The Ontario Securities Commission

OSC Bulletin

December 3, 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)

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Chapter 1

Notices / News Releases

1.1 Notices

1.1.1 Current Proceedings Before The Ontario Securities Commission

DECEMBER 03, 2004

CURRENT PROCEEDINGS

BEFORE

ONTARIO SECURITIES COMMISSION

- -

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

The Harry S. Bray Hearing Room
Ontario Securities Commission
Cadillac Fairview Tower
Suite 1700, Box 55
20 Queen Street West
Toronto, Ontario
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Robert L. Shirriff, Q.C.	—	RLS
Suresh Thakrar, FIBC	—	ST
Wendell S. Wigle, Q.C.	—	WSW

SCHEDULED OSC HEARINGS

TBA	**Yama Abdullah Yaqeen** s. 8(2) J. Superina in attendance for Staff Panel: RLS/ST/DLK
December 6, 2004 10:00 a.m. December 7 & 8, 2004 2:30 p.m. December 9 & 10, 2004 10:00 a.m.	**Brian Peter Verbeek** and Lloyd Hutchison Ebenezer Bruce* s. 127 K. Manarin in attendance for Staff Panel: RLS/WSW/ST * Lloyd Bruce settled November 12, 2004
December 14, 2004 2:00 p.m.	**Mark E. Valentine** s. 127 A. Clark in attendance for Staff Panel: SWJ/WSW/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
January 26, 27 31 and February 1, 2 and 3, 2005 10:00 a.m.	**Cornwall *et al*** s. 127 K. Manarin in attendance for Staff Panel: HLM/RWD/ST

March 29-31, 2005 April 1, 4, 6-8, 11-14, 18, 20-22, 25-29, 2005 May 2, 4, 12, 13, 16, 18-20, 30, 2005 June 1-3, 2005	**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
10:00 a.m.	Panel: SWJ/HLM/MTM
May 30, June 1, 2, 3, 6, 7, 8, 9 and 10, 2005 10:00 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: TBA * David Bromberg settled April 20, 2004 * Lloyd Bruce settled November 12, 2004

ADJOURNED SINE DIE

Global Privacy Management Trust and Robert Cranston

Andrew Keith Lech

S. B. McLaughlin

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

1.1.2 CNQ Request for Comments – Entry of Off-Market Orders by Non-Market Makers

CANADIAN TRADING AND QUOTATION SYSTEM INC.

PROPOSED AMENDMENTS TO CNQ RULES – ENTRY OF OFF-MARKET ORDERS BY NON-MARKET MAKERS

REQUEST FOR COMMENTS

A request for comments on proposed amendments to the CNQ Rules, relating to the entry of off-market orders by non-market makers, is published in Chapter 13 of this Bulletin.

1.1.3 CNQ Request for Comments – Issuers with a Substantial Connection to Alberta

CANADIAN TRADING AND QUOTATION SYSTEM INC.

PROPOSED AMENDMENTS TO CNQ RULES – ISSUERS WITH A SUBSTANTIAL CONNECTION TO ALBERTA

REQUEST FOR COMMENTS

A request for comments on proposed amendments to the CNQ Rules, relating to the issuers with a substantial connection to Alberta, is published in Chapter 13 of this Bulletin.

1.1.4 Notice of Commission Approval of National Policy 41-201 Income Trusts and Other Indirect Offerings

NOTICE OF COMMISSION APPROVAL OF NATIONAL POLICY 41-201
INCOME TRUSTS AND OTHER INDIRECT OFFERINGS

On November 26, 2004, the Ontario Securities Commission approved National Policy 41-201 *Income Trusts and Other Indirect Offerings* (the Policy). The effective adoption date of the Policy in Ontario is December 3, 2004.

The Policy was previously published as a proposed policy in the Bulletin on October 24, 2003. The Policy and accompanying notice (which includes the summary of comments received and responses to those comments) are published in Chapter 5 of this Bulletin.

