

The Ontario Securities Commission

# OSC Bulletin

July 16, 2004

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

**The Ontario Securities Commission**

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# Chapter 1

## Notices / News Releases

### 1.1 Notices

#### 1.1.1 Current Proceedings Before The Ontario Securities Commission

JULY 16, 2004

#### CURRENT PROCEEDINGS

#### BEFORE

#### ONTARIO SECURITIES COMMISSION

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

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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

July 21, 2004

9:30 a.m.

**Buckingham Securities Corporation, David Bromberg\*, Norman Frydrych, Lloyd Bruce and Miller Bernstein & Partners LLP (formerly known as Miller Bernstein & Partners)**

s. 127

J. Superina in attendance for Staff

Panel: PMM

\* David Bromberg settled April 20, 2004

July 30, 2004  
(on or about)

10:00 a.m.

**Mark E. Valentine**

s. 127

A. Clark in attendance for Staff

Panel: TBD

August 24, 2004  
(on or about)

10:00 a.m.

**Brian Anderson and Flat Electronic Data Interchange ("F.E.D.I.")**

s. 127

K. Daniels in attendance for Staff

Panel: HLM/RLS

September 29, 2004  
10:00 a.m. **Cornwall et al**  
s. 127

September 30, 2004 and October 1, 2004  
2:00 p.m. K. Manarin in attendance for Staff  
Panel: HLM/RWD/ST

October 4, 5, 13-15, 2004  
10:00 a.m.

October 18 to 22, 2004  
October 27 to 29, 2004  
November 2, 3, 5, 8, 10-12, 15, 17, 19, 2004  
10:00 a.m. **ATI Technologies Inc., Kwok Yuen Ho, Betty Ho, JoAnne Chang, David Stone, Mary de La Torre, Alan Rae and Sally Daub**  
s. 127  
M. Britton in attendance for Staff  
Panel: PMM/MTM/PKB

January 24 to March 4, 2005, except Tuesdays and  
April 11 to May 13, 2005, except Tuesdays  
10:00 a.m. **Philip Services Corp. et al**  
s. 127  
K. Manarin in attendance for Staff  
Panel: PMM/RWD/ST

**ADJOURNED SINE DIE**

**Global Privacy Management Trust and Robert Cranston**

**Robert Walter Harris**

**Andrew Keith Lech**

**S. B. McLaughlin**

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

**1.1.2 OSC Compliance Team, Capital Markets - Industry Report - Scholarship Plan Dealers**

**INDUSTRY REPORT  
SCHOLARSHIP PLAN DEALERS**  
Compliance Team, Capital Markets  
Ontario Securities Commission

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**RESP Dealers Association**

## Executive Summary

The Canadian Securities Administrators performed a National Compliance Review (NCR) of scholarship plan dealers in 2003. The purpose of the NCR was to assess the compliance of scholarship plan dealers with applicable provincial securities legislation and to enhance information sharing of regulatory issues among the provincial regulators.

The Compliance team of the Capital Markets branch of the Ontario Securities Commission (Commission) has prepared this report to provide guidance to scholarship plan dealers in complying with Ontario securities law. Although the report focuses on staff's findings, we feel they are also representative of those found during the NCR by the other participating jurisdictions. Due to the numerous and varying findings across the different dealers, we have focused our report on the deficiencies that were most commonly identified and those that were considered to be the most serious.

### *Participating Provinces*

The NCR was conducted by the securities regulators in British Columbia, Manitoba, New Brunswick, Nova Scotia, Ontario and Prince Edward Island. The Bureau des Services Financiers in Quebec also participated in the review since it is responsible for the oversight of dealers in that province. Each participating jurisdiction reviewed certain branch operations in their province while Ontario also reviewed the head office operations. In total, five scholarship plan dealers were reviewed as part of the 2003 NCR.

### *Scope of the Review*

The scope of the review included the following areas:

- Capital Requirements
- Contractual Agreements and other Business Arrangements
- Compliance and Supervision
- Opening of New Accounts and Maintenance of Know Your Client (KYC) Information
- Scholarship Plan Enrolment Process
- Books and Records
- Sales Practices
- Sales Representative Interviews

Within each of the above areas, we performed testing to evaluate compliance with applicable securities legislation and to identify weaknesses in the practices of the dealers. Compliance examination reports outlining the deficiencies noted were forwarded to each dealer for a written response. Each jurisdiction is dealing separately with their

respective reports and will determine what further action, if any, will be required to ensure that the deficiencies are adequately addressed and rectified. Ongoing Commission initiatives are described in the next section of this report.

### *Overall Comments*

Numerous deficiencies were identified as a result of the NCR. In many cases, we identified issues which had been previously brought to the attention of the dealers by other securities regulators. For example, the Alberta Securities Commission conducted both initial and follow-up reviews of scholarship plan dealers and issued an industry report on common deficiencies in October 2002. Many of the deficiencies outlined in that report were still prevalent during the 2003 NCR indicating that the industry did not take appropriate action to remedy these concerns.

### **Commission Initiatives**

The short term priority of staff is to deal immediately with the responses received from the dealers on the deficiencies noted during the NCR and determine whether appropriate action has been taken to ensure resolution of the issues identified and discussed in this report. We require the dealers to make the necessary changes to their operations to address these deficiencies and to establish adequate policies and procedures for ongoing compliance. We conducted focused follow-up compliance reviews in March and April 2004 after giving the dealers adequate time to make the changes that were represented in their responses. We compared the findings from the follow-up review to the initial findings to assess whether adequate measures had been taken in the intervening period. We noted some improvements in all of the dealers reviewed, however, numerous deficiencies continued to be outstanding. Due to the repeated non-compliance, more stringent measures are being taken and varying terms and conditions have been imposed on the registration of these dealers. The Compliance team will monitor the progression of each dealer in adequately addressing all deficiencies found in both the initial and follow-up reviews before these terms and conditions are removed.

As more of a medium term initiative, Commission staff resources have been dedicated to rulemaking in respect of scholarship plan dealers. While it is too early to determine specifically the nature and breadth of such rules and to describe them in this report, it is clear from the nature and the volume of the deficiencies noted during both the NCR and the focused follow-up reviews that more specific rules are required. In the interim, each dealer should review this report and use it as a self-assessment tool for enhanced compliance with Ontario securities law.

### **Major Findings**

Outlined below are the major findings from staff's review of scholarship plan dealers. These findings are presented on an aggregate basis and in some cases, include examples that support the findings. The examples provided have been consolidated based on our findings across all the dealer firms and do not all necessarily apply to each dealer.

We have also provided suggested practices to assist scholarship plan dealers in improving their existing practices and in strengthening their compliance environment. The suggested practices encompass both requirements under existing legislation and recommended best practices but are not meant to be an exhaustive list of the practices and procedures that could be incorporated by the dealers to mitigate the existence of the weaknesses identified.

## 1.0 Compliance and Supervision

### 1.1 Role of the Compliance Officer

Subsection 1.3(1) of OSC Rule 31-505 requires every registered dealer to designate a registered partner or officer as the compliance officer who is responsible for discharging the obligations of the registered dealer under Ontario securities law. We noted a number of instances where the designated compliance officers did not ensure that the dealers discharged their obligations under Ontario securities law as follows:

- The compliance officer is responsible for supervising the branch manager's conduct over the review of new accounts and the supervision of client trades and advice. However, there is no review of the branch manager's activities by the compliance officer to ensure that these functions are being carried out adequately. (see Role of the Branch Manager in Point 1.2)
- There is no formal reporting requirement from the branch managers to the compliance officer and limited contact, if any, between the parties.
- The compliance officer does not periodically visit or perform supervisory reviews of the branches or sub-branches to ensure that both Ontario securities law and internal policies and procedures are being adhered to.
- The compliance officer does not review the enrolment applications and transaction orders initiated by the branch managers.

Many of the deficiencies identified during the NCR and reported on throughout this report are directly linked to the weaknesses in the compliance structure and the role of the compliance officer. These deficiencies will be dealt with separately in other areas of the report.

#### *Suggested Practices*

- The compliance officer should develop a formal branch review program and perform branch reviews on a regular basis. All of the issues identified should be communicated to the branch manager and be followed-up and resolved in a timely manner.
- A sample of transactions and enrolment applications from each branch should be reviewed

to ensure that all sign offs and reviews have taken place at the branch level.

- The compliance officer should be responsible for reviewing the branch managers' activities, including trades processed for their clients.
- Internal policies and procedures should be communicated to branch managers and sales representatives on a regular basis to ensure that they are understood and are being followed.

### 1.2 Role of the Branch Manager

Subsection 1.4(1) of OSC Rule 31-505 states that if a registered dealer operates a branch office, the dealer must designate a registered salesperson, officer or partner as the branch manager for the branch. Subsection 1.4(2) of OSC Rule 31-505 further states that the branch manager is responsible for functions such as opening new accounts, supervising trades made for or with each client and supervising advice provided to each client. In addition, the branch manager shall report directly to the compliance officer.

We noted a number of instances where the branch managers did not adequately or effectively supervise their sales representatives:

- Some branch managers are supervising a large group of sales representatives that render the supervision inadequate and ineffective.
- There was a lack of review of trade transactions at the branch level (see Point 1.3).
- Some branch managers allowed enrolment applications and transaction forms to be submitted to head office for processing without any branch manager review or to be reviewed by administrative personnel at the branch location.
- There was inadequate collection and documentation of KYC and suitability information and review thereof (see Point 2.1).
- Several branch managers told us that they did not have a direct supervisor.
- There is limited interaction between the sales representatives and the branch manager, and the branch manager and the compliance officer.
- A limited number of sales representatives indicated that they act without the advice of their branch manager in dealing with client complaints.

#### *Suggested Practices*

- Limit the number of sales representatives to be supervised by one branch manager to a manageable and reasonable number, taking into account the other responsibilities of the branch



manager, the geographic location of the representatives that are being supervised and whether the sales representatives can be visited on a periodic basis to evaluate their sales practices and their dealings with clients.

- Branch managers should review all new enrolment applications and should ensure that trade transactions are reviewed prior to processing at head office. If these duties are delegated to another individual at the branch, that individual should have adequate proficiency and the branch manager is responsible for the oversight of such duties.
- Client files should be reviewed regularly to ensure there is adequate and current KYC information on file.
- Branch managers should communicate regularly with the sales representatives at the branch and reiterate that they should be notified of client complaints and any other issues requiring branch manager review and approval, such as marketing and other sales endeavors.

### 1.3 Trade Suitability Review

The branch manager is responsible for opening new accounts, supervising trades made for each client and supervising advice provided to each client as per subsection 1.4(2) of OSC Rule 31-505. We noted significant weaknesses in the review for trade suitability as follows:

- Most sales representatives had no branch manager reviewing their trades and enrolment application forms before submitting them to head office for processing.
- There was no evidence of review of the enrolment forms at the head office level in the absence of branch level review.
- In some cases, the forms were reviewed by administrative personnel for completeness. These individuals lack the proficiency and knowledge to assess suitability of the trade for clients.
- There was no evidence that the branch managers' trades were reviewed or that branch managers themselves were reviewing sales representatives' trades for suitability.
- Some sales representatives indicated that the overall financial situation of clients was not always considered when assessing suitability or affordability of the plan. In other cases, sales representatives indicated that irrelevant criteria such as home surroundings were used to assess suitability.

- There were suitability concerns on a sample of enrolment applications that we reviewed relating to the value of the monthly deposit relative to the clients' income and KYC information provided.
- Certain plans had a high number of terminations or cancellations indicating that these plans were potentially unsuitable for clients at the onset. However, there is no review of the terminations by the compliance officer to determine the reasons.

#### *Suggested Practices*

- All trades and enrolment applications must be reviewed by the branch manager at the branch, prior to submitting the forms to head office.
- There should be evidence of the review by the branch manager in the form of initials and the date of the review. Similarly, there should be an individual responsible for reviewing the branch managers' activities and there should be evidence of review and approval of their trades.
- Guidelines should be developed and communicated to sales representatives on the affordability of plans, taking into consideration the income of the household and the proposed monthly contribution. Any deviations from the guidelines should be approved by the branch manager.
- The branch manager and/or the compliance officer should conduct reviews on a regular basis to identify unfavorable trends. For example, sales representatives with a high number of terminations or with a high volume of leveraged clients should be questioned about the suitability of the plan for their clients.

### 2.0 Opening of New Accounts and Maintenance of KYC Information

#### 2.1 Collection and Update of KYC and Suitability Information

Section 1.5 of OSC Rule 31-505 requires registrants to make enquiries about each of their clients as are appropriate to ascertain the general investment needs and objectives of the client and the suitability of a proposed purchase of a security for the client.

We noted the following deficiencies with respect to the collection, documentation and review of KYC and suitability information:

- We noted that a large portion of the enrolment applications that we sampled contained incomplete or missing KYC information, thereby impeding the ability of the dealers to assess whether a plan is affordable and suitable for a client.

- There was no evidence of review and approval of the new account opening forms.
- There is no process in place to update KYC information to reflect any material changes to clients' circumstances.
- In one instance, training materials and sales representative proficiency exams did not adequately address KYC and suitability rules.
- Enrolment applications did not require all the appropriate KYC information, such as the number of dependents of the subscribers and whether leveraging is being used to purchase units in scholarship plans.

#### *Suggested Practices*

- Complete KYC information must be collected for all clients prior to any trade execution, including such information as the client's identity, age, credit worthiness, occupation, annual income, net worth, investment objectives, investment knowledge, investment time frame, risk tolerance and source of funds.
- KYC information should be periodically updated.
- Clients must sign the KYC information form.
- The enrolment application form must be reviewed and approved by the branch manager.
- If possible, KYC information should be maintained in an electronic format which can be used to generate exception reports.
- Maintain a pending file when a KYC form is incomplete.
- The pending file should be cleared on a timely basis.

## **2.2 Inadequate Disclosure**

There are many fees associated with the purchase of scholarship plan units, however, we noted a lack of disclosure and clarity to clients on the nature of these fees and their implications on the plans' returns. Section 1.2 of OSC Rule 31-505 requires every dealer to establish and enforce written procedures for dealing with clients that conform to prudent business practice and enable the dealer to serve its clients adequately. Furthermore, adequate disclosure ensures that the registrant is dealing fairly, honestly and in good faith with its clients as required under section 2.1 of OSC Rule 31-505.

The following weaknesses were noted with respect to the disclosure provided to clients:

- Sales representatives lacked adequate knowledge of the product being sold to clients, and its associated costs (see Point 8.1).
- Enrolment fees were misrepresented in some cases, leading clients to believe that the potential for loss was nil.
- Enrolment fees and the related consequences of terminations were not always discussed with clients.
- The 60 day grace period was not always explained to clients.
- In some cases, there was no mention of other types of fees incurred by the plans.

#### *Suggested Practices*

- Ensure that sales representatives have sufficient knowledge of the product, including all fees, prior to the commencement of selling units to clients.
- A copy of the most recent prospectus should be provided to all clients and sales representatives should indicate where the fees are disclosed therein.
- The implications of terminations or plan cancellations, both within 60 days and thereafter, should be discussed with clients.
- Guidelines, such as a checklist, could be developed and incorporated into the account opening procedures. The checklist would outline each type of fee and the client could initial each one after it has been discussed and understood.

## **3.0 Registration Requirements**

### **3.1 Unregistered Activities**

The assets of the scholarship plan must be managed by a registered adviser who has the adequate proficiency to perform this function. Paragraph 25(1)(c) of the Act states that no person shall act as an adviser unless the person is registered as an adviser. We noted two instances where plan assets were being managed, in part, by non-registered individuals as follows:

- Investment decisions were being made and all trade activities were being approved by these non-registered individuals.
- The individuals were responsible for reviewing the portfolios to ensure conformance with the strategy.
- The individuals provided analysis and outlook for the investment market and were designated as the key persons to communicate with their investment dealers in facilitating trade execution.

All dealers should ensure that the persons or companies that are acting as advisers over their plan assets are properly registered and have the proficiency to manage the portfolios as required. In addition, the plans' advisers should be disclosed in the prospectus to ensure that full, true and plain disclosure of all material facts is included therein.

### 3.2 Registration of Branches and Sub-branches

Each dealer operates a number of branches and sub-branches where sales representatives meet with clients to conduct business and maintain client files. We did not have any record of these branches and sub-branches being registered with the Commission or a list of the individuals designated to be the branch manager at these locations as required under section 3.2 of Multilateral Instrument 33-109.

