head office in Toronto, Ontario. UBS is, or will be, the manager of the Pooled Funds. UBS is registered with the Commission as a Limited Market Dealer and as an Investment Counsel & Portfolio Manager.

2. Each of the Pooled Funds is, or will be, an open-end mutual fund trust established under the laws of the Province of Ontario. The Pooled Funds are not and will not be reporting issuers in any province or territory of Canada. Units of the Pooled Funds are, or will be, distributed in Canada without a prospectus pursuant to exemptions from the registration and prospectus delivery requirements of applicable securities legislation.

3. Each of the Pooled Funds is a "mutual fund in Ontario" as defined in subsection 1(1) of the Act and are required to file Financial Statements with the Commission under subsections 77(2) and 78(1) of the Act.

4. Subsection 2.1(1)1 of National Instrument 13-101 – System for Electronic Document Analysis and Retrieval (SEDAR) requires that every issuer required to file a document under securities legislation make its filing through SEDAR. Therefore, the Financial Statements filed with the Commission become publicly available.

5. The Application requests relief, under section 147 of the Act, from filing the Financial Statements with the Commission. The activity fee associated with the Application is $5,500, in accordance with item E(1) of Appendix C of Rule 13-502.

6. If, as an alternative, UBS and the Pooled Funds sought an exemption from the requirement to file the Financial Statements via SEDAR, the activity fee for that application would be $1,500 in accordance with item E(3) of Appendix C of Rule 13-502.

7. If the Pooled Funds were reporting issuers seeking the same relief as requested in the Application, such relief could be sought under section 80 of the Act, rather than section 147, and the activity fee for that application would be $1,500 in accordance with item E(3) of Appendix C of Rule 13-502.

Decision

This letter confirms that, based on the information provided in the Application, the facts and representations above, and for the purposes described in the Application, the Director hereby exempts UBS and the Pooled Funds from (i) paying an activity fee of $5,500 in connection with the Application, provided that UBS and the Pooled Funds pay an activity fee on the basis that the Application be treated as an application for other regulatory relief under item E(3) of Appendix C to Rule 13-502; and (ii) paying an activity fee of $1,500 in connection with the Fees Exemption application under item E(3) of Appendix C to Rule 13-502.

“Leslie Byberg”

25.1.2 Viracocha Energy Inc. and 1100974 Alberta Inc. - s. 3.1 of OSC Rule 54-501

Headnote

Ontario Only Exemptive Relief Application – relief granted from the requirement to include certain financial statements in an information circular relating to significant acquisitions of oil and gas properties.

Applicable Ontario Statutory Provisions

OSC Rule 54-501 – Prospectus Disclosure, s. 3.1.

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

AND

IN THE MATTER OF
RULE 54-501 – PROSPECTUS DISCLOSURE IN CERTAIN INFORMATION CIRCULARS ("RULE 54-501")

AND

IN THE MATTER OF
VIRACOCHA ENERGY INC. AND 1100974 ALBERTA INC.

EXEMPTION
(Section 3.1 of Rule 54-501)

WHEREAS the Ontario Securities Commission (the "Commission") has received an application under section 3.1 of Rule 54-501 from Viracocha Energy Inc. ("Viracocha") and 1100974 Alberta Inc. ("Exploreco V") (Exploreco V together with Viracocha, the "Filers") for an exemption from Part 2 of Rule 54-501 to the extent that it requires the information circular of Viracocha (the "Information Circular"), to be provided to its shareholders in connection with a proposed plan of arrangement (the "Plan of Arrangement") under Section 193 of the *Business Corporations Act* (Alberta) ("ABCA"), among Viracocha, Exploreco V, Provident Energy Trust and Provident Energy Ltd., to include certain audited financial statements, as required under Part 6 of OSC Rule 41-501 (the “Financial Statement Requirements”).

AND WHEREAS the Filers have represented to the Commission that:

1. Viracocha was incorporated under the ABCA on April 19, 2000 as a private company. It amended its Articles on August 4, 2000 to remove the private company restrictions.

2. Viracocha is a reporting issuer in Alberta, British Columbia and Ontario and its shares have been listed on the TSX since October 8, 2002

3. Exploreco V was incorporated under the ABCA on April 5, 2004 for the purposes of completing the Plan of Arrangement. Exploreco V has two (2) outstanding common shares, owned by Robert Zakresky and Robert Jepson respectively, each of whom are senior officers and directors of both Viracocha and Exploreco V.

4. Pursuant to the proposed Plan of Arrangement, Viracocha shareholders will receive, pursuant to a series of transactions, for each Viracocha share, one-tenth of one common share of Exploreco V plus, at their election, either 0.248 of one Provident Energy Trust Unit or one exchangeable share of Provident Energy Ltd., subject to an aggregate maximum of 1,325,000 exchangeable shares.