1.1.5 Notice of Commission Approval – IDA Amendment to the General Notes and Definitions of Form 1 relating to Foreign Pension Funds as Acceptable Institutions and Acceptable Counterparties

THE INVESTMENT DEALERS ASSOCIATION OF CANADA (IDA)

AMENDMENTS TO GENERAL NOTES AND DEFINITIONS TO FORM 1 RELATING TO FOREIGN PENSION FUNDS AS ACCEPTABLE INSTITUTIONS AND ACCEPTABLE COUNTERPARTIES

NOTICE OF COMMISSION APPROVAL

The Ontario Securities Commission approved amendments to the General Notes and Definitions to Form 1 relating to foreign pension funds as acceptable institutions and acceptable counterparties. In addition, the Alberta Securities Commission approved and the British Columbia Securities Commission did not object to the amendments. The amendments to the definitions of acceptable institutions and acceptable counterparties would permit foreign pension funds that are of sufficient size and that are subject to appropriate regulatory scrutiny, to qualify as acceptable institutions or acceptable counterparties for credit risk purposes under IDA rules. A copy and description of the proposed amendments were published on February 20, 2004, at (2004) 27 OSCB 2294. No comments were received.

1.1.6 CNQ Policy Amendment – Generic Share Certificates – Notice of Commission Approval

CANADIAN TRADING AND QUOTATION SYSTEM INC. (CNQ)

POLICY AMENDMENT – GENERIC SHARE CERTIFICATES

NOTICE OF COMMISSION APPROVAL

CNQ has filed with the Commission an amendment to Section 5.2 of CNQ's Policy 4. The amendment allows CNQ issuers to use generic share certificates, provided the issuer's transfer agent confirms to CNQ in writing that the certificates conform to the standards established by the Security Transfer Association of Canada (STAC) for the use of generic share certificates. The amendment has been filed as "housekeeping" pursuant to the rule review process set out in Appendix B of Schedule A to CNQ's recognition order and is deemed to have been approved by the Commission upon filing. CNQ's notice of amendment and the policy amendment are being published in Chapter 13 of this Bulletin.

1.3 News Releases

1.3.1 OSC to Consider Settlement Reached Between Staff and Robert Walter Harris

FOR IMMEDIATE RELEASE
November 25, 2004

OSC TO CONSIDER SETTLEMENT REACHED BETWEEN STAFF AND ROBERT WALTER HARRIS

Toronto – On Friday, November 26, 2004, the Ontario Securities Commission will convene a hearing at 2:00 p.m. to consider a settlement reached between Staff of the Commission and Robert Walter Harris. The terms of the settlement agreement are confidential until approved by the Commission. Copies of the Notice of Hearing dated June 25, 2003 and the related Statement of Allegations are available on the Commission's website or from the Commission's offices at 20 Queen Street West.

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: Court Dates for Motions Set for Gouveia, Perryman and Vickery

FOR IMMEDIATE RELEASE
November 30, 2004

OSC: COURT DATES FOR MOTIONS SET FOR GOUVEIA, PERRYMAN AND VICKERY

TORONTO – At an appearance November 29, 2004, at the Ontario Court of Justice at Old City Hall, the proceedings commenced by the Ontario Securities Commission (OSC) against former senior officers of Atlas Cold Storage were adjourned to March 7 and 8, 2005 for the hearing of pre-trial motions.

On June 3, 2004, the OSC commenced proceedings against Patrick Gouveia, Ronald Perryman and Paul Vickery for violations of the Ontario *Securities Act*.

Information on the proceedings is summarized in an OSC news release issued on June 3, 2004 available on the OSC website (www.osc.gov.on.ca).

The Commission also issued a Notice of Hearing and Staff filed a Statement of Allegations with the Commission in relation to the filing of misleading financial statements as alleged in the quasi-criminal proceedings. These documents are also available on the OSC website.

For Media Inquiries: Eric Pelletier
Manager, Media Relations
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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 Canadian Medical Discoveries Fund Inc. - MRRS Decision

Headnote

Exemptive Relief Applications – application for mutual fund prospectus lapse date extension.

Applicable Ontario Provisions

Securities Act, R.S.O. 1990, c. S.5, s. 62(5).