Every registered dealer must notify the Commission within five business days of the opening or closing of any branch office in Ontario and, in the case of the opening of any branch office in Ontario, the name and address of the person in charge of that office.

### 3.3 Statement of Policies

Section 223 of the Regulation requires scholarship plan dealers to prepare and file a statement of policies with the Commission as well as provide a copy to their clients. This statement should outline the activities of the dealer in respect of related or connected issuers. The scholarship plans distributed by the dealers are considered to be related and/or connected issuers and must be disclosed in their statement of policies.

We noted that a statement of policies was not prepared and a copy was not filed with the Commission or provided to clients.

#### *Suggested practices*

- A current statement of policies must be prepared and filed with the Commission.
- If a significant change occurs, a revised statement of policies must be filed with the Commission and distributed to all clients.
- A copy of the statement of policies must be provided to all clients.
- The statement of policies must include a complete listing of related issuers along with a concise description of the nature of the relationship with each of the related issuers.
- The statement must include the disclosure required in Regulation 223(1)(d).

Many dealers were opposed to preparing a statement of policies as some of the information required therein is already contained in the prospectus. However, unless an

exemption from this requirement is obtained under section 233 of the Regulation, these dealers must comply with the requirements of Regulation 223.

## 4.0 Sales Practices

### 4.1 Holding Out

It is the dealer's responsibility to ensure that clients understand with which legal entity they are dealing. Furthermore, a clear distinction must be drawn between the foundation, which is the sponsor of the plan, and the dealer who is distributing it as required under National Policy Statement 15. Staff noted the following issues related to holding out:

- Some sales representatives indicated to clients that they work for the foundation, a not-for-profit entity, rather than for the dealer which is a for-profit organization.
- Training manuals and other reference tools used by the sales representatives encourage them to hold themselves out as working for the foundation and to inform clients that they are not selling anything.

#### *Suggested Practices*

- All clients must be informed that the sales representatives are acting on behalf of a dealer and will be compensated for the sale of units of scholarship plans.
- Training materials and client scripts should exclude misleading representations.
- The full legal name of the dealer must be used on all correspondence with clients, on business cards and in marketing materials to make it clear to clients with which entity they are dealing.
- The dealer name and the foundation name should not be so similar as to cause confusion among clients.

### 4.2 Business Cards, Branch Signage and Telephone Greetings

The use of names other than the full legal name of the dealer may be misleading to clients. In addition, paragraph 25(1)(a) of the Act states that no person or company may act as a dealer unless registered. We reviewed a sample of business cards, branch signage and telephone greetings and noted the following deficiencies which may cause confusion for clients:

- A number of sales representatives were using outdated business cards.
- Some business cards did not include the name of the dealer or contained the names of the sales

representatives' non-registered companies, rather than that of the dealer.

- Branches did not display the registered dealer name on their premises or use it in their telephone greetings.
- Business cards contained inappropriate and misleading titles.
- Business cards had the name of the foundation, not the dealer.

#### *Suggested Practices*

- Business card orders should be handled centrally by head office to ensure all business cards are consistent, contain the full legal name of the dealer only and do not contain misleading or inappropriate titles.
- All branches should display the legal name of the dealer.

### **4.3 Misleading Marketing**

Section 2.1 of OSC Rule 31-505 states that all dealers must deal fairly, honestly, and in good faith with their clients. Accordingly, all marketing materials should contain information that is accurate and should not make representations that are misleading to clients.

We noted misleading information in materials prepared by both head office and sales representatives as follows:

- Outdated information was used in pamphlets and brochures, such as the value of assets under management and the total amount returned to subscribers since inception.
- Actual rates of return provided in the marketing materials did not contain adequate disclosure regarding the assumptions used and whether the returns are gross or net of fees.
- Within the same dealer firm, there was no consistent methodology for calculating rates of return. For example, rates of return were calculated using creative calculations to make the returns appear higher, or were based on selected returns for only some periods, or were grossed up from net returns using estimates of fees paid rather than actual fees paid by clients.
- Projected rates of return were not reflective of recent performance of the plan, or were based on inflated percentages for assumed interest rates.
- Marketing materials claimed "superior returns", "excellent rate of return", "earns the highest income" and "exceptional returns" without any support to substantiate these claims.

- The full legal name of the dealer was not always used in marketing materials or was not used with the same prominence as the foundation name, which may cause client confusion about the entity with which they are dealing.
- The products were represented as "risk-free", "guaranteed", "government insured", "safest funding methods", "fully protected" and overall, as bearing no risk to clients.
- Some materials indicated that the dealer was a not-for-profit organization.
- Materials indicated that the security regulators had endorsed the product. Others included letters from government agencies and Commission registration letters which may mislead clients to believe that they are government or Commission endorsed.
- Inconsistent information was contained within the prospectus and the marketing materials.
- Materials claimed that only guaranteed securities were invested in by the plan, however, other types of non-guaranteed securities were also purchased for the plan.
- The government's Canada Education Savings Grant program has a limit of \$400 per year, however, materials represented that the government would add 20% to the plan each year. No mention of the dollar limit was included.

Overall, many more instances of misleading information were noted in the materials we reviewed than those mentioned above.

#### *Suggested Practices*

- Establish and enforce procedures with respect to the preparation, review and approval of marketing materials.
- All marketing materials should be reviewed and approved by someone independent of their preparation.
- Establish guidelines on the preparation of performance data and apply them consistently from period to period.
- Rates of return should be accompanied by adequate disclosure which is clear and easily understood by clients. At a minimum, this would include the assumptions used, the effects of enhancement factors due to plan forfeitures and other non-market related conditions, and the methodology used.
- Materials should not imply that Commission staff has in any way passed upon the financial

standing, fitness or conduct of the dealer or upon the merits of the product being offered.

- Marketing materials should be regularly updated to ensure all information is complete and accurate and not misleading to clients.
- All claims made within the marketing materials should be adequately supported.

## **5.0 Contractual Agreements and Business Arrangements**

### **5.1 Sales Representative Agreements**

Subsection 1(1) of the Act defines a salesperson as an individual who is employed by a dealer for the purpose of making trades in securities on behalf of the dealer. Sales representatives are acting on behalf of a dealer and this should be reflected in their contracts with their respective dealer. Overall, we felt that the agreements signed by sales representatives of the dealers did not adequately reflect the responsibilities of the sales representatives or their relationship with the dealers. The following weaknesses were noted as a result of our review of these agreements:

- Agreements were between the sales representative and the branch, or the sales representative and the branch manager and not between the sales representative and the dealer.
- The agreements indicated that sales representatives were acting on behalf of the branch manager.
- The agreements did not define the responsibilities of each party to clients.
- The agreements did not outline which party has supervisory responsibilities.
- The agreements limited the liability of the dealers for the misrepresentations of their sales representatives.

#### *Suggested Practices*

- Agreements must be between the sales representative and the dealer.
- The agreements should clearly indicate that the securities related business is that of the dealer, and not the sales representative or the branch manager.
- The agreements should clearly outline the responsibilities of both the dealer and the sales representative, including those over the supervisory functions.
- The agreements should make it clear that the dealer is liable for the actions of its sales representatives.

### **5.2 Branch Manager Agreements**

We noted similar issues as those indicated above when we reviewed the branch managers' agreements with the dealers. Specifically, we noted the following deficiencies:

- There was inadequate detail regarding the branch manager's responsibility to supervise the activities of the sales representatives at the branch.
- Responsibilities were assigned to the branch manager that we think are the primary responsibility of the dealer. For example, the payment of commissions, the registration of sales representatives and the recruitment and training of sales representatives were allocated to the branch manager by the dealer.
- The agreements limited the liability of the dealers for the misrepresentations of their branch managers.

#### *Suggested Practices*

- The agreements should include the responsibilities of the branch manager to approve the opening of new accounts, to supervise trades made for or with each client, and to supervise the advice provided to each client.
- The relationship between the branch manager and the dealer must be structured as that of an agent or employee of the dealer.
- The agreements should reflect that the securities related business is that of the dealer, not the branch manager. Accordingly, the branch manager may assist the dealer with certain functions, however, the dealer is ultimately responsible for the registration, training and compensation of its sales representatives.
- The agreements should not limit the liability of the dealer for the actions or misrepresentations of its branch managers.

### **5.3 Business Arrangements**

Section 1.2 of OSC Rule 31-505 requires that every registered dealer establish and enforce written procedures that conform to prudent business practice. Accordingly, business arrangements with other entities should be approved by an individual with adequate authority and should be properly documented. We discussed business arrangements with both the dealers and their sales representatives and noted the following issues:

- Some sales representatives entered into arrangements with other entities without the knowledge of the dealer or the branch manager.
- Arrangements were entered into with individuals or companies that are not registered to trade in

securities of scholarship plans, however, the arrangements indicated that these individuals or companies would be performing acts in the furtherance of a trade.

- Commissions were paid by sales representatives to the other parties in their business arrangements who are not registered.
- The terms of the business arrangements were not always in writing.
- The dealer's letterhead was used on client's statements for units sold by the other party dealer in the business arrangement.
- Commissions were paid to the other parties' sales representatives directly, rather than to the firm itself. As such, commissions were recorded off the books of the other entities.

#### *Suggested Practices*

- All business arrangements should be approved in writing by head office.
- If arrangements with other parties include acts in the furtherance of a trade, the other entities should be properly registered for those types of trades.
- Commissions should be paid by head office directly to the other party, not to its sales representatives.
- The terms of the business arrangement should be clearly documented.
- The other entities' branch managers or compliance officers should review the trades of their sales representatives and ensure that these trades are properly recorded in their books and records. Similarly, the sales commissions should be recorded on the books of the other parties.
- The dealer's letterhead should only be used on client statements of its own clients.

### **6.0 Capital Requirements**

#### **6.1 Capital Calculations**

Subsection 113(3), paragraph 10 of the Regulation requires that each registrant prepare a monthly calculation of minimum free capital, adjusted liabilities and capital required (capital calculation) within a reasonable period of time after each month end. The capital calculation is to be prepared based on monthly financial statements prepared in accordance with generally accepted accounting principles. All market participants are required to inform the Commission immediately should they become capital deficient and are required to rectify the capital deficiency within 48 hours.

During our reviews, we observed the following:

- Capital calculations were not always prepared or were not prepared on a timely basis and, therefore, monitoring of the firm's capital was not done.
- There was no evidence that a review of the calculation was performed by someone other than the preparer.
- The calculation of adjusted liabilities was incorrect.

#### *Suggested practices*

- Capital calculations must be performed on a monthly basis and within a reasonable period of time after month end.
- Copies of the capital calculations should be maintained for purposes of an audit trail.
- A person other than the preparer should review the capital calculations to ensure that they are accurate.
- Evidence of the review should be documented.
- The Commission should be informed immediately should the dealer's capital position become deficient.

### **7.0 Books and Records**

#### **7.1 Inadequate Books and Records**

Section 113 of the Regulation requires that registered dealers maintain books and records necessary to properly record their business transactions and financial affairs.

During our reviews, we observed the following:

- The dealer did not maintain a trade blotter or the blotter maintained was incomplete.
- Client statements of account were not delivered to clients on a monthly basis.
- Client statements of account did not include all necessary information such as the price per unit or units purchased to date.
- Client statements of account contained misleading information.
- The dealer did not send trade confirmations to its clients, rather it relied on the foundation to do so.
- The trade confirmation was incomplete.

### *Suggested practices*

A list of books and records that dealers are required to maintain is contained in subsection 113(3) of the Regulation. In the absence of any exemptive relief, client statements of account should be delivered to clients on a monthly basis.

## **7.2 Policies and Procedures**

Section 1.2 of OSC Rule 31-505 states that every dealer should develop and enforce written procedures for dealing with clients that conform to prudent business practice and enable it to serve its clients adequately. The policies and procedures should be in sufficient detail, be updated on a periodic basis and be made available to all relevant staff. In addition, the relevant regulatory requirements should be outlined in the policies and procedures. We feel that written policies and procedures contribute to an effective compliance environment.

During our reviews, we observed the following:

- The dealer did not have a documented policies and procedures manual.
- The policies and procedures were not sufficiently detailed and/or did not contain procedures covering all major areas of the business.
- The actual practices of the dealer were not consistent with the documented procedures.
- The documented procedures were not being adhered to by the dealer's sales representatives and were not adequately enforced by the dealer.

### *Suggested practices*

Each dealer should establish and enforce a written policies and procedures manual that is sufficiently detailed, up to date, and which covers all relevant areas of its business. At a minimum, the following list of topics should be considered for inclusion in the documented policies and procedures:

#### **Trading**

- Monitoring and resolving cancelled and/or rejected trade orders, including the individuals responsible for such activities.
- Guidelines on trade suitability review.
- Procedures over the preparation and delivery of trade confirmations, including procedures to ensure accuracy and completeness of information prior to delivery.

#### **New Accounts, KYC and Suitability Information**

- Collection, documentation and timely updating of KYC and suitability information for clients.

- Guidelines on how account application forms are to be completed, reviewed and approved.
- Specify the individual who is responsible for approving new client accounts.
- List the criteria to be used for approving new accounts.
- Specify the timing for approving new accounts.
- Guidelines on when transfers-in are suitable for clients.
- Requirement to obtain information regarding whether a client is using leverage to purchase the securities.
- Requirement to provide leverage disclosure document to clients and obtain their signature.

#### **Administration**

- Handling of client complaints and maintenance of a log of complaints.
- Procedures over the preparation and delivery of client statements of account, including procedures to ensure accuracy and completeness of information prior to delivery.

#### **Marketing**

- Ensuring adequate disclosure and adherence to applicable legislative requirements.
- Ensuring the exclusion of false or misleading information.
- Procedures over the review and approval of marketing material, including websites.
- Guidelines over the preparation and presentation of performance results.
- Procedures over the use of draw boxes.
- Procedures over the distribution of marketing materials.

#### **Other Employment**

- Guidelines over what is acceptable as other employment and monitoring of conflicts of interest.

#### **Financial Condition**

- Preparation, review and monitoring of monthly capital calculations.

### Referral and Other Business Arrangements

- Procedures over the review, acceptance and monitoring of arrangements with other parties.

### Money Laundering Prevention

- Definition of “money laundering” and examples of suspicious transactions.
- Handling of prescribed and suspicious transactions.
- Procedures to report prescribed and suspicious transactions to the Financial Transactions and Reports Analysis Centre of Canada.
- Documenting the records which should be maintained under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act and Regulations*.
- Establishing a compliance regime and employee training at the Registrant to ensure it meets its obligations under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act and Regulations*.
- Requirements to maintain a large cash transaction record.

## 8.0 Sales Representatives

### 8.1 Training of Sales Representatives

The training provided to sales representatives varied greatly between dealers and also, between different branches of the same dealer. In many instances, the training of sales representatives was carried out by the branch manager or another sales representative, with little or no involvement by head office. This is consistent with the inappropriate structure adopted by many dealers where the branches are acting as autonomous business units with inadequate supervision by head office.

A strong training program for sales representatives, both at the onset of registration and on an ongoing basis, contributes greatly to a more effective compliance environment. Every dealer is responsible for the supervision of its sales representatives, partners and officers, including ensuring that they are properly trained.

The following weaknesses were noted regarding the training of sales representatives:

- The current proficiency exams do not adequately address compliance issues such as KYC and suitability rules.
- Sales representatives were allowed to complete the proficiency exams with the assistance of others.

- Sales representatives who transferred from another dealer were not required to write the proficiency exam at their new dealer, even though the exam contains materials specific to the new dealer’s product.
- Mandatory training was not being completed by all sales representatives and its completion was not being enforced by the dealer.
- Sales representatives were not aware of training courses being offered.
- Training materials were inadequate in areas dealing with regulatory requirements.
- Training materials encouraged high-pressure sales tactics.
- Training materials indicated that the products were approved by the Commission, which is misleading since no approval has been made by the Commission.