5. Under the Plan of Arrangement, Provident Energy Trust will acquire all of the issued and outstanding shares of Viracocha and certain assets of Viracocha (the "Exploration Assets") will be conveyed to Exploreco V which will be considered a "significant probable acquisition" for Exploreco V under OSC Rule 41-501.

6. On September 30, 2003, Viracocha acquired certain assets from Hunt Oil Corporation Canada which constituted a "significant acquisition" in accordance with OSC Rule 41-501.

7. Viracocha is preparing the Information Circular for its meeting (the "Meeting") to be held on or about May 27, 2004 where its shareholders will be given the opportunity to vote on the Plan of Arrangement.

8. The Plan of Arrangement requires the approval of at least 66 2/3% of the shareholders of Viracocha present in person or by proxy at the Meeting.

9. Shareholders will be granted a right of dissent under Section 191 of the ABCA in respect of the Plan of Arrangement.

10. Viracocha and Exploreco V propose that the Information Circular contain the following financial statements in accordance with the suggested alternative disclosure under Section 3.3 of the Companion Policy to OSC Rule 41-501 (the "Included Financial Disclosure"):

    (a) in respect of the Hunt Assets :

        (i) Audited Statements of Revenue and Operating Expenses in respect of the Hunt Assets for each of the years in the two-year period ended December 31, 2003;

        (ii) a proforma income statement for Viracocha for the year ended December 31, 2003 including a compilation report combining the Hunt Assets as if such acquisition had occurred on January 1, 2003; and

        (iii) proforma earnings per share based upon the statement referred to in (ii) directly above.

    (b) In respect of the Exploration Assets:

        (i) Audited Statements of Revenues and Operations in respect of the Exploration Assets for each of the years in the three-year period ended December 31, 2003,

        (ii) a proforma financial statement of Exploreco V as at December 31, 2003, including a compilation report, proforma consolidated Statement of Operations, proforma consolidated balance sheet and notes;

        (iii) an audited opening balance sheet for Exploreco V;

        (iv) proforma earnings per share based upon the statement referred to in (ii) directly above.

11. Without the exemption granted by this Decision, Rule 54-501 and Part 6 of OSC Rule 41-501 would require the inclusion in the Information Circular of full financial statements in respect of the Hunt Assets and the Exploration Assets, including audited statements of income, retained earnings and cash flow for a two-year period and a full proforma income statement in respect of the Hunt Assets and audited statements of income, retained earnings and cash flow for a three-year period and full proforma income statements and a full proforma balance sheet in respect of the Exploration Assets and the audited balance sheet in respect of the Exploration Assets for the two year period ended December 31, 2003.

12. Representatives of Exploreco V have had preliminary discussions with TSX staff in respect of the Plan of Arrangement including the creation of Exploreco V. It is currently anticipated that Exploreco V's common shares, upon completion of the Plan of Arrangement, will be listed and posted for trading on the TSX.

AND WHEREAS the Director is satisfied that it would not be prejudicial to the public interest to grant the exemption relief requested;

THE DECISION of the Director under Section 3.1 of Rule 54-501 is that the Filers are exempt from Part 2 of Rule 54-501 to the extent that it imposes the Financial Statement Requirements with respect to the Hunt Assets and the Exploration Assets provided that the Filers include the Included Financial Disclosure in the Information Circular.

April 27, 2004.

"Kelly Gorman"

25.1.3 Canso Fund Management Ltd. - s. 6.1 of OSC Rule 13-502

Headnote

Item E(1) of Appendix C of OSC Rule 13-502 Fees – exemption for pooled funds from paying an activity fee of $5,500 in connection with an application brought under subsection 147 of the Act, provided an activity fee be paid on the basis that the application be treated as an application for other regulatory relief under item E(3) of Appendix C of the Rule.

Rules Cited

Ontario Securities Commission Rule 13-502, Fees, (2003) 26 OSCB 891.
Securities Act, R.S.O. 1990, c. S.5 as am., ss. 77(2) and ss. 78(1).
National Instrument 13-101 – System for Electronic Document Analysis and Retrieval (SEDAR), s. 2.1(1)1.