November 23, 2004

**IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO, QUEBEC, BRITISH COLUMBIA, MANITOBA,
ALBERTA, SASKATCHEWAN, NEW BRUNSWICK,
NOVA SCOTIA,
PRINCE EDWARD ISLAND, NEWFOUNDLAND AND
LABRADOR
(the Jurisdictions)**

AND

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

AND

**IN THE MATTER OF CANADIAN MEDICAL
DISCOVERIES FUND INC. (the Filer)**

MRRS DECISION DOCUMENT

Background

The local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) that the time period prescribed by the Legislation for the renewal of the prospectus dated November 13, 2003 (the Prospectus) for the Class A shares of the Fund (the "Class A Shares") be extended to those time period that would be applicable if the lapse date of the Prospectus was December 20, 2004;

Under the Mutual Reliance Review System for Exemptive Relief Applications

(a) the Ontario Securities Commission is the principal regulator for this application, and

(b) this MRRS decision document evidences the decision of each Decision Maker.

Interpretation

Defined terms contained in National Instrument 14-101 Definitions or in Québec Commission Notice 14-101 have the same meaning in this decision unless they are defined in this decision.

Representations

This decision is based on the following facts represented by the Filer:

1. The Fund is a corporation incorporated under the *Canada Business Corporations Act* by articles of incorporation dated September 20, 1994, as amended.

2. The Fund is registered as a labour sponsored investment fund under the *Community Small Business Investment Funds Act* (Ontario) and a labour-sponsored venture capital corporation under the *Income Tax Act* (Canada) and, until December 31, 2004, under the *Equity Tax Credit Act* (Nova Scotia). The Fund has also been approved as a qualifying fund pursuant to the *Labour-sponsored Venture Capital Corporations Act* (Saskatchewan). The Fund is a mutual fund pursuant to the Legislation.

3. The Manager of the Fund is Medical Discovery Management Corporation (the Manager).

4. Pursuant to the Legislation or the regulations made thereunder, the lapse date (the Lapse Date) for distribution of Class A Shares is November 13, 2004, except for Quebec, for which it is November 17, 2004.

5. The Fund filed its pro forma renewal prospectus (the Renewal Prospectus) on October 13, 2004, within the time specified by the Legislation. Since October 13, 2004, no material change has occurred. The Fund will file a prospectus amendment indicating that a change in management and performance fees are expected, subject to approval at the Dec. 16, 2004 shareholders' meeting.

6. The Fund has set a shareholders meeting for December 16, 2004 for the approval of changes to the management and

performance fees payable by the Fund to the Manager. The Lapse Date extension is required to enable the Fund to include in the Renewal Prospectus disclosure regarding the fee change that reflects the outcome of the shareholders' meeting.

Decision

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 time period provided by the Legislation as they apply to a distribution of securities under the Prospectus are hereby extended to the time period that would be applicable if the Lapse Date for the distribution of Class A Shares under the Prospectus was December 20, 2004.

"Leslie Byberg"
Manager, Investment Funds Branch
Ontario Securities Commission

2.1.2 West Fraser Timber Co. Ltd. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - National Instrument 54-101, s. 9.2 - An issuer wants relief from the timing requirements in NI 54-101 relating to record dates and sending materials - The applicant has entered into a receipt subscription agreement tied to the closing of an acquisition; the applicant is in negotiations to facilitate the closing of the acquisition by the closing deadline; if the acquisition can close by the closing deadline, it will not be necessary to hold a meeting of the receiptholders; if the acquisition must be delayed, the applicant must hold a meeting of its receiptholders to extend both the closing deadline and the termination of the receipt subscription agreement; the meeting will be held in accordance with the terms of the receipt subscription agreement; the applicant will publish an advertisement announcing the meeting and advising when and where materials relating to the meeting can be obtained; the date of the meeting is the latest date that the applicant can hold the meeting to facilitate the extension of the closing deadline.

Applicable Ontario Statutory Provisions

National Instrument 54-101Communication with Beneficial Owners of Securities of a Reporting Issuer, ss. 2.1, 2.2(1), 2.5(1), 2.20(a) and 9.2.