#### *Suggested practices*

- Head office should develop detailed training procedures and materials and ensure that they are distributed to all branches and used in the training of all sales representatives.
- Attendance at training should be monitored to ensure all sales representatives have attended mandatory sessions.
- Proficiency exams should be completed by all sales representatives prior to any dealings with clients.
- The administration of the proficiency exams and the passing requirements should be rigorous and consistent among all branches.
- The proficiency exam should be challenging and also address regulatory requirements, not just questions on product knowledge and sales techniques.
- Training should be provided on an ongoing basis to remind sales representatives of their duties and responsibilities.

### RESP Dealers Association

The RESP Dealers Association of Canada (“Association”) was formed in 1999 to represent the group plan distributors of registered education savings plans. Members of the Association have taken steps to create standards and uniformity in the industry. For example, a code of sales practices was developed and the Association is also working towards the development of a more in-depth proficiency exam.



We consider these to be positive steps towards streamlining the practices of the scholarship plan dealers in Ontario. However, further measures need to be taken by the dealers to increase the awareness of its sales representatives and branch managers in regards to the Association and its initiatives for enhanced compliance.

#### Contact Information

For further information, please contact:

Noulla Antoniou  
Senior Accountant, Compliance  
Capital Markets Branch  
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phone (416) 595-8920

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Capital Markets Branch  
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### 1.1.3 CSA Staff Notice 51-312 Harmonized Continuous Disclosure Review Program

#### CSA STAFF NOTICE 51-312

#### HARMONIZED CONTINUOUS DISCLOSURE REVIEW PROGRAM

##### Purpose

The staff of the Canadian Securities Administrators have established a program of harmonized continuous disclosure review with a view to improving the completeness, quality and timeliness of continuous disclosure by reporting issuers in Canada.

The program, the harmonized continuous disclosure review program (the CDR program), is being adopted at this time by the staff of the following jurisdictions: British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec and Nova Scotia.

Under the CDR program, staff of the participating jurisdictions will generally follow principles of mutual reliance similar to the principles that underlie the mutual reliance review systems that have been developed for applications for exemptive relief<sup>1</sup> and for prospectuses and annual information forms.<sup>2</sup> As is the case with the mutual reliance review systems that are currently in place, it is generally expected that issuers will deal only with staff of a principal regulator, and that staff of the non-principal regulators will rely on the staff of the principal regulator on matters related to continuous disclosure reviews.

The purpose of this notice is to provide issuers, investors and other market participants with information about the CDR program.

##### Background

Under Canadian securities legislation, reporting issuers are required to provide continuous disclosure about their businesses and affairs on a timely basis. Market participants, including investors, rely upon this information to make informed investment decisions.

Currently, certain members of the Canadian Securities Administrators (the CSA) maintain their own continuous disclosure (CD) review programs to focus on the completeness, quality and timeliness of CD material provided by issuers that are reporting issuers in their jurisdictions.

The members of the CSA recently introduced a new continuous disclosure rule, National Instrument 51-102 *Continuous Disclosure Obligations* (the CD rule). The CD

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<sup>1</sup> See National Policy 12-201 *Mutual Reliance Review System for Exemptive Relief Applications*.

<sup>2</sup> See National Policy 43-201 *Mutual Reliance Review System for Prospectuses and Annual Information Forms*.

rule, which came into force on March 30, 2004,<sup>3</sup> harmonizes CD obligations across Canada and aims to ensure that investors receive better disclosure on a timelier basis.

The CDR program is intended to complement the CD rule by enhancing consistency in the scope and level of reviews carried out by staff across Canada. We believe that greater consistency in the treatment of issuers will improve the overall quality and timeliness of continuous disclosure by reporting issuers in Canada.

### **Two objectives of the CDR program: Education and Compliance**

While the CD rule seeks to ensure that Canadian investors receive a uniformly high level of continuous disclosure across the country, it is critical to the success of the rule that issuers understand their obligations under the rule and comply with them. Accordingly, two fundamental objectives underlie the CDR program: education and compliance.

The first objective is to help issuers better understand the nature and extent of their disclosure obligations under the CD rule. We will attempt to do this through our interaction with issuers during the course of our CD reviews. We will also provide additional guidance through our publications, seminars, webcasts and other forums that will address specific aspects of the CD rule.

The second objective is to determine, through the continuous disclosure review process, whether issuers are in fact complying with their disclosure obligations under the CD rule. The CDR program is designed to identify material disclosure deficiencies and questionable transactions that impact the reliability and accuracy of an issuer's disclosure record. It should be noted, however, that while the objective of a continuous disclosure review is to improve the overall quality of disclosure provided to the marketplace, the fact that an issuer has been the subject of such a review does not guarantee the accuracy of its disclosure.

### **Introducing the concept of a principal regulator for CD purposes**

Currently, when a filer seeks exemptive relief from a requirement of Canadian securities law in more than one jurisdiction, the filer may file an application for such relief under National Policy 12-201 *Mutual Reliance Review System for Exemptive Relief Applications* (NP 12-201).

Similarly, an issuer seeking to make a public offering in more than one jurisdiction can file a prospectus with various securities regulators across Canada and have the prospectus reviewed by one of those regulators on behalf of the others under National Policy 43-201 *Mutual Reliance*

*Review System for Prospectuses and Annual Information Forms.* (NP 43-201.)

The MRRS system expedites the review process and eliminates the duplication of work that would otherwise occur when each jurisdiction reviews the application or prospectus, as the case may be, on its own.

Under the mutual reliance review systems that are currently in place, a filer or issuer will generally deal only with a single regulator, referred to as the principal regulator. We are introducing a similar concept to manage the CDR program in Canada. Under this approach, staff of one of the regulators will act as principal regulator (PR) for a particular issuer. The determination as to which jurisdiction will act as PR will generally be based upon similar principles to those set out in NP 12-201 and NP 43-201. For the most part, this means that the PR will be the regulator in the jurisdiction where the head office of the reporting issuer is located.

The PR will be responsible for reviewing an issuer's CD information and, when necessary, take steps to ensure that the issuer complies with its CD obligations. Generally, an issuer will only have to deal with staff of a single regulator on CD-related matters. We believe that this will allow staff in each jurisdiction to develop greater familiarity with their respective issuers and enhance the efficiency and quality of their CD reviews.

### **How will issuers be selected under the program, and how often will they be reviewed?**

We will apply risk-based selection criteria, including market capitalization and trading activity, among others, to select the majority of issuers for review. These criteria may change from time to time as certain disclosure-related issues achieve greater public prominence, or as consensus or concerns develop over particular accounting issues or disclosure practices. This risk-based approach takes into account the potential damage that could occur to Canadian capital markets in the event an issuer fails to provide complete, accurate and timely disclosure about its business and affairs.

Generally, the risk-based selection criteria will not be made public. An exception to this principle will be made for the largest issuers, due to their significance to the market, and for issuers that have recently gone public. We will review the largest issuers, consisting of those issuers with a market capitalization in excess of \$750 million, on average, once every three years. We will also review the CD record of all issuers within twelve months of their initial public offering.

Issuers that do not come within either of these categories will be subject to reviews in accordance with the non-public risk-based criteria and other criteria that may be developed on a jurisdiction-by-jurisdiction basis. For example, staff in a jurisdiction may adopt additional criteria that are specific to that jurisdiction, such as a commitment to review *all* reporting issuers with a head office in that jurisdiction within a specified time period. Finally, issuers will also be selected

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<sup>3</sup> The CD rule is not yet in effect in Québec. However, the Autorité des marchés financiers has issued a blanket order exempting reporting issuers from the local continuous disclosure requirements if they comply with the requirements of the CD Rule.

on a purely random basis for review. Accordingly, all issuers should assume that they may become subject to a CD review at any time.

### **What do we look at under the program?**

Generally, a reporting issuer will be subject to either an *issue-oriented* review or a *full* review.

Issue-oriented reviews are in-depth, focused reviews. They focus on a particular disclosure issue or industry that we believe warrants regulatory scrutiny. For example, staff in several jurisdictions have recently conducted issue-oriented reviews relating to executive compensation disclosure,<sup>4</sup> and income trusts.<sup>5</sup>

A full review is broader than an issue-oriented review, and encompasses more sources of public disclosure. A full review usually includes, among other things, the following information of an issuer:

- Annual financial statements and Management's Discussion and Analysis (MD&A)
- Interim financial statements and MD&A
- Technical disclosure, and where warranted, technical reports (for oil and gas and mining issuers)
- Annual Information Forms (AIF)
- Annual Reports
- Information Circulars
- Press releases and material change reports
- Issuer websites.

Media coverage and analysts' reports may also be reviewed if circumstances warrant it.

### **What reporting periods will be reviewed?**

#### **Full Reviews**

The reviews will generally cover an issuer's most recent annual and interim financial statements and MD&A filed prior to the start of the review. For all other disclosure, the review will cover a twelve to fifteen month period prior to the start of the review. In certain cases, we may extend the scope of the review to cover prior periods. We will monitor a reporting issuer's continuous disclosure until the review has been completed.

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<sup>4</sup> See CSA Staff Notice 51-304 *Report on Staff's Review of Executive Compensation Disclosure* (November 2002).

<sup>5</sup> See CSA Multilateral Staff Notice 51-310 *Report on Staff's Continuous Disclosure Review of Income Trust Issuers* (February 2004).

### **Issue-oriented Reviews**

The nature of the issue(s) identified will determine the period(s) to be reviewed.

### **What is the review process?**

The primary focus of a continuous disclosure review is to check for an issuer's compliance with securities legislation. During the course of a review we may identify accounting and other disclosure issues. When such issues are identified, we will communicate those issues to the issuer, usually through a comment letter. When a comment letter is issued, we will request that management of the issuer promptly forward a copy of the letter to the issuer's audit committee. Similarly, we would expect that a copy of the issuer's response be forwarded to the audit committee on the date it is sent to us.

Comment letters will generally request that issuers respond either by correcting the problem or by explaining why management believes that no revision is necessary. We expect a response from the issuer within two weeks from the date of the comment letter. A complete and comprehensive response will assist us to conclude the review in an efficient and timely manner and reduce the need for additional follow up.

### **How will issues identified during the review be resolved?**

We will work with issuers to ensure that the issues identified during our review are resolved in a timely and appropriate manner. Depending upon the circumstances, this may require the publication of clarifying news releases, the correction and re-filing of financial statements and other continuous disclosure materials, and, in some cases, delivering such amended materials to shareholders. In other cases we may permit companies to amend the disclosure prospectively, i.e., in the next filing. It should be noted that although timely correction of a disclosure problem will not in all cases eliminate the need for enforcement action, it will minimize the harm to investors and will generally be a factor in considering what other action, if any, is necessary.

When we are unable to resolve material breaches of securities legislation, we will consider recommending enforcement action against those issuers.

### **How can issuers correct a disclosure problem?**

When material deficiencies or errors relating to financial statements are identified during a CD review, issuers will generally be expected to correct that default by restating and re-filing the financial statements. We expect that at least the most recent annual financial statements and subsequent interim financial statements will be restated and re-filed. Depending upon the nature and extent of the deficiency or error, we may require that financial statements for preceding periods also be restated and re-filed. If the deficiency or error affects information included

in a related MD&A, we will generally require that the issuer restate and re-file the affected MD&A as well.

Issuers will also be expected to correct any material deficiencies or errors relating to other CD information such as AIF, technical disclosure, press releases and material change reports. Generally issuers will have to correct the default by restating and re-filing the information and documentation in question.

#### **Questions?**

Please refer any questions you may have regarding this notice to the following people:

#### **British Columbia Securities Commission:**

Andrew Richardson, Deputy Director, Corporate Finance:  
(604) 899-6730

Manny Albrino, Senior Securities Analyst, Corporate  
Finance: (604) 899-6641

#### **Alberta Securities Commission:**

Mavis Legg, Manager, Securities Analysis: (403) 297-2663

#### **Saskatchewan Financial Services Commission:**

Ian McIntosh, Deputy Director, Corporate Finance: (306)  
787-5867

Tony Herdzik, Senior Securities Analyst, Corporate  
Finance: (306) 787-5849

#### **Manitoba Securities Commission:**

Bob Bouchard, Director, Corporate Finance: (204) 945-  
2555

#### **Ontario Securities Commission:**

John Hughes, Manager, Corporate Finance: (416) 593-  
3695

Viraf Nania, Senior Accountant, Corporate Finance: (416)  
593-8267

#### **Autorités des marchés financiers**

Nicole Parent, analyste, financement des sociétés: (514)  
395-0558 Ext. 4455

Sylvie Anctil-Bavas, spécialiste en expertise comptable:  
(514) 395-0558 Ext. 2402

#### **Nova Scotia Securities Commission:**

Bill Slattery, Deputy Director, Corporate Finance and  
Administration: (902) 424-7355

July 16, 2004.

**1.3 News Releases**

**1.3.1 OSC Charges against Former Senior Officers of Atlas Cold Storage Income Trust to be Spoken to August 11, 2004**

**FOR IMMEDIATE RELEASE  
July 7, 2004**

**OSC CHARGES AGAINST FORMER SENIOR OFFICERS OF ATLAS COLD STORAGE INCOME TRUST TO BE SPOKEN TO AUGUST 11, 2004**

**TORONTO** – At an appearance today at the Ontario Court of Justice at Old City Hall, the proceeding commenced by the Ontario Securities Commission (OSC) against former senior officers of Atlas Cold Storage Income Trust was adjourned to August 11, 2004 at 9:00 a.m. in court room 111, Old City Hall, to be spoken to at that time.

On June 3, 2004, the OSC charged Patrick Gouveia, Andrew Peters, Ronald Perryman and Paul Vickery with violations of the Ontario Securities Act. Information on the charges is summarized in an OSC news release issued June 3, 2004, available on the OSC web site ([www.osc.gov.on.ca](http://www.osc.gov.on.ca)).

Presented with evidence of a serious medical condition, the OSC has stayed charges against Andrew Peters, as it is no longer considered in the public interest to proceed with those charges.

The Commission has also issued a Notice of Hearing and staff of the Commission have filed a Statement of Allegations with the Commission against the four individuals in relation to the filing of misleading financial statements as alleged in the quasi-criminal charges. These documents are also available on the OSC web site ([www.osc.gov.on.ca](http://www.osc.gov.on.ca)).

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

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

**1.3.2 OSC Compliance Report Identifies Deficiencies: Investment Counsel and Portfolio Managers**

**FOR IMMEDIATE RELEASE  
July 9, 2004**

**OSC COMPLIANCE REPORT IDENTIFIES DEFICIENCIES: INVESTMENT COUNSEL AND PORTFOLIO MANAGERS**

**TORONTO** – Common deficiencies identified in a compliance review of investment counsel and portfolio managers' (ICPMs) operations are identified in a report released today by the Ontario Securities Commission (OSC). The report also includes guidelines to assist ICPMs in improving their overall compliance with securities regulatory requirements.

The most common deficiencies identified involved the following activities:

- Policies and procedures manual;
- Policy for fairness in the allocation of investment opportunities;
- Statement of policies;
- Portfolio management;
- Maintenance of books and records;
- Capital calculations;
- Registration issues;
- Marketing;
- Personal trading; and
- Know your client and suitability information.

“The issues we’ve uncovered indicate that there has been no change to the common deficiencies from those identified in the previous review period,” said Marianne Bridge, Manager of Compliance at the OSC. “This would be expected to some degree due to the scope of our compliance review program and the areas that are examined at each firm. Therefore, it is not unusual to experience similarities from year to year, especially due to the broad headings used as described above.”

“Unfortunately, it appears that the incidence of some of these deficiencies has increased from the previous year as indicated by the higher percentage of firms being deficient. It is hoped that investment counsel and portfolio managers will use this report as a learning tool and review the noted deficiencies and the suggested guidelines such that the occurrence of these deficiencies will be reduced.”

The report is available on the OSC’s web site ([www.osc.gov.on.ca](http://www.osc.gov.on.ca)).

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

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

**1.3.3 OSC Adjourns Proceedings against Gouveia,  
Peters, Perryman and Vickery**

**FOR IMMEDIATE RELEASE  
July 8, 2004**

**OSC ADJOURNS PROCEEDINGS AGAINST GOUVEIA,  
PETERS, PERRYMAN, AND VICKERY**

**TORONTO** – The Ontario Securities Commission today adjourned, on the consent of all parties, the hearing against former officers of Atlas Cold Storage Income Trust: Patrick Gouveia, Andrew Peters, Ronald Perryman, and Paul Vickery. The matter had been scheduled for a first appearance before the Commission on Friday, July 9, 2004.