April 2, 2004

Borden Ladner Gervais LLP
Scotia Plaza
40 King Street West
Toronto, Ontario
M5H 3Y4

Attention: Leslie Erlich

Dear Sirs and Mesdames:

Re: Canso Fund Management Ltd.
Canso High Yield Fund, Canso Global Investment Fund, Canso North Star Fund, Canso Corporate Securities Fund, The Canso Fund, The Canso Catalina Fund, Canso Reconnaissance Fund, Canso Preservation Fund, Canso Inflation Linked Fund and Canso Retirement & Savings Fund, (the "Existing Pooled Funds")
Application Under Section 147 of the *Securities Act* (Ontario), as amended (the "Act") and section 6.1 of OSC Rule 13-502 – Fees ("Rule 13-502")

By letter dated February 5, 2004 (the "Application"), you applied on behalf of Canso Fund Management Ltd. ("Canso"), the manager of certain pooled funds listed in the Application (the "Existing Pooled Funds") and other pooled funds managed by Canso (or Canso Investment Counsel Ltd.) from time to time (collectively, with the Existing Pooled Funds, referred to herein as the "Pooled Funds"), to the Ontario Securities Commission (the "Commission") under section 147 of the *Securities Act* (Ontario) (the "Act") for relief from subsections 77(2) and 78(1) of the Act, which requires every mutual fund in Ontario to file interim and comparative annual financial statements (the "Financial Statements") with the Commission. Canso Investment Counsel Ltd. Is the investment manager of the Existing Pooled Funds and is registered under the Act as an adviser

in the categories of investment counsel and portfolio manager and as dealer in the category of limited market dealer.

By same date and cover, you additionally applied to the securities regulatory authority in Ontario (the "Decision Maker") on behalf of Canso for an exemption, pursuant to subsection 6.1 of Rule 13-502, from the requirement to pay an activity fee of $5,500 in connection with the Application in accordance with item F(1) of Appendix C of the Rule, on the condition that fees be paid on the basis that the Application be treated as an application for other regulatory relief under item F(3) of Appendix C of Rule 13-502, and from the requirement to pay an activity fee of $1,500 in connection with the latter relief (the "Fee Exemption").
Item E of Appendix C of Rule 13-502 specifies the activity fee applicable for applications for discretionary relief. Item F(1) specifies that applications under section 147 of the Act pay an activity fee of $5,500, whereas item F(3) specifies that applications for other regulatory relief pay an activity fee of $1,500.

From our view of the Application and other information communicated to staff, we understand the relevant facts and representations to be as follows:

1. Canso is a corporation existing under the laws of the Province of Ontario and its registered office is in Markham, Ontario. Canso (or an affiliate of Canso) is, or will be the trustee and manager of the Pooled Funds.

2. Canso Investment Counsel Ltd., the investment manager of the Existing Pooled Funds (the "Investment Manager), is registered under the Act as an adviser in the categories of investment counsel and portfolio manager and as dealer in the category of limited market dealer.

3. Canso is considering the transfer of the trustee and manager functions to the Investment Manager for business purposes.

4. The Pooled Funds are, or will be, open-ended mutual fund trusts created under the laws of Ontario. The Pooled Funds will not be reporting issuers in any of the provinces or territories of Canada. Units of the Pooled Funds are, or may be, distributed in each of the provinces and territories of Canada without a prospectus pursuant to exemptions from the prospectus delivery requirements of applicable securities legislation.

5. The Pooled Funds fit within the definition of "mutual fund in Ontario" in section 1(1) of the Act and are thus required to file Financial Statements with the Commission under subsections 77(2) and 78(1) of the Act.

6. Section 2.1(1)1 of National Instrument 13-101 – System for Electronic Document Analysis and Retrieval (SEDAR) ("Rule 13-101") requires that every issuer required to file a document under securities legislation make its filing through SEDAR. The Financial Statements filed with the Commission thus become publicly available.

7. In the Application, Canso and the Pooled Funds have requested under section 147 of the Act relief from filing the Financial Statements with the Commission. The activity fee associated with the Application is $5,500 in accordance with item F(1) of Appendix C of Rule 13-502.

8. If Canso and the Pooled Funds had, as an alternative to the Application, sought an exemption from the requirement to file the Financial Statements via SEDAR, the activity fee for that application would be $1,500 in accordance with item F(3) of Appendix C of Rule 13-502.

9. If the Pooled Funds were reporting issuers seeking the same relief as requested in the Application, such relief could be sought under section 80 of the Act, rather than under section 147 of the Act, and the activity fee for that application would be $1,500 in accordance with item F(3) of Appendix C of Rule 13-502.

Decision

This letter confirms that, based on the information provided in the Application, and the facts and representations above, and for the purposes described in the Application, the Decision Maker hereby exempts Canso and the Pooled Funds from

i) paying an activity fee of $5,500 in connection with the Application, provided that Canso and the Pooled Funds pay an activity fee on the basis that the Application be treated as an application for other regulatory relief under item F(3) of Appendix C to Rule 13-502, and

ii) paying an activity fee of $1,500 in connection with the Fees Exemption application under item F(3) of Appendix C to Rule 13-502.

"Leslie Byberg"

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