November 24, 2004

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN, MANITOBA, ONTARIO, QUÉBEC, NEW BRUNSWICK, NOVA SCOTIA, NEWFOUNDLAND AND LABRADOR, AND YUKON TERRITORY (THE JURISDICTIONS)

AND

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

AND

IN THE MATTER OF
WEST FRASER TIMBER CO. LTD. (THE FILER)

MRRS DECISION DOCUMENT

Background

¶ 1 The local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) for an exemption from the following requirements in the Legislation (the Requested Relief):

(a) to establish a record date for a meeting (the Meeting) of the holders of subscription receipts (the Receiptholders) at least 30 days before the Meeting,

(b) to send notification of the Meeting and record dates at least 25 days before the record date,

(c) to request beneficial ownership information at least 20 days before the record date for the notice of Meeting, and

(d) to send materials to the Receiptholders at least 21 days before the Meeting.

Under the Mutual Reliance Review System for Exemptive Relief Applications

(a) the British Columbia Securities Commission is the principal regulator for this application, and

(b) this MRRS decision document evidences the decision of each Decision Maker.

Interpretation

¶ 2 Defined terms contained in NI 14-101 *Definitions* have the same meaning in this decision unless they are defined in this decision.

In this decision,

(a) *Acquisition* means the purchase by the Filer of the only issued and outstanding share of Weldwood of Canada Limited for a purchase price of approximately CDN$1.26 billion,

(b) *Closing Deadline* means January 4, 2005,

(c) *Proceeds* means the gross proceeds of $275,044,000 received by the Filer on the closing on August 24, 2004 of the Filer's offering of 5,852,000 subscription receipts, and

(d) *Termination Date* means December 16, 2004 or such later date agreed to by the Filer and International Paper Company.

Representations

¶ 3 This decision is based on the following facts represented by the Filer:

1. the Filer was amalgamated under the *Company Act* (British Columbia);

2. the Filer's head office is located at Suite 1000, 1100 Melville Street, Vancouver, British Columbia, V6E 4A6;

3. the Filer is a reporting issuer, or the equivalent, in each of the Jurisdictions and, to the best of its knowledge, is currently not in default of any applicable requirements under the Legislation;

4. the Filer signed an acquisition agreement on July 21, 2004 with International Paper Company which provided for the Acquisition;

5. the Proceeds which are currently being held in escrow and will be released to the Filer upon satisfaction of certain release conditions, including receipt of necessary regulatory approvals, satisfaction of other closing conditions and notice that the parties are prepared to close the Acquisition;

6. the Proceeds are an essential part of the funds required to close the Acquisition;

7. the subscription receipt agreement provides that the Proceeds will be returned to Receiptholders if the Acquisition does not close on or before the Closing Deadline or if the acquisition agreement is terminated before the Closing Deadline;

8. the Filer may terminate the acquisition agreement at any time on or before the Termination Date if it does not receive certain regulatory clearances or assurances;

9. there is some uncertainty as to when outstanding matters will be resolved and discussions with various regulators are planned for the next two to three weeks;

10. the Filer is contemplating seeking an extension of the Closing Deadline to a date in March, 2005, to provide the Filer with additional time to resolve outstanding regulatory matters if needed;

11. since the Proceeds are a critical part of the funds the Filer requires to complete the Acquisition, if the Filer is to seek an extension of the Closing Deadline, it will also need to amend the subscription receipt agreement to take into account the extended Closing Deadline;

12. since the Filer is permitted, under certain conditions, to terminate the acquisition agreement up to the Termination Date,

and if it does not do so it is committed to closing the Acquisition on or before the Closing Deadline, it is important for the Filer to know whether the Receiptholders are prepared to accept the extended Closing Deadline;

13. because discussions with certain regulators are ongoing, the Filer expects to have more and better information for Receiptholders if it holds the Meeting as late as possible;

14. the Filer wishes to schedule the Meeting for December 16, 2004, or, based on the status of the discussions with the regulators, on or about December 22, 2004;