The hearing was adjourned to allow the quasi-criminal prosecution in the Ontario Court of Justice to conclude as both proceedings relate to similar allegations. There is no fixed date for the return of the hearing. The hearing can be brought back on by any party on seven days notice.

On July 7, 2004, the charges against Gouveia, Perryman and Vickery were adjourned to August 11, 2004, at 9:00 a.m. in Court Room 111, at Old City Hall, to be spoken to at that time. The charges against Andrew Peters were stayed as it was determined that it was no longer in the public interest to proceed against Peters because of his serious medical condition.

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

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

**1.3.4 OSC Releases Decision Regarding Leslie Brown and Douglas Brown in F.E.D.I. Matter**

**FOR IMMEDIATE RELEASE**  
July 13, 2004

**OSC RELEASES DECISION REGARDING LESLIE BROWN AND DOUGLAS BROWN IN F.E.D.I. MATTER**

**TORONTO** – The Ontario Securities Commission (OSC) issued a decision today regarding Leslie Brown and Douglas Brown in the matter of Brian Anderson, Leslie Brown, Douglas Brown, David Sloan and Flat Electronic Data Interchange (F.E.D.I.).

The panel of Commissioners found that Mr. and Mrs. Brown did not commit acts in the furtherance of a trade and thereby did not act contrary to the Ontario *Securities Act*. The Commission found that for a person to act in furtherance of a sale or disposition of a security that is in fact being sold or disposed of by someone else, there must be at a minimum something done by that person for the purpose of furthering or promoting the sale or disposition of the security by the one engaged in that activity. The receipt of consideration or some other direct or indirect benefit, although not a necessary component, could be a strong indication of such a purpose. The Commission found that the Browns' participation was a simple invitation to friends to become acquainted with F.E.D.I. and thereby did not meet this test.

A date will be scheduled for this matter to be heard in August, 2004 against the balance of the respondents.

Copies of the Temporary Order, Notice of Hearing, Statement of Allegations and the Decision and Reasons are available on the OSC's web site ([www.osc.gov.on.ca](http://www.osc.gov.on.ca)).

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

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

**1.3.5 Divisional Court Releases Decision in the Brian Costello Matter**

**FOR IMMEDIATE RELEASE**  
July 13, 2004

**DIVISIONAL COURT RELEASES DECISION IN THE BRIAN COSTELLO MATTER**

**TORONTO** – The Divisional Court yesterday released its decision in the matter of Brian Costello. The Court dismissed all aspects of Mr. Costello's appeal but for the issue of the costs order which the Court directed to be reconsidered by the Commission.

The Court affirmed the Commission's finding that Mr. Costello was acting as an "adviser" as defined in the *Securities Act* in that he was making recommendations on specific securities during his investment seminars. He therefore should have been registered under the Act. The Court affirmed the Commission's decision that "advising" applies notwithstanding there is no one-on-one relationship. The Court rejected the US law that Mr. Costello relied upon. This is the first case in Canada where the Courts have interpreted the meaning of "adviser" under securities legislation.

In addition, the Court affirmed that the Commission properly used its public interest jurisdiction in concluding that Mr. Costello failed to disclose his numerous conflicts of interest.

On costs, the Court affirmed that the Commission is "procedural master in its own house" and that the Commission can choose a fair procedure to follow in ordering costs that provides appropriate support for the costs requested. In doing so, the Court clarified its reasons for decision in the Piergiorgio Donnini matter.

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

Michael Watson  
Director, Enforcement Branch  
416-593-8156

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

**1.3.6 OSC Announces Continuous Disclosure  
Advisory Committee Membership**

**FOR IMMEDIATE RELEASE  
July 14, 2004**

**OSC ANNOUNCES CONTINUOUS DISCLOSURE  
ADVISORY COMMITTEE MEMBERSHIP**

**TORONTO** – The Ontario Securities Commission (OSC) is pleased to announce the new membership of the Continuous Disclosure Advisory Committee (CDAC). The CDAC advises OSC staff on such matters as the planning, implementation and communication of its continuous disclosure review program, the impact of policy- and rule-making initiatives, emerging issues, and the OSC's procedures. The CDAC members serve two-year terms and meet five times each year on average.

"We believe that effective communications with the stakeholders who are affected by our actions is an essential part of the regulatory process," said John Hughes, CDAC Chair. "We're delighted to be able to announce a new CDAC membership reflecting the variety of users and industry sectors involved in continuous disclosure. We're particularly pleased to announce a CDAC membership reflecting a strong group of investor representatives, both individual and institutional."

The members of the CDAC are:

- **Frank Allen**, Senior Partner, Borden Ladner Gervais LLP
- **Michelle Caturay**, Vice President, Corporate Secretary & Associate General Counsel, Canadian Imperial Bank of Commerce
- **Julie Cays**, Director, External Managers, Hospitals of Ontario Pension Plan
- **Tom Graham**, Director, Listed Issuer Services, Toronto Stock Exchange
- **Bill Hewson**, Assistant Controller, General Accounting and Corporate Reporting, Canadian Pacific Railway
- **John Hughes**, Manager, Corporate Finance, OSC (CDAC Chair)
- **Guy Jones**, Vice-President, Finance, Decoma International Inc.
- **Ken Kivenko**, Private Investor
- **Deborah Leckman**, Vice President Investment Division, OMERS
- **Bill Mackenzie**, President, Fairvest Corporation
- **Peter McCarter**, Vice-President & Secretary, Aur Resources Inc.

- **Ross McKee**, Partner, Blake, Cassels & Graydon LLP
- **Tom Muir**, Executive Vice President and Chief Development Officer, Maple Leaf Foods Inc.
- **Ram Ramachandran**, Investor/Consultant
- **Bob Tait**, Director, Investor Relations, Canadian Tire Corp. Ltd.
- **Richard Wertheim**, Managing Partner, Wertheim + Company Inc.
- **Gil Yaron**, Director of Law & Policy, Shareholder Association for Research and Education

The CDAC is one of many committees established by the OSC to provide input on securities regulation issues. Other groups advise staff on matters including compliance issues, the fair dealing model, commodity futures, bond market transparency, institutional equity trading, and small business issues.

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

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



## Chapter 2

# Decisions, Orders and Rulings

### 2.1 Decisions

#### 2.1.1 Inflazyme Pharmaceuticals Ltd. - MRRS Decision

##### Headnote

Mutual Reliance Review System for Exemptive Relief Applications – Relief granted from the requirement to file financial statements with a business acquisition report that have been audited in accordance with either Canadian or United States generally accepted auditing standards.

##### Rules Cited

National Instrument 52-107 – Acceptable Accounting Principles, Auditing Standards and Foreign Currency, ss. 6.1, 6.2, 9.1.

National Instrument 51-102 – Continuous Disclosure Obligations, Part 8.

**IN THE MATTER OF  
THE SECURITIES LEGISLATION OF  
ALBERTA, SASKATCHEWAN, MANITOBA, ONTARIO,  
QUÉBEC, NEW BRUNSWICK, NOVA SCOTIA  
AND NEWFOUNDLAND AND LABRADOR**

**AND**

**IN THE MATTER OF  
THE MUTUAL RELIANCE REVIEW SYSTEM  
FOR EXEMPTIVE RELIEF APPLICATION**

**AND**

**IN THE MATTER OF  
INFLAZYME PHARMACEUTICALS LTD.**

**MRRS DECISION DOCUMENT**

**WHEREAS** the local securities regulatory authority or regulator (the "Decision Maker") in each of Alberta, Saskatchewan, Manitoba, Ontario, Québec, New Brunswick, Nova Scotia and Newfoundland and Labrador (the "Jurisdictions") has received an application from Inflazyme Pharmaceuticals Ltd. (the "Filer") for a decision under the securities legislation of the Jurisdictions (the "Legislation") that the Filer be granted an exemption from section 6.2 of National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency* ("NI 52-107") and in Québec by a revision of the general order that will provide the same result as an exemption order;

**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 Filer has represented to the Decision Makers that:

1. the Filer is a corporation incorporated and subsisting pursuant to the laws of the Province of British Columbia;
2. the Filer is a biopharmaceutical company focussed on developing new therapies for the treatment of inflammation and other diseases;
3. the Filer's authorized capital consists of 200,000,000 common shares and 50,000,000 Class A preference shares, of which 106,215,150 common shares and 21,957,676 Class A preference shares were issued and outstanding as of May 31, 2004;
4. the common shares of the Filer are listed on the Toronto Stock Exchange;
5. the Filer is a reporting issuer or the equivalent in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland;
6. the Filer is not in default of any requirements of the Legislation or of the securities legislation of British Columbia;
7. on April 20, 2004, the Filer exchanged 12,684,055 of its common shares for all the issued and outstanding shares of AdProTech Limited ("AdProTech") in a transaction valued at approximately \$20,000,000 (the "Acquisition");
8. AdProTech is a company incorporated under the laws of the United Kingdom;
9. AdProTech is a biotechnology company developing new protein therapeutics based on different approaches to the inhibition of the human complement system;
10. the financial statements of AdProTech to date have been prepared and audited according to generally accepted accounting principles

- ("GAAP") and generally accepted auditing standards ("GAAS") in the United Kingdom;
11. the Acquisition constitutes a "significant acquisition" of the Filer for the purposes of National Instrument 51-102 *Continuous Disclosure Obligations* ("NI 51-102"), requiring the Filer to file a business acquisition report on or before July 5, 2004 pursuant to section 8.2 of NI 51-102;
12. pursuant to section 8.4 of NI 51-102, the business acquisition report must be accompanied by certain financial statements of AdProTech;
13. in order to ensure appropriate disclosure, the Filer proposes to use its March 31, 2004 year end statements for the pro forma statements required under section 8.4 of NI 51-102 and therefore proposes to delay the filing of the required business acquisition report until on or before July 15, 2004 rather than the due date of July 5, 2004 required by section 8.2 of NI 51-102;
14. NI 52-107 sets out the GAAP and GAAS permitted to be used in the preparation and auditing of financial statements required to be filed under NI 51-102;
15. the GAAP and GAAS used in the preparation and auditing of AdProTech's financial statements do not comply with the standards set out in NI 52-107;
16. the Filer has obtained an auditors' report from Deloitte & Touche LLP (the "Auditors' Report"), the auditor of AdProTech, which is accompanied by a statement by the auditor (the "Statement") that:
- a. describes the material differences in the form and content of the Auditors' Report prepared in accordance with United Kingdom GAAS as compared to an auditors' report prepared in accordance with Canadian generally accepted auditing standards ("Canadian GAAS");
  - b. indicates that the Auditors' Report prepared in accordance with Canadian GAAS would not contain a reservation.
- acquisition report that are audited in accordance with Canadian GAAS or US GAAS shall not apply to the Filer provided that:
- a) the Filer otherwise files a business acquisition report in respect of the Acquisition in accordance with Part 8 of NI 51-102, including the financial statements required thereunder; and
  - b) the Filer files financial statements of AdProTech audited in accordance with United Kingdom GAAS, which financial statements shall include the Auditors' Report, the Statement and a reconciliation to Canadian generally accepted accounting principles of the statements for the most recently completed year end and for the most recently completed interim period of AdProTech, as required by subsections 6.1(4) and 6.1(5) of NI 52-107.
- July 7, 2004.
- "John Hughes"

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

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

**THE DECISION** of the Decision Makers under the Legislation is that the requirement contained in section 6.2 of NI 52-107 to file financial statements with a business

## 2.1.2 LINMOR Inc. - MRRS Decision

### Headnote

Mutual Reliance Review System for Exemptive Relief Applications – issuer deemed to have ceased to be a reporting issuer.

### Ontario Statutes

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 83.

July 9, 2004

### LaBarge Weinstein LLP

515 Legget Drive, Suite 800  
Ottawa, ON K2K 3G4

Attention: Prashant R. Watchmaker

Dear Mr. Watchmaker:

**Re: LINMOR Inc. (the Applicant) Application to Cease to be a Reporting Issuer Under the Securities Legislation of the Provinces of Alberta, Saskatchewan, Ontario, Quebec, Nova Scotia and Newfoundland and Labrador (the Jurisdictions)**

The Applicant has applied to the local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions for a decision under the securities legislation (the Legislation) of the Jurisdictions to be deemed to have ceased to be a reporting issuer in the Jurisdictions.

As the Applicant has represented to the Decisions Makers that:

- the outstanding securities of the Applicant, including debt securities, are beneficially owned, directly or indirectly, by less than 15 security holders in each of the jurisdictions in Canada and less than 51 security holders in total in Canada;
- no securities of the Applicant are traded on a marketplace as defined in National Instrument 21-101 Marketplace Operation;
- the Applicant is applying for relief to cease to be a reporting issuer in all of the jurisdictions in Canada in which it is currently a reporting issuer; and
- the Applicant is not in default of any of its obligations under the Legislation as a reporting issuer.

each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the decision has been met and orders that the Applicant is deemed to have ceased to be a reporting issuer.

“Charlie MacCready”

## 2.1.3 Merrill Lynch & Co., Inc. - MRRS Decision

### Headnote

Mutual Reliance Review System for Exemptive Relief Applications – Issuer exempt from limitation on distributions of derivative securities in NI 71-101 in connection with an offering of certain equity linked securities, provided that an investment in the securities will not require an investment decision by the holder other than at the time of purchase, the securities are not linked to a mutual fund or a non-redeemable investment fund, and if the securities provide for physical settlement certain conditions are met; current reports on Form 8-K of the issuer to be incorporated by reference in prospectus filed under NI 71-101 shall be limited to those which relate to the financial condition of, or disclose a material change in the affairs of, the issuer.

### National Instrument Cited

National Instrument 71-101 – The Multijurisdictional Disclosure System.

**IN THE MATTER OF  
THE SECURITIES LEGISLATION OF  
BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN,  
MANITOBA, ONTARIO, QUÉBEC, NOVA SCOTIA,  
NEW BRUNSWICK, PRINCE EDWARD ISLAND,  
NEWFOUNDLAND, 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  
MERRILL LYNCH & CO., INC.**

**MRRS DECISION DOCUMENT**

**WHEREAS** the securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, Nova Scotia, New Brunswick, Prince Edward Island, Newfoundland, the Yukon Territory, the Northwest Territories and Nunavut (collectively, the "Jurisdictions") has received an application from Merrill Lynch & Co., Inc. ("ML&Co.") in connection with ML&Co.'s proposed offering of equity linked debt securities (the "Notes") and index put warrants and index call warrants (collectively, "Index Warrants") in Canada from time to time under the Canadian multijurisdictional disclosure system (the "MJDS" or "Northbound MJDS") for a decision pursuant to the securities legislation in each of the Jurisdictions (collectively, the "Legislation") exempting ML&Co. from (a) the limitation on distributions of derivative securities set forth in subsection 3.3(1) of National Instrument 71-101 – *The Multijurisdictional Disclosure System* ("NI 71-101") and (b) the requirement in section 4.4 of NI 71-101 to

incorporate by reference into a preliminary prospectus and (final) prospectus filed by ML&Co. under the MJDS all current reports of ML&Co. on Form 8-K that are incorporated or deemed to be incorporated by reference into its U.S. prospectus under U.S. federal securities law, to the extent that such Form 8-Ks do not relate to the financial condition of, or disclose a material change in the affairs of, ML&Co.;

**AND WHEREAS** pursuant to National Policy 12-201 – *Mutual Reliance Review System for Exemptive Relief Applications* (the "MRRS"), the Ontario Securities Commission is the principal regulator for this application;

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

**AND WHEREAS** ML&Co. has represented to the Decision Makers that:

1. ML&Co. was incorporated under the laws of the State of Delaware on March 27, 1973.
2. ML&Co. is a holding company that, through its U.S. and non-U.S. subsidiaries and affiliates, provides investment, financing, advisory, insurance and related products on a global basis.
3. As of January 30, 2004, ML&Co. had approximately U.S. \$85.8 billion of long term debt outstanding. All of ML&Co.'s long term debt is currently rated "A+" by Standard & Poor's Rating Services, a division of the McGraw-Hill Companies, Inc., "Aa3" by Moody's Investors Service, Inc., "AA(low)" by Dominion Bond Rating Service Limited and "AA-" by Fitch Ratings Ltd.
4. ML&Co. has securities registered under sections 12(b) and 12(g) of the *Securities Exchange Act of 1934*, as amended (the "1934 Act"), and is required to file reports under section 15(d) of the 1934 Act.
5. ML&Co. has filed with the Securities and Exchange Commission (the "SEC") all 1934 Act filings for a period of 12 calendar months immediately before the date hereof and will file all 1934 Act filings required to be filed with the SEC between the date hereof and the date it files a prospectus under the MJDS in the principal jurisdiction. ML&Co. is not registered or required to be registered as an investment company under the *Investment Company Act of 1940*, as amended. ML&Co. is not a commodity pool issuer (as such term is defined in NI 71-101).
6. ML&Co. currently offers medium term notes in Canada through its Canadian-incorporated wholly owned finance subsidiary, Merrill Lynch Canada Finance Company ("ML Finance"). These notes

are fully and unconditionally guaranteed by ML&Co.