15. under the subscription receipt agreement the Receiptholders are entitled to 15 days' notice of any meeting of Receiptholders, and there are no restrictions as to when the record date may be fixed;

16. the Filer proposes to fix a record date at least 21 days before the Meeting and to arrange to send materials to registered and beneficial Receiptholders at least 15 days before the Meeting;

17. materials would be delivered to intermediaries in order to ensure they have sufficient time to forward materials on to beneficial holders;

18. the Filer will ensure that notice of the Meeting is given to Receiptholders by

    (a) issuing a press release before the record date fixed for the meeting, and

    (b) placing an advertisement in the English language in an English language newspaper of general circulation in Canada and in the French language in a French language newspaper of general circulation in Québec alerting Receiptholders to the Meeting and indicating that materials will be available on SEDAR.

Decision

¶ 4 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 Requested Relief is granted provided that the Filer:

(a) establishes a record date of at least 21 days before the Meeting,

(b) sends materials to the Receiptholders at least 15 days before the Meeting, and

(c) complies with paragraph 18.

"Martin Eady"
Director, Corporate Finance
British Columbia Securities Commission

2.1.3 I.G. Investment Management Ltd. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - Exemption from the requirement to deliver comparative annual financial statements to registered securityholders of certain mutual funds.

Statutes Cited

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

November 24, 2004

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ALBERTA, MANITOBA, ONTARIO AND NOVA SCOTIA,
(THE JURISDICTIONS)

AND

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

AND

IN THE MATTER OF
I.G. INVESTMENT MANAGEMENT, LTD. AND CERTAIN MUTUAL
FUNDS LISTED IN SCHEDULE "A" (THE "FILERS")

MRRS DECISION DOCUMENT

Background

The local securities regulatory authority or regulator (the "Decision Maker") in each of the Jurisdictions has received an application (the "Application") from the Filers for a decision under the securities legislation of the Jurisdictions (the "Legislation") that the Funds shall not be required to deliver their comparative annual financial statements to their Direct Securityholders, other than those Direct Securityholders who have requested to receive them (the "Requested Relief");

Under the Mutual Reliance Review System for Exemptive Relief Applications:

(a) The Manitoba Securities Commission is the principal regulator for this application; and

(b) this MRRS decision document evidences the decision of each Decision Maker.

Interpretation

Defined terms contained in National Instrument 14-101 Definitions have the same meaning in this decision unless they are defined in this decision. For purposes of this Application:

(a) "Direct Securityholders" means Securityholders who hold securities of mutual funds in client name.

(b) "Funds" means any mutual funds listed in Schedule "A" and any other mutual funds for which IGIM (or an affiliate of IGIM) is the Manager in the future;

(c) "IGIM" means I.G. Investment Management, Ltd., the Manager of the Funds;

(d) "Investors Group Corporate Class Funds" means the mutual funds issued as separate classes of securities by Investors Group Corporate Class Inc.;

(e) "Investors Group Unit Trust Funds" means the Funds other than the Investors Group Corporate Class Funds;

(f) "NI 81-106" means proposed National Instrument 81-106 Investment Fund Continuous Disclosure and companion Policy 81-106 CP;

(g) "Principal Distributors" means Investors Group Financial Services Inc. and Les Services Investors Limitée;.

(h) "Prior Decision" is an Order dated January 27, 2004 granted by the Jurisdictions under the Mutual Reliance Review System;

(i) "Securityholder" means a holder of securities of a Fund;

(h) "Trustee" means Investors Group Trust Co. Ltd., the trustee of the Investors Group Unit Trust Funds.

Representations

This decision is based on the following facts represented by the Filers:

(a) The Funds are open-ended mutual funds established under the laws of Manitoba or Ontario, in the case of Investors Group Unit Trust Funds, or classes of shares issued by Investors Group Corporate Class Inc., in the case of Investors Group Corporate Class Funds.

(b) IGIM is a corporation incorporated under the laws of Canada with its head office in Manitoba, and is registered as an investment counsel and portfolio

manager (or the equivalent registration) in both Ontario and Manitoba. IGIM (or an affiliate) is or will be the manager of the Funds.

(c) The Trustee is a corporation incorporated under the laws of Manitoba. The Trustee has entered into arrangements with other service providers to provide investment management, administrative, distribution and other services for the Investors Group Unit Trust Funds, but remains responsible for the overall business, operation and affairs of those Funds.

(d) Investors Group Corporate Class Inc. is the issuer of the Investors Group Corporate Class Funds. It is a corporation incorporated under the laws of Canada. It has entered into arrangements with other service providers to provide investment management, administrative, distribution and other services for the Investors Group Corporate Class Funds, but remains responsible for the overall business, operation and affairs of those Funds.

(e) The Funds are distributed in all the Jurisdictions. The Principal Distributors are registered, as Mutual Fund Dealers or the equivalent registration. IGIM, the Trustee and Principal Distributors are related entities, each being wholly owned directly or indirectly by Investors Group Inc.

(f) The Funds are reporting issuers in each of the Jurisdictions and are not in default of any requirements of the Legislation.

(g) Units of the Investors Group Unit Trust Funds are presently offered for sale on a continuous basis in each province and territory of Canada under a simplified prospectus dated July 28, 2004, except in the case of the *i*Profile Pools (Simplified Prospectus and Annual Information Form dated January 28, 2004) and Investors Real Property Fund (Prospectus dated July 28, 2004). Shares of the Investors Group Corporate Class Funds are presently offered for sale on a continuous basis in each province and territory of Canada under a Simplified Prospectus and Annual Information Form dated July 28, 2004.

(h) Each of the Funds is required to deliver annually, within 140 days of its financial year-end, to each Securityholder, an annual report and comparative financial statements in the prescribed form under the Legislation. The financial year-end of the Funds is September 30, except for the Mackenzie Universal U.S. Growth Leaders Fund and Mackenzie Universal Global Future Fund, which each have a financial year-end at June 30.

(i) In September 2002, the Canadian Securities Administrators (the "CSA") published for first comment proposed NI 81-106 which, among other things, would permit mutual funds not to deliver annual financial statements to Direct Securitholders who do not request them, if the Funds provide each Direct Securityholder with a request form under which the Direct Securityholder may request, at no cost to the Direct Securityholder, to receive the mutual fund's annual financial statements for that financial year.

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

(k) The Prior Decision gave exemptive relief from the requirement to deliver comparative annual financial statements of the various mutual funds for which IGIM (or an affiliate of IGIM) may be the Manager, Promoter or Trustee to the Direct Securityholders unless the Direct Securityholders requested to receive them. The relief was only given for one annual reporting period based upon the assumption that NI 81-106 would be in force by the end of 2004.

(l) NI 81-106 has been published for further comment and therefore it will not be in force by the end of 2004. The CSA expects to implement NI 81-106 by the end of 2005.

(m) As a result of NI 81-106 not being in force, the mutual funds that received prior relief under the Prior Decision will require the Requested Relief to be extended until NI 81-106 comes into force to permit the mutual funds affected by the Prior Decision and any future funds for which IGIM (or an affiliate of IGIM) may be the Manager, to not have to deliver their comparative annual financial statements to the Direct Securityholders unless the Direct Securityholders request to receive them.

(n) Extending the prior relief given in the Prior Decision would be consistent with the proposed requirements under NI 81-106.

(o) IGIM, or the Principal Distributors, have sent the Direct Securityholders, together with their most recent account statement, a notice advising them that they will not receive the annual report and annual financial statements of their Funds for the 2004 financial year unless they request same, and have provided them with a request form to send back, by fax or prepaid mail, if they wish to receive the annual report and annual financial statements. The notice advises the Direct Securityholders that the annual report and annual financial statements of the Funds may be found on the websites referred to in clause (q) and downloaded. IGIM or the Principal Distributors will send such annual report and financial statements to any Direct Securityholder who requests them in response to such notice or who subsequently requests them by request on a toll-free number or at a branch of the Principal Distributors. On July 30, 2004, IGIM or the Principal Distributors filed on SEDAR, under the annual financial statements category, confirmation of mailing of the request forms that were sent to the Direct Securityholders.