7. ML&Co. has been a reporting issuer in British Columbia, Alberta, Saskatchewan, Manitoba, Québec and Nova Scotia since October 22, 1999 (or earlier, in the case of certain of such provinces) and is not on the list of defaulting reporting issuers in those provinces.
8. Since 1998, ML&Co. has offered approximately U.S. \$7.5 billion of equity linked debt securities to the retail and institutional market in the United States by prospectus. Typical retail market oriented equity linked debt securities issued by ML&Co. in the United States include principal and non-principal protected notes with interest or principal linked to: (a) global equity, bond, commodity, foreign exchange and other indices; (b) global equity and bond mutual funds; (c) ML&Co. proprietary indices; (d) single stocks and baskets of stocks; and (e) exchange traded funds. Most of these equity linked debt securities are cash settled; however, some contemplate physical settlement. ML&Co. wishes to extend these offerings of equity linked debt securities into the Canadian retail market by filing its U.S. shelf prospectus and the related prospectus supplements under Northbound MJDS.
9. ML&Co. has also offered Index Warrants to the retail and institutional market in the United States by prospectus. Typical retail market oriented Index Warrants issued by ML&Co. in the United States are linked to the level or value of an index such as: (a) an equity or debt security, or a portfolio or basket of indices or securities, which may include the price or yield of securities; (b) any statistical measure of economic or financial performance, which may include any currency, consumer price or mortgage index; (c) the price or value of any commodity or any other item or index or any combination thereof; or (d) a global equity or bond mutual fund or an exchange traded fund. ML&Co. wishes to extend these offerings of Index Warrants into the Canadian retail market by filing its U.S. shelf prospectus and the related prospectus supplements under Northbound MJDS.
10. ML&Co. currently has a number of shelf prospectuses registered with the SEC under which it offers equity and debt securities. In October 2003, ML&Co. registered another shelf prospectus with the SEC in order to become eligible to issue an additional U.S. \$25 billion of equity and debt securities. ML&Co. intends to amend its U.S. \$25 billion shelf prospectus to include the disclosure required under NI 71-101 and file its amended U.S. \$25 billion shelf prospectus as well as any subsequent replacement or renewal shelf prospectuses that it

may register with the SEC from time to time in Canada under Northbound MJDS.

*The Offering*

11. ML&Co. satisfies the eligibility criteria set forth in paragraph 3.1(c) of NI 71-101 and is eligible to use the MJDS for the purpose of distributing any of its securities in Canada on the basis of documentation prepared in compliance with U.S. federal securities law together with certain additional Canadian disclosure. ML&Co. proposes to distribute the Notes and the Index Warrants in Canada using the MJDS in reliance upon paragraph 3.1(c) of NI 71-101.
12. The Notes and the Index Warrants each constitute "derivative" securities because the market price, value or payment obligations of the Notes and the Index Warrants will be derived from, referenced to, or based on an underlying interest of the type described above in paragraphs 8 and 9, respectively.
13. Each issue of the Notes will have terms that reflect some or all of the following variables:
- (a) whether the Notes are principal protected or non-principal protected;
  - (b) whether exposure to appreciation and/or depreciation in the principal amount of the Notes is unlimited or capped;
  - (c) whether the Notes bear interest and whether interest is at a fixed or variable rate, and, where it is at a variable rate, whether it is based on an index or a formula plus or minus a fixed amount or multiplied by a factor;
  - (d) whether the Notes are redeemable;
  - (e) whether the Notes are settled at maturity by cash settlement or physical settlement; and
  - (f) the nature of the underlying interest for the Notes by reference to which the principal value of the Notes at maturity or interest, if any, may be determined, including, for example:
    - (i) the price or yield of certain equity or debt securities;
    - (ii) any statistical measure of economic or financial performance, including, but not limited to, any currency, consumer price or mortgage index; or
- (iii) the price or value of any commodity or any other item or index or any combination thereof.
14. Each issue of the Index Warrants will have terms that reflect some or all of the following variables:
- (a) whether the Index Warrants to be issued will be index put warrants, index call warrants, or both;
  - (b) whether the Index Warrants will be deemed automatically exercised as of a specific date or whether the Index Warrants may be exercised during a period and the date on which the right to exercise the Index Warrants commences and expires;
  - (c) whether the Index Warrants will automatically expire at a date other than the expiration date;
  - (d) whether ML&Co. will be permitted to cancel the Index Warrants upon the occurrence of certain events;
  - (e) whether the Index Warrants are settled by cash settlement or physical settlement;
  - (f) the method of determining (i) the payment or delivery, if any, to be made in connection with the exercise or deemed exercise of the Index Warrants, (ii) the minimum payment or delivery, if any, to be made upon expiration of the Index Warrants, (iii) the payment or delivery to be made upon the exercise of any right which ML&Co. may have to cancel the Index Warrants and (iv) the value of the index; and
  - (g) the nature of the underlying index by reference to which ML&Co. will pay or deliver consideration on each Index Warrant, including, for example:
    - (i) an equity or debt security, or a portfolio or basket of indices or
- The payment or delivery of any consideration on any such Notes at maturity will be determined by the decrease or increase, as applicable, in the price or value of the applicable underlying interest. The terms of and any additional considerations, including any material tax consequences, relating to any Notes will be specified in the applicable prospectus supplement.

securities, which may include the price or yield of securities;

- (ii) any statistical measure of economic or financial performance, including, but not limited to, any currency, consumer price or mortgage index; or
- (iii) the price or value of any commodity or any other item or index or any combination thereof.

The payment or delivery of any consideration on any index put warrant will be determined by the decrease in the level or value of the applicable index and the payment or delivery of any consideration on any index call warrant will be determined by the increase in the level or value of the applicable index. The terms of and any additional considerations, including any material tax consequences, relating to any Index Warrants will be specified in the applicable prospectus supplement.

- 15. The Index Warrants are unsecured contractual obligations of ML&Co. and will rank equally with its other unsecured contractual obligations and with its unsecured and unsubordinated debt.
- 16. A purchaser of Notes or Index Warrants will make its investment decision at the time of purchase and, in contrast to an investment in a forward purchase contract, an investment in Notes or Index Warrants requires no further investment by the holder and therefore no further investment decision (except whether to sell the Notes or Index Warrants in the secondary market, if any).
- 17. Unless otherwise specified in the prospectus supplement relating to a specific issue of Notes or Index Warrants, the net proceeds from the sale of the Notes and Index Warrants will be used by ML&Co. for general corporate purposes, including financing the activities of its subsidiaries, financing its assets and those of its subsidiaries, lengthening the average maturity of its borrowings and financing acquisitions. ML&Co.'s decision to offer a particular issue of Notes or Index Warrants is based on retail demand for such Notes or Index Warrants and is not for the purpose of providing financing for issuers of the underlying interest.

*Incorporation by Reference of Form 8-Ks*

- 18. ML&Co. is required to file current reports on Form 8-K in a considerably broader range of circumstances than those that would require a material change report filing in Canada, resulting

in extensive incorporation by reference into its U.S. shelf prospectus of documents that would not, under the Legislation, be required to be incorporated by reference into a Canadian shelf prospectus.

- 19. ML&Co. will incorporate by reference into its preliminary shelf prospectus and (final) shelf prospectus filed under NI 71-101 all Form 8-Ks that relate to the financial condition of, or disclose a material change in the affairs of, ML&Co. In addition, Canadian investors can access all of the Form 8-Ks filed by ML&Co. on EDGAR if they so choose.

**AND WHEREAS** pursuant to the MRRS this MRRS Decision Document evidences the decision of each of the Decision Makers (collectively, the "Decision");

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

**THE DECISION** of the Decision Makers pursuant to the Legislation is that the limitation on distributions of derivative securities set forth in subsection 3.3(1) of NI 71-101 shall not apply to ML&Co. in connection with an offering of the Notes or Index Warrants in Canada provided that:

- (a) an investment in Notes or Index Warrants will not require an investment by the holder other than at the time of purchase;
- (b) the Notes or Index Warrants are not linked to a mutual fund or a non-redeemable investment fund; and
- (c) if the Notes or Index Warrants provide for physical settlement in the securities of another issuer (an "Underlying Issuer"), the Underlying Issuer satisfies the eligibility criteria under either (i) paragraph 3.1(c) of NI 71-101 for United States issuers distributing securities in Canada under Northbound MJDS or (ii) Form F-10 for Canadian issuers distributing securities in the United States under the U.S. multijurisdictional disclosure system, which requires that the issuer (A) be incorporated or organized under the laws of Canada or any Canadian province or territory, (B) be a "foreign private issuer" (as defined under the 1934 Act), (C) has been subject to the continuous disclosure requirements of any securities commission or equivalent regulatory authority in Canada for at least 12 calendar months immediately preceding the date thereof and (D) has an aggregate market value of the public float

of its outstanding equity shares of U.S. \$75 million or more.

**THE FURTHER DECISION** of the Decision Makers pursuant to the Legislation is that the current reports of ML&Co. on Form 8-K required under section 4.4 of NI 71-101 to be incorporated by reference into a preliminary prospectus and (final) prospectus filed by ML&Co. under NI 71-101 shall be limited to those Form 8-Ks which relate to the financial condition of, or disclose a material change in the affairs of, ML&Co.

June 30, 2004.

“Iva Vranic”

**2.1.4 Canada Life Capital Corporation Inc. - MRRS Decision**

**Headnote**

Mutual Reliance Review System for Exemptive Relief Applications – Issuer has only one security holder – Issuer deemed to have ceased to be a reporting issuer.

**Applicable Ontario Statutory Provisions**

Securities Act, R.S.O. 1990, c. S.5, as am. s. 83.

**IN THE MATTER OF  
THE SECURITIES LEGISLATION OF  
ALBERTA, SASKATCHEWAN, MANITOBA, ONTARIO,  
QUÉBEC, NOVA SCOTIA, NEWFOUNDLAND AND  
LABRADOR, THE YUKON TERRITORY AND NUNAVUT**

**AND**

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

**AND**

**IN THE MATTER OF  
CANADA LIFE CAPITAL CORPORATION INC.**

**MRRS DECISION DOCUMENT**

**WHEREAS** the local securities regulatory authority or regulator (the “Decision Maker”, and collectively the “Decision Makers”) in each of Alberta, Saskatchewan, Manitoba, Ontario, Québec, Nova Scotia, Newfoundland and Labrador, the Yukon Territory and Nunavut (collectively, the “Jurisdictions”) has received an application from Canada Life Capital Corporation Inc. (“CLCC”) for a decision under the securities legislation of the Jurisdictions (the “Legislation”) that CLCC be deemed to have ceased to be a reporting issuer in the Jurisdictions;

**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** CLCC has represented to the Decision Makers that:

1. CLCC is a corporation that was incorporated under the *Canada Business Corporations Act* (the “CBCA”) on April 9, 1999, whose head office is located in Toronto, Ontario.

2. CLCC is a reporting issuer or its equivalent in each of the Jurisdictions. CLCC is not a reporting issuer in any other jurisdiction in Canada.
3. CLCC is an indirect wholly-owned subsidiary of The Great-West Life Assurance Company and a direct wholly-owned subsidiary of The Canada Life Assurance Company ("CLAC").
4. The authorized capital of CLCC consists of an unlimited number of common shares and an unlimited number of preferred shares issuable in series.
5. All of the issued and outstanding shares of CLCC are beneficially owned by CLAC. CLCC has no debt securities issued and outstanding.
6. No securities of CLCC are traded on a marketplace as defined in National Instrument 21-101 – *Marketplace Operation*.
7. CLCC does not intend to seek public financing by way of an offering of its securities.
8. CLCC did not file interim certificates ("Interim Certificates") for the interim period ended March 31, 2004 as required under Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* ("MI 52-109"). Prior to the filing deadline for the Interim Certificates, CLCC applied in each of the Jurisdictions for a decision that the requirements of MI 52-109 not apply to CLCC. CLCC subsequently withdrew the application under MI 52-109 and applied for a decision that CLCC be deemed to have ceased to be a reporting issuer in the Jurisdictions.
9. Other than as described in paragraph 8 above, CLCC is not in default of any of its obligations under the Legislation as a reporting issuer.

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

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

**THE DECISION** of the Decision Makers under the Legislation is that CLCC is deemed to have ceased to be a reporting issuer in the Jurisdictions.

June 23, 2004.

"Paul Moore"

"Suresh Thakrar"

## 2.1.5 Re-Con Building Products Inc. - MRRS Decision

### Headnote

Mutual Reliance Review System for Exemptive Relief Applications – issuer deemed to have ceased to be a reporting issuer.

### Ontario Statutes

Securities Act, R.S.O. 1990, c. S.5, as am., s. 83.

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

AND

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

AND

**IN THE MATTER OF  
RE-CON BUILDING PRODUCTS INC.**

**MRRS DECISION DOCUMENT**

**WHEREAS** the local securities regulatory authority or regulator (the Decision Maker) in each of Alberta, Saskatchewan, Manitoba, Ontario, Nova Scotia, and Newfoundland and Labrador (the Jurisdictions) has received an application from Re-Con Building Products Inc. (Re-Con or the Applicant) for a decision under the securities legislation of the Jurisdictions (the Legislation) that Re-Con be deemed to cease to be a reporting issuer in the Jurisdictions;

**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 Applicant has represented to the Decision Makers that:

1. the Applicant was incorporated in British Columbia under the *Company Act* (British Columbia) on August 17, 1992;
2. the Applicant's head office is located at 2130 McCallum Rd., Abbotsford, British Columbia;



3. on March 15, 2004, all of the issued and outstanding common shares in the capital of Re-Con were acquired by Stone Mountain Holdings Inc. (SMH) pursuant to a statutory plan of arrangement between Re-Con and its shareholders under the *Company Act* (British Columbia), so that Re-Con has become a wholly-owned subsidiary of SMH;
4. while the Re-Con Shares had been listed and posted for trading on the TSX Venture Exchange under the trading symbol "REC", effective at the opening of the markets on March 15, 2004, the common shares of SMH started trading instead, and the Re-Con Shares were delisted from the TSX Venture Exchange;
5. the outstanding securities of the Applicant, including debt securities, are now beneficially owned, directly or indirectly, by less than 15 security holders in each of the jurisdictions in Canada and less than 51 security holders in total in Canada;
6. no securities of the Applicant are traded on a marketplace as defined in National Instrument 21-101 Marketplace Operation;
7. the Applicant is applying for relief to cease to be a reporting issuer in all of the jurisdictions in Canada in which it is currently a reporting issuer;
8. the British Columbia Securities Commission has accepted the Applicant's "Notice of Voluntary Surrender of Reporting Issuer Status", and the Applicant is not a reporting issuer in any jurisdiction other than those which are contemplated in the current MRRS application;
9. while the Applicant is currently in default with respect to the submission of its most recent interim financial statements, it was not in default at the time of the above reorganization;
10. the Applicant is not in default of any other obligations under the Legislation as a reporting issuer; and
11. the Applicant has no intention to seek public financing by offering its securities in Canada.

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

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

**THE DECISION** of the Decision Makers under the Legislation is that Re-Con is deemed to have ceased to be a reporting issuer in the Jurisdictions.

July 7, 2004.

"Paul K. Bates"

"H. Lorne Morphy"

2.2 Orders

2.2.1 Gluskin Sheff + Associates Inc. - ss. 113, 117(2) and 121(2)

Headnote

Exemptions granted from the mutual fund conflict of interest investment restrictions and reporting requirements of the Securities Act (Ontario) to permit a fund of fund structure.