(p) Securityholders who hold their securities in the Funds through a nominee will be dealt with under National Instrument 54-101. Securityholders who hold their securities in the Funds in client name where one of the Principal Distributors (or an affiliate) is not the dealer will be sent the annual report and annual financial statements of the Funds in accordance with the Legislation.

(q) Securityholders will be able to access the annual report and annual financial statements of the Funds either on the SEDAR website or on the Investors Group Inc. website: www.investorsgroup.com . As disclosed in the simplified prospectuses of the Funds, the top ten holdings will also be accessible upon request.

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

Decision

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 Makers are satisfied that making the Decision will not adversely affect the rule-making process with respect to proposed NI 81-106.

The decision of the Decision Makers under the Legislation is that the Requested Relief is granted, provided that:

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

(b) IGIM, the Trustee or Principal Distributors shall maintain a record of the number and a summary of complaints received from Direct Securityholders about not receiving the annual financial statements and shall file on SEDAR, under the annual financial statements category, this information within 30 days after the end of each quarterly period beginning from the time of mailing the request forms and ending 12 months from the time of mailing;

(c) IGIM, the Trustee or Principal Distributor shall, if possible, maintain a record of the number of “hits” on the annual financial statements of the Funds on the www.investorsgroup.com website and shall file on SEDAR, under the annual financial statements category, this information within 30 days after the end of each quarterly period beginning from the time of mailing the request forms and ending 12 months from the time of mailing;

(d) IGIM, the Trustee or the Principal Distributors shall file on SEDAR, under the annual financial statements category, estimates of the cost savings resulting from the granting of this Decision within 90 days of mailing the request forms; and

(e) This decision shall terminate on NI 81-106 coming into force.

"Chris Besko"
Deputy Director – Legal
The Manitoba Securities Commission

Schedule "A"

INVESTORS INCOME PORTFOLIO, INVESTORS GROWTH PORTFOLIO, INVESTORS INCOME PLUS PORTFOLIO, INVESTORS GROWTH PLUS PORTFOLIO, INVESTORS RETIREMENT GROWTH PORTFOLIO, INVESTORS RETIREMENT HIGH GROWTH PORTFOLIO, INVESTORS RETIREMENT PLUS PORTFOLIO, INVESTORS WORLD GROWTH PORTFOLIO, INVESTORS CANADIAN MONEY MARKET FUND, INVESTORS U.S. MONEY MARKET FUND, INVESTORS MORTGAGE FUND, INVESTORS GOVERNMENT BOND FUND, INVESTORS CORPORATE BOND FUND, INVESTORS CANADIAN HIGH YIELD INCOME FUND, INVESTORS GLOBAL BOND FUND, INVESTORS DIVIDEND FUND, INVESTORS MUTUAL OF CANADA, INVESTORS CANADIAN BALANCED FUND, INVESTORS TACTICAL ASSET ALLOCATION FUND, INVESTORS CANADIAN LARGE CAP VALUE FUND, INVESTORS CANADIAN EQUITY FUND, INVESTORS CANADIAN ENTERPRISE FUND, INVESTORS QUEBEC ENTERPRISE FUND, INVESTORS SUMMA FUND, INVESTORS CANADIAN SMALL CAP FUND, INVESTORS CANADIAN SMALL CAP GROWTH FUND, INVESTORS CANADIAN NATURAL RESOURCE FUND, INVESTORS U.S. LARGE CAP GROWTH FUND, INVESTORS NORTH AMERICAN EQUITY FUND, INVESTORS U.S. LARGE CAP VALUE FUND, INVESTORS U.S. OPPORTUNITIES FUND, INVESTORS GLOBAL SCIENCE & TECHNOLOGY FUND, INVESTORS GLOBAL e.COMMERCE FUND, INVESTORS GLOBAL FUND, INVESTORS EUROPEAN EQUITY FUND, INVESTORS EUROPEAN MID-CAP EQUITY FUND, INVESTORS JAPANESE EQUITY FUND, INVESTORS PACIFIC INTERNATIONAL FUND, IG AGF CANADIAN GROWTH FUND, IG AGF U.S. GROWTH FUND, IG AGF ASIAN GROWTH FUND, IG AGF CANADIAN DIVERSIFIED GROWTH FUND, IG AGF CANADIAN BALANCED FUND, IG AGF CANADIAN GROWTH FUND II, IG AGF U.S. GROWTH FUND II, IG AGF INTERNATIONAL BOND FUND, IG AGF INTERNATIONAL EQUITY FUND, IG BEUTEL GOODMAN CANADIAN BALANCED FUND, IG BEUTEL GOODMAN CANADIAN EQUITY FUND, IG BEUTEL GOODMAN CANADIAN SMALL CAP FUND, IG FI CANADIAN ALLOCATION FUND, IG FI CANADIAN EQUITY FUND, IG FI U.S. EQUITY FUND, IG FI GLOBAL EQUITY FUND, IG MACKENZIE MAXXUM DIVIDEND FUND, IG MACKENZIE INCOME FUND, IG GOLDMAN SACHS U.S. EQUITY FUND, IG MACKENZIE SELECT MANAGERS CANADA FUND, IG MACKENZIE IVY EUROPEAN FUND, IG TEMPLETON WORLD BOND FUND, IG TEMPLETON INTERNATIONAL EQUITY FUND, IG TEMPLETON WORLD ALLOCATION FUND, MACKENZIE UNIVERSAL U.S. GROWTH LEADERS FUND: IG SERIES UNITS, MACKENZIE UNIVERSAL GLOBAL FUTURE FUND: IG SERIES UNITS, INVESTORS MERGERS & ACQUISITIONS FUND, ALLEGRO CONSERVATIVE PORTFOLIO, ALLEGRO MODERATE CONSERVATIVE PORTFOLIO, ALLEGRO MODERATE PORTFOLIO, ALLEGRO MODERATE AGGRESSIVE PORTFOLIO, ALLEGRO MODERATE AGGRESSIVE REGISTERED PORTFOLIO, ALLEGRO AGGRESSIVE PORTFOLIO,