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as am., sections 111(2)(b), 111(2)(c), 111(3), 113, 117(1)(a), 117(1)(d), 117(2), 118(2)(a) and 121(2)(a)(ii).

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

AND

IN THE MATTER OF GLUSKIN SHEFF + ASSOCIATES INC. AND THE GS+A GROWTH FUND THE GS+A PREMIUM INCOME FUND THE GS+A VALUE FUND

ORDER

UPON the application of Gluskin Sheff + Associates Inc. ("GS+A"), on its behalf and on behalf of The GS+A Growth Fund, The GS+A Premium Income Fund and The GS+A Value Fund (collectively, the "Existing Funds") and any other mutual fund that is a mutual fund in Ontario but is not a reporting issuer under the Act, established and managed by GS+A after the date hereof (the "Future Funds", together with the Existing Funds, the "Funds") for an order of the Ontario Securities Commission (the "Commission") pursuant to sections 113, 117(2) and 121(2) of the Act (collectively, "Ontario Legislation") for relief from the restrictions and requirements described below (together, the "Applicable Requirements") in respect of the Funds' investments in The GS+A Small-Cap Fund (the "Existing Underlying Fund") and any other mutual fund that is a mutual fund in Ontario but is not a reporting issuer under the Act, established and managed by GS+A after the date hereof (the "Future Underlying Funds", together with the Existing Underlying Fund, the "Underlying Funds"):

- (a) the restriction prohibiting a mutual fund from knowingly making and holding an investment,
(i) in a person or company in which the mutual fund, alone or together with one or more related mutual funds, is a substantial security holder; or

- (ii) in an issuer in which,
1. any officer or director of the mutual fund, its management company or distribution company or an associate of any of them, or
2. any person or company who is a substantial security holder of the mutual fund, its management company or its distribution company,

has a significant interest, as set out in paragraphs 111(2)(b) and 111(2)(c) and subsection 111(3) of the Act;

- (b) the requirement of a management company to file a report of every transaction of purchase or sale of securities between a mutual fund it manages and any related person or company and any transaction in which, by arrangement other than an arrangement relating to insider trading in portfolio securities, a mutual fund is a joint participant with one or more of its related persons or companies, in respect of each mutual fund to which it provides services or advice, within 30 days after the end of the month in which it occurs as set out in paragraphs 117(1)(a) and 117(1)(d) of the Act; and
(c) the restriction against a portfolio manager knowingly causing an investment portfolio managed by it to invest in the securities of any issuer in which a "responsible person" (as that term is defined in the Act) or an associate of a responsible person is an officer or director, unless the relationship is disclosed to the client, and, if applicable, the written consent of the client to the investment is obtained before the purchase as set out in paragraph 118(2)(a) of the Act;

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

AND UPON GS+A having represented as follows:

- 1. GS+A is a corporation incorporated under the laws of the Province of Ontario.
2. GS+A is the manager, portfolio advisor, trustee and principal distributor of each of the Existing Funds and the Existing Underlying Fund. GS+A is

- registered with the OSC as a Mutual Fund Dealer, Portfolio Manager, Limited Market Dealer and Investment Counsel.
3. The Royal Trust Company is the custodian of the Existing Funds and the Existing Underlying Fund.
  4. The Existing Funds and the Existing Underlying Fund are pooled investment funds established as limited partnerships under the laws of Ontario. Each investor in these funds has an undivided *pro rata* interest in the fund evidenced by units in the fund. The units of these funds have been offered for sale on an exempt basis to investors.
  5. The Manager intends to establish other pooled investment funds in the future. The Future Funds and Future Underlying Funds will be open-ended trusts or limited partnerships.
  6. To achieve their respective investment objectives, the Funds will invest a certain amount of their capital in the Underlying Fund.
  7. The actual weightings of the investment of a Fund in the Underlying Fund will be reviewed on a regular basis and adjusted to ensure that the investment weighting continues to be appropriate for a Fund's investment objectives. The investment of a particular Fund in the Underlying Fund will be actively managed by the Manager on a regular basis.
  8. The investment objectives of the Underlying Fund will be described in the annual report and annual financial statements of the Funds.
  9. Unitholders of the Funds receive the audited annual and unaudited quarterly financial statements of the Funds together with the report of the Funds' auditor. Unitholders will also receive appropriate summary disclosure in respect of the Funds' holdings of securities of the Underlying Fund in the financial statements of the Funds.
  10. Unitholders of the Funds may receive the annual report and annual and quarterly financial statements of the Underlying Fund, free of charge, upon request to the Manager.
  11. Where a matter relating to an Underlying Fund requires a vote of unitholders of the Underlying Fund, the Manager will not cause the securities of the Underlying Fund held by a Fund to be voted at such meeting.
  12. There will be no duplication of management fees and performance fees as between the Funds and the Underlying Fund. The total effective management fee and performance fee charged to an investor in the Funds will be the stated management fee and performance fee in the applicable Limited Partnership Agreement or Declaration of Trust, as the case may be, for each of the Funds.
  13. There will be no charges levied to the Funds on the purchase or redemption of securities of the Underlying Fund.
  14. In the absence of this Order, the Applicable Requirements prohibit the Funds from knowingly making or holding an investment in the Underlying Fund.
  15. In the absence of this Order, the Applicable Requirements require GS+A to file a report on every purchase or sale of securities of the Underlying Fund by the Funds.
  16. In the absence of this Order, the Applicable Requirements prohibit GS+A from causing the Funds to invest in the Underlying Fund unless the specific fact is disclosed to unitholders of the Funds and the written consent of unitholders of the Funds is obtained before the purchase.
  17. The investments by the Funds in securities of the Underlying Fund represent the business judgement of "responsible persons" (as defined in the Act) uninfluenced by considerations other than the best interests of the Funds.
- AND UPON** the Commission being satisfied that it would not be prejudicial to the public interest to do so;
- IT IS ORDERED** pursuant to the Ontario Legislation that the Applicable Requirements shall not apply so as to prevent the Funds from making and holding investments in securities of the Underlying Fund or so as to require GS+A to file a report relating to each purchase or sale of such securities and disclose such purchase to unitholders of the Funds and obtain their written consent to the investment prior to the purchase;
- PROVIDED THAT**, the Order shall only apply if, at the time the Funds make or hold investments in the Underlying Fund, the following conditions are satisfied:
- (a) the annual report and annual financial statements for each of the Funds discloses:
    - (i) the intent of the Fund to invest a portion of its assets in securities of the Underlying Fund;
    - (ii) the manager of the Underlying Fund;
    - (iii) the name of the Underlying Fund; and
    - (iv) the investment objectives, investment strategies, risks and

restrictions of the Underlying Fund;

- (b) the arrangements between or in respect of a Fund and the Underlying Fund are such as to avoid the duplication of management and performance fees;
- (c) GS+A does not vote the securities of the Underlying Fund held by a Fund at any meeting of holders of such securities; and
- (d) in addition to receiving the annual and the quarterly financial statements of a Fund, unitholders of the Fund have received appropriate summary disclosure in respect of the Fund's holdings of securities of the Underlying Fund in the financial statements of the Fund.

May 28, 2004.

"Paul M. Moore"

"H. Lorne Morphy"

## 2.2.2 Agro Pacific Industries Ltd. - s. 144

### Headnote

Section 144 – partial revocation of cease trade order to permit certain trades pursuant to the terms of a CCAA Plan of Arrangement and Compromise, a stock consolidation and a private placement.

### Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 127 and 144.

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

**IN THE MATTER OF  
AGRO PACIFIC INDUSTRIES LTD.**

**ORDER  
(Section 144)**

**WHEREAS** the securities of Agro Pacific Industries Ltd. (the "Applicant") are subject to a cease trade order issued by the Ontario Securities Commission (the "Commission") on November 11, 2003 (the "Cease Trade Order");

**AND WHEREAS** the Applicant has applied to the Commission pursuant to section 44 of the Act (the "Application") for a partial revocation of the Cease Trade Order;

**AND WHEREAS** the Applicant has represented to the Commission that:

1. The Applicant was formed on November 1, 1997 by amalgamation under the *Companies Act* (British Columbia). On May 21, 2002, the Applicant was continued as a federal company under the Canada Business Corporations Act.
2. The Applicant is a reporting issuer under the securities legislation (the "Legislation") of the provinces of British Columbia and Ontario.
3. The authorized share capital of the Applicant consists of an unlimited number of common shares with no par value, of which 7,687,138 common shares were issued and outstanding as of June 17, 2004. Other than its common shares, the Applicant has no securities, including debt securities, outstanding.
4. The Order was issued as a result of the Applicant's failure to file its interim financial statements for the nine month period ended July 31, 2003. Subsequently, the Applicant failed to file its audited financial statements for the year ended October 31, 2003 and the interim financial

- statements for the three month period ended January 31, 2004.
5. The Applicant is also subject to a cease trade order issued by the British Columbia Securities Commission (the "BCSC") on November 6, 2003, relating to the failure of the Applicant to file its interim financial statements for the nine months ended July 31, 2003. The Applicant has concurrently applied for a partial revocation of that cease trade order.
  6. The Applicant sought the protection of the Supreme Court of British Columbia pursuant to the *Companies' Creditors Arrangement Act* ("CCAA") on March 27, 2000. The Applicant made a Plan of Arrangement and Compromise (the "Plan") dated for reference March 22, 2001. The Plan was approved by the creditors of the Applicant on April 18, 2001 and approved by the courts on April 26, 2001.
  7. The Plan, among other items, provided that the unsecured creditors would receive common shares of the Applicant as settlement of the remaining debt owed to unsecured creditors. It was contemplated that common shares in the Applicant equal to 2.75 times the number of shares held by existing shareholders of the Applicant, would be issued to the unsecured creditors. Given that there are 7,687,138 common shares issued and outstanding, the Applicant is required to issue 21,139,630 of its common shares to unsecured creditors as settlement for approximately \$12 million of debt compromised by CCAA (the "CCAA Shares"). Upon issuing the CCAA Shares, the Applicant will have 28,826,768 common shares issued and outstanding.
  8. An extraordinary general meeting of the shareholders of the Applicant was held on February 12, 2003. The Applicant shareholders were asked to approve, among other items, the issuance of the CCAA Shares, a stock consolidation on a basis of one new share for every ten old shares (the "Stock Consolidation") and a change of name from "Agro Pacific Industries Ltd." to "Agstar Power Incorporated" or such other name as recommended by management. These resolutions were passed by the shareholders of the Applicant.
  9. On January 17, 2003, the Toronto Stock Exchange suspended trading of the shares of the Applicant for failure to meet certain continuous listing requirements of the Toronto Stock Exchange. On January 16, 2004, the Applicant's common shares were de-listed from the Toronto Stock Exchange. The Applicant's common shares are not listed or quoted on any other exchange or market in Canada or elsewhere.
  10. To bring its continuous disclosure records up to date, the Applicant proposes to file on SEDAR its audited financial statements for the fiscal year ended October 31, 2003, and its interim financial statements for the nine month period ended July 31, 2003 and for the three month period ended January 31, 2004 (collectively, the "Financial Statements"). The Applicant is awaiting the completion of the audited financial statements and they will be filed on SEDAR when completed.
  11. The Applicant is currently inactive and has no business operations. The Applicant has a working capital deficit of approximately \$100,000 as at June 17, 2004, not including the \$12 million in debt compromised by CCAA.
  12. The Applicant has been in discussions with the TSX Venture Exchange (the "TSXV") regarding the listing of its shares on the NEX board.
  13. In conjunction with the foregoing, the Applicant wishes to proceed with the proposed CCAA Share issuance and the Stock Consolidation and to change the name of the company to "Adriana Ventures Inc.", subject to regulatory approval. Following the CCAA Share issuance and the Stock Consolidation, the Applicant will have approximately 2,882,677 common shares issued and outstanding.
  14. To fund the cost of the issuance of CCAA Shares, the Stock Consolidation, the name change, cost of legal and accounting professionals, and for general working capital, the Applicant is proposing to complete a private placement of equity securities to raise gross proceeds of \$142,500 (the "Private Placement") by issuing 2,850,000 post-consolidated common shares at a price per share of \$0.05.
  15. The Applicant cannot complete the issuance of the CCAA Shares, the Stock Consolidation or the Private Placement because of the Order.
  16. The Private Placement is to be completed in compliance with all applicable policies of the NEX board of the TSXV and applicable securities legislation.
  17. The Applicant will provide written notice to the recipients of the CCAA Shares and the Private Placement shares that all of the Applicant's securities, including the CCAA Shares and the common shares issued under the Private Placement, will remain subject to the Order.

**AND WHEREAS** considering the Application and the recommendation of the staff of the Commission;

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

**IT IS ORDERED**, pursuant to section 144 of the Act, that the Cease Trade Order be and is hereby partially revoked solely to permit the issuance of the CCAA Shares, the Stock Consolidation and the issuance of the Private Placement shares and all acts in furtherance of the completion of the issuance of the CCAA Shares, the Stock Consolidation and the Private Placement.

June 21, 2004.

“Iva Vranic”

## Chapter 4

# Cease Trading Orders

### 4.1.1 Temporary, Extending & Rescinding Cease Trading Orders

Company Name	Date of Temporary Order	Date of Hearing	Date of Extending Order	Date of Lapse/Revoke
Astaware Technologies Inc.	25 Jun 04	07 Jul 04	08 Jul 04	
International Keystone Entertainment Inc.	09 Jul 04	21 Jul 04		

### 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
AFM Hospitality Corporation	25 May 04	07 Jun 04	07 Jun 04		
Argus Corporation Limited	25 May 04	03 Jun 04	03 Jun 04		
Aspen Group Resources Corp.	20 May 04	02 Jun 04	02 Jun 04		
Atlantis Systems Corp.	25 May 04	07 Jun 04	07 Jun 04		
Cabletel Communications Corp.	25 May 04	07 Jun 04	07 Jun 04		
** Denninghouse Inc.	15 Jun 04	<b>28 Jun 04</b>	28 Jun 04		
Hollinger Canadian Newspapers, Limited Partnership	18 May 04	01 Jun 04	01 Jun 04		
Hollinger Inc.	18 May 04	01 Jun 04	01 Jun 04		
Hollinger International Inc.	18 May 04	01 Jun 04	01 Jun 04		
McWatters Mining Inc.	26 May 04	08 Jun 04	08 Jun 04		
Nortel Networks Corporation	17 May 04	31 May 04	31 May 04		
Nortel Networks Limited	17 May 04	31 May 04	31 May 04		

\*\* Correction – of the Hearing Date from 25 Jun 04

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## Chapter 7

# Insider Reporting

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This chapter is available in the print version of the OSC Bulletin, as well as as in Carswell's internet service SecuritiesSource (see [www.carswell.com](http://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](http://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

<u>Transaction Date</u>	<u>Purchaser</u>	<u>Security</u>	<u>Total Purchase Price (\$)</u>	<u>Number of Securities</u>
02-Jul-2004	Gabriel Heti	45500 - Units	45,500.00	130,000.00
29-Jun-2004	Ian Mollett	Acuity Pooled Conservative Asset Allocation - Trust Units	150,000.00	10,449.00
29-Jun-2004	Ian Mollett	Acuity Pooled Conservative Asset Allocation - Units	150,000.00	10,489.00
29-Jun-2004	Ian Mollett	Acuity Pooled Fixed Income Fund - Trust Units	150,000.00	10,890.00
24-Jun-2004 26-Jun-2004	7 Purchasers	Acuity Pooled High Income Fund - Trust Units	649,785.67	36,159.00
28-Jun-2004 05-Jul-2004	12 Purchasers	Acuity Pooled High Income Fund - Trust Units	2,747,361.76	153,663.00
28-Jun-2004	James Dietrich	Acuity Pooled Income Trust Fund - Trust Units	150,000.00	10,180.00
25-Jun-2004	Vicky Mei-Chun Chan	Acuity Pooled Income Trust Fund - Trust Units	150,000.00	10,166.00
28-Jun-2004	William Copland Okavango Holdings Ltd.	Affinity Response (2003) Inc. - Units	106,050.00	60,600.00
29-Jun-2004	Aircept.com;LLC	AirIQ Inc. - Common Shares	5,544,000.00	16,800,000.00
29-Jun-2004	8 Purchasers	AlarmForce Industries Inc. - Common Shares	841,750.00	259,000.00
28-Jun-2004	7 Purchasers	Alexis Minerals Corporation - Units	5,850,565.05	10,637,391.00
30-Jun-2004	4 Purchasers	Alternum Capital - North American Value Hedge Fund - Units	14,540.62	21.00
30-Jun-2004	IMM Investments Inc.	Armistice Resources Ltd. - Units	2,000,000.00	20,000,000.00
30-Jun-2004	7 Purchasers	Arpeggio Acquisition Corporation - Units	780,000.00	130,000.00

**Notice of Exempt Financings**

26-Feb-2004	3 Purchasers	ARC Energy Venture Fund 4 Canadian Limited Partnership - Units	20,000,000.00	40.00
26-May-2004	Ontario Teachers' Pension Plan Board	ARC Energy Venture Fund 4 Canadian Limited Partnership - Units	70,000,000.00	140.00
30-Jun-2004	28 Purchasers	Atlantis Systems Corp. - Units	5,350,000.00	13,375,000.00
30-Jun-2004	7 Purchasers	Aurizon Mines Ltd. - Flow-Through Shares	8,550,000.00	4,275,000.00
30-Jun-2004	Dundee Securities Corporation National Bank Financial Inc.	Aurizon Mines Ltd. - Warrants	0.00	14,000.00
25-Jun-2004	Sun Life Assurance Company of Canada	BFI Canada Holdings Inc. - Debentures	30,000,000.00	30,000,000.00
22-Jan-2004	ING Trust Company of Canada	Britannia Building Society - Bonds	10,001,500.00	10,000,000.00
22-Jun-2004	Sprott Asset Management Inc.	Canadian Spirit Resources Inc. - Units	1,091,475.00	661,500.00
22-Jun-2004	7 Purchasers	Canadian Trading and Quotation System Inc. - Common Shares	4.46	446,000.00
16-Jun-2004	8 Purchasers	Cantex Mine Development Corp. - Common Shares	177,500.00	3,550,000.00
24-Jun-2004	Catherine Binsell	CareVest Blended Mortgage Investment Corporation - Preferred Shares	50,000.00	50,000.00
24-Jun-2004	3 Purchasers	CareVest First Mortgage Investment Corporation - Preferred Shares	185,000.00	185,000.00
18-Jun-2004	Gerald D. Sutton	Caribou Resources Corp. - Option	0.00	22,000.00
25-Jun-2004	28 purchasers	Cervus Financial Group Inc. - Subscription Receipts	4,411,500.00	4,411,500.00
13-Jul-2004	8 Purchasers	Clear Energy Inc. - Common Shares	9,758,160.00	2,710,600.00
22-Jun-2004	Royal Bank of Canada Skypoint Capital Corporation	Core Networks Incorporated - Debentures	549,500.00	549,500.00
29-Jun-2004	11 Purchasers	Cranston, Gaskin, O'Reilly & Vernon - Trust Units	665,220.00	73,647.00
02-Jul-2004 30-Jul-2004	10 Purchasers	Cranston, Gaskin, O'Reilly & Vernon - Trust Units	866,551.64	67,102.00
29-Jun-2004	4 Purchasers	Cranston, Gaskin, O'Reilly & Vernon - Trust Units	170,515.71	12,619.00

**Notice of Exempt Financings**

29-Jun-2004	13 Purchasers	Cranston, Gaskin, O'Reilly & Vernon - Units	1,313,998.43	104,868.00
22-Jun-2004	13 Purchasers	DNA Genotek Inc. - Common Shares	700,043.67	2,342,847.00
22-Jun-2004	13 Purchasers	DNA Genotek Inc. - Warrants	700,043.67	1,338,771.00
15-Jun-2004	28 Purchasers	Endeavour Flow-Through (2004) Limited Partnership - Units	1,685,000.00	168,500.00
25-Jun-2004	6 Purchasers	Endeavour Flow-Through (2004) Limited Partnership - Units	187,500.00	187,500.00
25-Jun-2004	6 Purchasers	Endeavour Flow-Through (2004) Limited Partnership - Units	187,500.00	18,750.00
30-Jun-2004	Jones;Peters L.	EnWave Corporation - Units	10,000.00	125,000.00
07-Jul-2004	IBK Capital Corp.	Excellon Resources Inc. - Units	21,000.00	30.00
24-Jun-2004	Taxplus Limited Partnership	Exploration Tom Inc. - Common Shares	750,000.00	2,500,000.00
28-May-2004	Summerhill Capital Management Inc.	Findexa Limited - Shares	889,000.00	175,000.00
28-Jun-2004	Falconbridge Limited	First Nickel Inc. - Common Shares	3,604,856.50	7,209,713.00
23-Jun-2004	4 Purchaser	Fortress Minerals Corp. - Units	45,000.00	225,000.00
18-Jun-2004	John Brooks	GangaGen Life Sciences Inc. - Preferred Shares	25,000.00	83,333.00
23-Jun-2004	The Toronto-Dominion Bank	Global Preferred Trust - Trust Units	26,977,500.00	2,900,000.00
29-Jun-2004	9 Purchasers	Greenshield Resources Ltd. - Units	200,000.00	2,000,000.00
29-Jun-2004	16 Purchasers	Guyana Goldfields Inc. - Units	4,999,999.50	3,333,333.00
29-Jun-2004	9 Purchasers	Hawk Energy Corp. - Shares	2,087,999.20	745,714.00
15-May-2004	3 Purchasers	Healthcare Waste Solutions, LLC - Units	702,000.00	58,500.00
08-Jun-2004	Credit Risk Advisors	Horizon PCS Escrow Company - Notes	658,350.00	1.00
30-Jun-2004	Sun Life Assurance Company of Canada	H&R Real Estate Investment Trust - Bonds	69,879,790.32	1.00
18-Jul-2004 23-Jul-2004	3 Purchasers	IMAGIN Diagnostic Centres, Inc. - Common Shares	30,000.00	30,000.00
28-Jun-2004	Canadian Medical Discoveries Fund Inc.	Inimex Pharmaceuticals Inc. - Shares	2.46	2,450,019.00
26-May-2004	Growth Works WV Canadian Fund Inc.	InoCom Inc. - Preferred Shares	800,000.00	776,699.00

**Notice of Exempt Financings**

29-Jun-2004	Richard Elder Misty Mangement Inc.	Integral Wealth Management Inc. - Units	200,000.00	200,000.00
30-Jun-2004	28 Purchasers	International Kirkland Minerals Inc. - Units	966,500.00	4,832,500.00
28-Jun-2004	General Electric Capital Canada Inc.	IROC 2004- A Receivables Trust - Notes	13,388,269.62	1.00
01-Jul-2004	Bank of Montreal Pension Credit Risk Advisors LP	K2 Inc. - Notes	750,000.00	750,000.00
22-Jun-2004	Eric Robert Yuzpe Jason Louis DeZwirek	Kaboose Inc. - Common Shares	166,798.10	543,334.00
22-Jun-2004	10 Purchasers	Kaboose Inc. - Shares	5,525,776.28	8,709,825.00
25-Jun-2004	Messrs;Anthony Cohen;Douglas Anderson;Bernard Goldberg	KBSH Income Trust Fund - Units	79,200.00	7,496.00
05-Jul-2004	Al & Arzina Mawani	KBSH Private - Canadian Equity Fund - Units	101,250.00	6,748.00
25-Jun-2004	Messrs;Anthony Cohen;Douglas Anderson;Bernard Goldberg	KBSH Private - Canadian Equity Fund - Units	118,800.00	7,899.00
05-Jul-2004	Al & Arzina Mawani	KBSH Private - Special Equity Fund - Units	33,750.00	1,958.00
25-Jun-2004	Messrs;Anthony Cohen;Douglas Anderson;Bernard Goldberg	KBSH Private - Special Equity Fund - Units	66,000.00	3,808.00
25-Jun-2004	21 Purchasers	Killam Properties Inc. - Common Shares	14,179,700.00	7,463,000.00
14-Jun-2004	Canaccord Capital Corp.	Lakeland Industries, Inc. - Shares	57,304.80	2,000.00
21-Jun-2004	54 Purchasers	Lucid Entertainment Inc. - Units	5,961,900.00	49,682,500.00
07-Jul-2004	The VenGrowth Advanced Life Sciences Fund Inc.	LymphoSign Inc. - Preferred Shares	2,000,000.00	4,000,000.00
10-Jun-2004	3 Purchasers	Marksmen Resources Ltd. - Common Shares	66,850.00	315,000.00
30-Jun-2004	Cyreit Investments Limited	MAPLE KEY Market Neutral LP - Units	513,750.00	375,000.00
02-Jul-2004	3 Purchasers	MCAN Performance Strategies - Units	1,545,000.00	1,545,000.00
02-Jul-2004	The Meile 2004 Family Trust The Meile 2004 Family Trust	MCAN Performance Strategies - Units	2,000,000.00	2,000,000.00
16-Jun-2004	18 Purchasers	Momentas Corporation - Convertible Debentures	245,000.00	49.00
25-Jun-2004	5 Purchasers	Natural Data Inc. - Common Shares	191,401.00	273,430.00

**Notice of Exempt Financings**

30-Jun-2004	5 Purchasers	Nemi Northern Energy & Mining Inc. - Units	2,001,300.00	1,539,462.00
02-Jul-2004	Sprott Asset Mangement Inc.	Nemi Northern Energy & Mining Inc. - Units	763,252.00	545,180.00
01-Jun-2004 24-Jul-2004	20 Purchasers	New Hudson Television Corp. - Shares	53,400.00	17,800.00
02-Jul-2004	Elearnore Carson	O'Donnell Emerging Companies Fund - Units	25,000.00	3,597.00
09-Jul-2004	Dorothy Lewis	O'Donnell Emerging Companies Fund - Units	25,000.00	3,730.00
30-Jun-2004	15 Purchasers	Ondine Biopharma Corporation - Common Shares	7,486,250.00	3,327,222.00
29-Jun-2004	3 Purchasers	Open Access Limited - Common Shares	1,402,500.00	252,450.00
29-Jun-2004	3 Purchasers	Open Access Limited - Notes	1,402,500.00	14,025.00
29-Jun-2004	3Purchasers	Open Access Limited - Option	1,402,500.00	701,250.00
29-Jun-2004	3 Purchasers	Paramount Resources Ltd. - Notes	7,395,300.00	5,500.00
28-Jun-2004	VentureLink Diversified Income Business Development Bank of Canada	Physical Planning Technologies Inc. - Shares	4.00	2.00
28-Jun-2004	VentureLink Diversified Business Development Bank of Canada	Physical Planning Technologies Inc. - Warrants	2.00	2.00
30-Jun-2004	Constellation Credit Linked Certificate Trust (Caribou) Series 2004-AAA	Pioneer Trust - Notes	90,000,000.00	90,000,000.00
26-Apr-2004	MFC Global Investment Management	ProCentury Corporation - Common Shares	711,671.41	500,000.00
02-Jul-2004	Nursing Homes and Related Industries Pension Plan	Real Assets US Social Equity Index Fund - Units	3,252.72	455.00
30-Jun-2004	8 Purchasers	Regal Energy Corp. - Common Shares	435,000.00	2,175,000.00
28-Jun-2004	Avenue Energy	Result Energy Inc. - Warrants	0.00	200,000.00
11-Jun-2004	Leonard Latchman	San Telmo Energy Ltd. - Shares	210,000.00	300,000.00
18-Jun-2004	Business Development Bank of Canada	Spectalis Corp. - Preferred Shares	196,358.95	417,785.00
01-Jul-2004	Neville and Marilyn Lefcoe	Stacey Investment Limited Partnership - Units	150,010.56	4,704.00
30-Jun-2004	4 Purchasers	Stacey RSP Fund - Trust Units	494,646.34	49,850.00
30-Jun-2004	6 Purchasers	Standard Performance Asset Management - Units	2,617,000.00	2,617.00

**Notice of Exempt Financings**

23-Jun-2004	3 Purchasers	Starcore International Ventures Inc. - Units	65,000.00	130,000.00
30-Jun-2004	Sandra Fruitman	Stylus Momentum Fund - Units	200,000.00	18,952.00
30-Jun-2004	Sandra Fruitman Joan Dinning	Stylus Value with Income Fund - Units	825,600.00	81,824.00
28-Jun-2004	Mr. Chris Purkis & Mrs. Jane Botsford	St. Lawrence Trading Inc. - Shares	402,881.76	531.00
03-Jul-2004	Royal Bank of Canada	Synenco Energy Inc. - Debentures	5,000,000.00	1.00
30-Jun-2004	J. Dean Muncaster	TD Harbour Capital Balanced Fund - Trust Units	1,524,389.76	11,001.00
30-Jun-2004	Mr. Dennis Cordick	The Strand Tandem Investment Trust - Trust Units	25,000.00	5.00
22-Jun-2004	Ontario Teachers Pension Plan Board	Toyota Credit Canada (TTC) - Bonds	24,250,000.00	25,000,000.00
15-Jun-2004	1567934 Ontraio Inc.	Trez Capital Corporation - Units	600,000.00	600,000.00
30-Jun-2004	TCC VI Funding Limited Partnership	Tri Continental Capital VI Limited Partnership - Units	28,000,000.00	560.00
16-Jun-2004	Alba Potvin Holdings Inc.	Triacta Power Technologies Inc. - Common Shares	12,500.00	50,000.00
05-Jul-2004 13-Jul-2004	Alfred Powis	Twin Mining Corporation - Units	49,999.95	142,857.00
30-Jun-2004	8 Purchasers	Tyhee Development Corp. - Flow-Through Shares	3,050,000.00	7,625,000.00
23-Jun-2004	15 Purchasers	United Reef Limited - Units	513,000.00	5,130,000.00
08-Jun-2004	10 Purchasers	Vestas Wind Systems A/S - Shares	5,319,322.00	487,974.00
28-Jun-2004	10 Purchasers	Warnex Inc. - Units	3,723,880.42	3,052,361.00
23-May-2004	7 Purchasers	Waterfall Tipping Point L.P. - Units	937,500.00	9,375.00
31-May-2004	4 Purchasers	Waterfall Tipping Point L.P. - Units	500,000.00	500.00
02-Jul-2004	5 Purchasers	Waterfall Tipping Point L.P. - Units	445,000.00	445.00
31-May-2004	6 Purchasers	Waterfall Vanilla L.P. - Units	825,000.00	825.00
03-May-2004	14 Purchasers	Waterfall Vanilla L.P. - Units	4,212,500.00	4,213.00
02-Jul-2004	22 Purchasers	Waterfall Vanilla L.P. - Units	5,780,000.00	5,780.00
03-Jun-2004	ING Trust Company of Canada	Westpac Banking Corporation (WBC) - Bonds	9,999,000.00	10,000,000.00

**Notice of Exempt Financings**

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25-Jun-2004	Kinross Gold Corporation	White Knight Resources Ltd. - Units	2,000,000.00	2,222,222.00
25-Jun-2004	GMP Securities Ltd.	White Knight Resources Ltd. - Warrants	0.00	155,555.00
21-Jun-2004	1576162 Ontario Inc. Prospect Capital Corporation	XPEL Technologies Corp. - Warrants	40,373.24	134,577.00
17-Jun-2004	Edward G. Anderson	Yellow Point Equity Partners Limited Partnership - Units	100,000.00	10.00
06-Jul-2004	4 Purchasers	zedi.l solutions Inc - Common Shares	3,231,500.00	1,280,000.00
06-Jul-2004	5 Purchasers	zedi.l solutions Inc - Subscription Receipts	4,726,500.00	2,560,000.00
25-Jun-2004	12 Purchasers	ZIM Corporation - Common Shares	518,606.72	1,010,555.00



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## Chapter 11

# IPOs, New Issues and Secondary Financings

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**Issuer Name:**

INDEXPLUS 2 INCOME FUND

**Type and Date:**

Amended and Restated Preliminary Prospectus dated July 8, 2004

Received on July 8, 2004

**Offering Price and Description:**

Maximum: \* Units

Price: \$ \* per Unit

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

Middlefield Group Limited

Middlefield Indexplus 2 Management

Project #650508

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**Issuer Name:**

Inter Pipeline Fund

Principal Regulator - Alberta

**Type and Date:**

Preliminary Short Form Prospectus dated July 12, 2004

Mutual Reliance Review System Receipt dated July 12, 2004

**Offering Price and Description:**

\$249,150,000.00 - 33,000,000 Subscription Receipts, each representing the right to receive one Class A Unit Price:

\$7.55 per Subscription Receipts

**Underwriter(s) or Distributor(s):**

TD Securities Inc.

CIBC World Markets Inc.

BMO Nesbitt Burns Inc.

National Bank Financial Inc.

RBC Dominion Securities Inc.

Scotia Capital Inc.

HSBC Securities (Canada) Inc.

Canaccord Capital Corporation

**Promoter(s):**

Pipeline Management Inc.

Project #666455

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**Issuer Name:**

MK Resources Company

Principal Regulator - Ontario

**Type and Date:**

Amended and Restated Preliminary PREP Prospectus dated July 9, 2004

Mutual Reliance Review System Receipt dated July 12, 2004

**Offering Price and Description:**

61,000,000 Shares of Common Stock

Price: US\$ \* per share

**Underwriter(s) or Distributor(s):**

CIBC World Markets Inc.

BMO Nesbitt Burns Inc.

RBC Dominion Securities Inc.

Canaccord Capital Corporation

GMP Securities Ltd.

**Promoter(s):**

-

Project #658848

---

**Issuer Name:**

Renewable Power Flow-Through Limited Partnership

Principal Regulator - Ontario

**Type and Date:**

Preliminary Prospectus dated July 12, 2004

Mutual Reliance Review System Receipt dated July 13, 2004

**Offering Price and Description:**

\$35,000,000 (Maximum Offering) Series I Units

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

-

Project #666648

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**Issuer Name:**

Spinlogic Technologies Inc.

Principal Regulator - Quebec

**Type and Date:**

Preliminary CPC Prospectus dated July 8, 2004

Mutual Reliance Review System Receipt dated July 12, 2004

**Offering Price and Description:**

Minimum Offering: \$1,000,000 or 10,000,000 Common Shares

Maximum Offering: \$1,690,000 or 16,900,000 Common Shares

Price: \$0.10 per share

**Underwriter(s) or Distributor(s):**

Desjardins Securities Inc.

**Promoter(s):**

-

Project #665686

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**Issuer Name:**

Synergy Global Momentum Sector Fund  
Synergy Global Style Management Sector Fund  
Synergy Canadian Momentum Class  
Signature Canadian Income Fund  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Simplified Prospectuses dated July 5, 2004  
Mutual Reliance Review System Receipt dated July 7, 2004

**Offering Price and Description:**

Class I Units, A and F Shares and Insight Shares

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

CI Mutual Funds Inc.

Project #665295

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**Issuer Name:**

Trinidad Energy Services Income Trust  
Principal Regulator - Alberta

**Type and Date:**

Preliminary Short Form Prospectus dated July 12, 2004  
Mutual Reliance Review System Receipt dated July 12, 2004

**Offering Price and Description:**

\$25,000,006.00 - 3,205,129 Trust Units Price: \$7.80 Per Trust Unit

**Underwriter(s) or Distributor(s):**

Raymond James Ltd.  
CIBC World Markets Inc.  
TD Securities Inc.  
Haywood Securities Inc.  
First Associates Investments Inc.  
Desjardins Securities Inc.  
Dundee Securities Corporation  
FirstEnergy Capital Corp.

**Promoter(s):**

Trinidad Drilling Ltd.

Project #666478

---

**Issuer Name:**

Valor Communications Group, Inc.  
Principal Regulator - Ontario

**Type and Date:**

Amended and Restated Preliminary Prospectus dated July 9, 2004

Mutual Reliance Review System Receipt dated July 9, 2004

**Offering Price and Description:**

US\$ million (C\$ million)

Income Deposit Securities (IDSs)

US\$ million % Senior Subordinated Notes due 2019

Price: C\$ (US\$ ) per IDS

principal amount per Senior Subordinated Note due 2019

**Underwriter(s) or Distributor(s):**

CIBC World Markets Inc.  
Merrill Lynch Canada Inc.  
Banc of America Securities Canada Co.  
J.P. Morgan Securities Canada Inc.  
Raymond James Ltd.

**Promoter(s):**

-

Project #662981

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**Issuer Name:**

ACE Aviation Holdings Inc.  
Principal Regulator - Quebec

**Type and Date:**

Final Short Form Prospectus dated July 12, 2004  
Mutual Reliance Review System Receipt dated July 13, 2004

**Offering Price and Description:**

\$850 Million - 42,500,000 Rights to purchase 42,500,000 shares at a purchase price of \$20.00 per Share

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

Air Canada

Project #664247

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**Issuer Name:**

Algonquin Power Income Fund  
Principal Regulator - Ontario

**Type and Date:**

Final Short Form Prospectus dated July 13, 2004  
Mutual Reliance Review System Receipt dated July 13, 2004

**Offering Price and Description:**

\$85,000,000.00- 6.65% Convertible Unsecured  
Subordinated Debentures due July 31, 2011 Price: 100%  
plus accrued interest, if any

**Underwriter(s) or Distributor(s):**

BMO Nesbitt Burns Inc.  
CIBC World Markets Inc.  
National Bank Financial Inc.  
TD Securities Inc.  
Scotia Capital Inc.  
RBC Dominion Securities Inc.  
Raymond James Ltd.  
Canaccord Capital Corporation

**Promoter(s):**

-

**Project #664577**

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**Issuer Name:**

Biomira Inc.  
Principal Regulator - Alberta

**Type and Date:**

Final MJDS Shelf Prospectus dated July 13, 2004  
Mutual Reliance Review System Receipt dated July 13, 2004

**Offering Price and Description:**

US\$100,000,000.00 - Common Shares Preferred Shares  
Debt Securities Warrants

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

-

**Project #662676**

---

**Issuer Name:**

CI Canadian Equity Fund  
CI Canadian Growth Portfolio  
CI Canadian Maximum Growth Portfolio  
CI TACTONICS Fund  
CI TACTONICS RSP Fund  
Landmark Canadian Fund  
Landmark Canadian Sector Fund  
Landmark Global Sector Fund  
Landmark Global RSP Fund  
Principal Regulator - Ontario

**Type and Date:**

Amendment #5 dated July 5, 2004 to Final Simplified  
Prospectuses and Annual Information Forms dated July 15,  
2003  
Mutual Reliance Review System Receipt dated July 13,  
2004

**Offering Price and Description:**

-

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

CI Mutual Funds Inc.

**Project #550627**

---

**Issuer Name:**

CI Canadian Equity Fund  
CI Canadian Growth Portfolio  
CI Canadian Maximum Growth Portfolio  
CI TACTONICS Fund  
CI TACTONICS RSP Fund  
Landmark Canadian Fund  
Landmark Canadian Sector Fund  
Landmark Global Sector Fund  
Landmark Global RSP Fund  
Principal Regulator - Ontario

**Type and Date:**

Amendment #5 dated July 5, 2004 to Final Simplified  
Prospectuses and Annual Information Forms dated July 15,  
2003  
Mutual Reliance Review System Receipt dated July 13,  
2004

**Offering Price and Description:**

-

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

CI Mutual Funds Inc.

**Project #550412**

**Issuer Name:**

FRIEDBERG FOREIGN BOND FUND

Principal Regulator - Ontario

**Type and Date:**

Final Simplified Prospectus dated July 8, 2004

Mutual Reliance Review System Receipt dated July 8, 2004

**Offering Price and Description:**

Mutual Fund Units @ Net Asset Value

**Underwriter(s) or Distributor(s):**

Friedberg Mercantile Group Ltd.

Friedberg Mercantile Group Ltd.

**Promoter(s):**

Friedberg Mercantile Group Ltd.

Toronto Trust Management Ltd.

Project #659639

**Issuer Name:**

GGOF CANADIAN BOND FUND

GGOF CANADIAN DIVERSIFIED MONTHLY INCOME FUND

GGOF CANADIAN HIGH YIELD BOND FUND

GGOF CANADIAN MONEY MARKET FUND

GGOF DIVIDEND GROWTH FUND

GGOF MONTHLY DIVIDEND FUND LTD.

GGOF MONTHLY HIGH INCOME FUND

GGOF MONTHLY HIGH INCOME FUND II

GGOF RSP INTERNATIONAL INCOME FUND

GGOF RSP U.S. MONEY MARKET FUND

GGOF U.S. DIVERSIFIED MONTHLY INCOME FUND

GGOF AMERICAN VALUE FUND LTD.

GGOF CANADIAN LARGE CAP VALUE FUND

GGOF GLOBAL VALUE FUND

GGOF JAPANESE VALUE FUND

GGOF RSP AMERICAN VALUE FUND

GGOF AMERICAN GROWTH FUND

GGOF CANADIAN GROWTH FUND LTD.

GGOF EUROPEAN GROWTH FUND

GGOF GLOBAL GROWTH FUND

GGOF RSP GLOBAL GROWTH FUND

GGOF ASIAN GROWTH AND INCOME FUND

GGOF CANADIAN BALANCED FUND

GGOF EMERGING MARKETS FUND

GGOF ENTERPRISE FUND

GGOF GLOBAL HEALTH SCIENCES FUND

GGOF GLOBAL SMALL CAP FUND

GGOF GLOBAL TECHNOLOGY FUND

GGOF RSP GLOBAL TECHNOLOGY FUND

GGOF RSP INTERNATIONAL BALANCED FUND

Principal Regulator - Ontario

**Type and Date:**

Final Simplified Prospectuses dated July 7, 2004

Mutual Reliance Review System Receipt dated July 8, 2004

**Offering Price and Description:**

Mutual Fund Units or shares, Classic Units or Shares, F Class Units or Shares and I Class Units

**Underwriter(s) or Distributor(s):**

Guardian Group of Funds Ltd.

Jones Heward Investment Management Inc.

**Promoter(s):**

Guardoam Group of Funds Ltd.

Project #658660

---

**Issuer Name:**

Imperial U.S. Equity Pool  
Principal Regulator - Ontario

**Type and Date:**

Amendment #1 dated June 28, 2004 to Final Simplified Prospectus and Annual Information Form dated May 10, 2004

Mutual Reliance Review System Receipt dated July 7, 2004

**Offering Price and Description:**

-

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

Canadian Imperial Bank of Commerce

**Project #618801**

---

**Issuer Name:**

Lightning Energy Ltd.  
Principal Regulator - Alberta

**Type and Date:**

Final Prospectus dated July 6, 2004

Mutual Reliance Review System Receipt dated July 7, 2004

**Offering Price and Description:**

3,750,000 Common Shares issuable upon the exercise of 3,750,000 Special Warrants

**Underwriter(s) or Distributor(s):**

Tristone Capital Inc.  
FirstEnergy Capital Corp.  
GMP Securities Ltd.  
RBC Dominion Securities Inc.  
TD Securities Inc.

**Promoter(s):**

-

**Project #650967**

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**Issuer Name:**

Renaissance Canadian Balanced Value Fund  
Principal Regulator - Ontario

**Type and Date:**

Amendment #2 dated June 28, 2004 to Final Simplified Prospectus and Annual Information Form dated November 17, 2003

Mutual Reliance Review System Receipt dated July 7, 2004

**Offering Price and Description:**

-

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

CIBC Asset Management Inc.

**Project #579043**

---

**Issuer Name:**

RESOLUTE GROWTH FUND  
Principal Regulator - Ontario

**Type and Date:**

Final Simplified Prospectus dated July 12, 2004  
Mutual Reliance Review System Receipt dated July 12, 2004

**Offering Price and Description:**

Mutual Fund Units @ Net Asset Value

**Underwriter(s) or Distributor(s):**

First Associates Investments Inc.  
Yorkton Securities Inc.

**Promoter(s):**

Resolute Funds Limited

**Project #659677**

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**Issuer Name:**

CI Canadian Equity Fund  
CI Canadian Growth Portfolio  
CI Canadian Maximum Growth Portfolio  
CI TACTONICS Fund  
CI TACTONICS RSP Fund  
Landmark Canadian Fund  
Landmark Canadian Sector Fund  
Landmark Global Sector Fund  
Landmark Global RSP Fund  
Principal Regulator - Ontario

**Type and Date:**

Amendment #5 dated July 5, 2004 to Final Simplified Prospectus and Annual Information Form (NI 81-101) dated July 15, 2003

Mutual Reliance Review System Receipt dated July 13, 2004

**Offering Price and Description:**

-

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

CI Mutual Funds Inc.

**Project #550702**

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**Issuer Name:**

Synergy American Growth Class  
Synergy Global Value Class  
Synergy Global Growth Class  
Synergy Global Momentum Class  
Synergy European Momentum Class  
Synergy Global Style Management Class  
Synergy Global Short-Term Income Class  
Synergy Global Fund Inc.  
Synergy American Growth RSP Fund  
Synergy Global Value RSP Fund  
Synergy Global Growth RSP Fund  
Synergy Global Momentum RSP Fund  
Synergy Global Style Management RSP Fund  
Synergy European Momentum RSP Fund  
Principal Regulator - Ontario

**Type and Date:**

Amendment #6 dated July 5, 2004 to Final Simplified Prospectuses and Annual Information Forms dated August 25, 2003

Mutual Reliance Review System Receipt dated July 13, 2004

**Offering Price and Description:**

-

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

CI Mutual Funds Inc.  
**Project #558906**

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**Issuer Name:**

The Brick Group Income Fund  
Principal Regulator - Alberta

**Type and Date:**

Final Prospectus dated July 9, 2004  
Mutual Reliance Review System Receipt dated July 9, 2004

**Offering Price and Description:**

\$272,000,000.00 - 27,200,000 Class A Units at \$10.00 per Unit.

**Underwriter(s) or Distributor(s):**

CIBC World Markets Inc.  
RBC Dominion Securities Inc.  
National Bank Financial Inc.  
Scotia Capital Inc.  
BMO Nesbitt Burns Inc.  
TD Securities Inc.  
HSBC Securities (Canada) Inc.  
Canaccord Capital Corporation  
Desjardins Securities Inc.  
Raymond James Ltd.

**Promoter(s):**

The Brick Warehouse Corporation  
**Project #653949**

---

**Issuer Name:**

The Jean Coutu Group (PJC) Inc.  
Principal Regulator - Quebec

**Type and Date:**

Final Short Form Prospectus dated July 8, 2004  
Mutual Reliance Review System Receipt dated July 8, 2004

**Offering Price and Description:**

\$475,000,000.00 - \* Subscription Receipts, each representing the right to receive one Class A Subordinate Voting Share Price: \$ \_ per Subscription Receipt

**Underwriter(s) or Distributor(s):**

Merrill Lynch Canada Inc.  
National Bank Financial Inc.  
TD Securities Inc.  
Scotia Capital Inc.  
BMO Nesbitt Burns Inc.  
Deutsche Bank Securities Limited  
RBC Dominion Securities Inc.  
Desjardins Securities Inc.  
First Associates Investments Inc.  
Raymond James Ltd.

**Promoter(s):**

-

**Project #664551**

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**Issuer Name:**

UTS Energy Corporation  
Principal Regulator - Alberta

**Type and Date:**

Final Prospectus dated July 6, 2004  
Mutual Reliance Review System Receipt dated July 7, 2004

**Offering Price and Description:**

75,500,000 Common Shares Issuable Upon the Exercise of Outstanding Special Warrants

**Underwriter(s) or Distributor(s):**

RBC Dominion Securities Inc.  
Raymond James Ltd.  
Canaccord Capital Corporation  
Sprott Securities Inc.

**Promoter(s):**

-

**Project #642142**

## Chapter 12

# Registrations

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### 12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
New Registration	Bayshore Asset Management Inc.	Limited Market Dealer & Investment Counsel & Portfolio Manager	July 8, 2004
New Registration	Wise, Sean Evan, Sole Proprietor	Limited Market Dealer	July 12, 2004



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<b>AFM Hospitality Corporation</b>		<b>Hollinger Canadian Newspapers, Limited Partnership</b>	
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<b>Argus Corporation Limited</b>		<b>Hollinger International Inc.</b>	
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<b>Aspen Group Resources Corp.</b>		<b>Inflazyme Pharmaceuticals Ltd.</b>	
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<b>Astaware Technologies Inc.</b>		<b>International Keystone Entertainment Inc.</b>	
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