ALLEGRO AGGRESSIVE REGISTERED PORTFOLIO, ALTO CONSERVATIVE PORTFOLIO, ALTO MODERATE CONSERVATIVE PORTFOLIO, ALTO MODERATE PORTFOLIO, ALTO MODERATE AGGRESSIVE PORTFOLIO, ALTO MODERATE AGGRESSIVE REGISTERED PORTFOLIO, ALTO AGGRESSIVE PORTFOLIO, ALTO AGGRESSIVE REGISTERED PORTFOLIO, INVESTORS CANADIAN PREMIUM MONEY MARKET FUND, INVESTORS GLOBAL FINANCIAL SERVICES FUND, INVESTORS PAN ASIAN GROWTH FUND and IG BISSETT CANADIAN EQUITY FUND (the "Investors Masterseries and partner Funds")

- and -

INVESTORS U.S. LARGE CAP VALUE RSP FUND, INVESTORS GLOBAL RSP FUND, INVESTORS EUROPEAN EQUITY RSP FUND, INVESTORS JAPANESE EQUITY RSP FUND, INVESTORS GLOBAL SCIENCE & TECHNOLOGY RSP FUND and IG AGF U.S. GROWTH RSP FUND (the "Investors Global RSP Funds")

- and -

*i*PROFILE CANADIAN EQUITY POOL, *i*PROFILE U.S. EQUITY POOL, *i*PROFILE INTERNATIONAL EQUITY POOL, *i*PROFILE EMERGING MARKETS POOL, *i*PROFILE FIXED INCOME POOL, *i*PROFILE GLOBAL EQUITY RSP POOL, AND *i*PROFILE MONEY MARKET POOL, (the "*i*Profile Pools")

- and -

INVESTORS CANADIAN EQUITY CLASS, INVESTORS CANADIAN ENTERPRISE CLASS, INVESTORS CANADIAN SMALL CAP CLASS, INVESTORS CANADIAN LARGE CAP VALUE CLASS, INVESTORS QUEBEC ENTERPRISE CLASS, INVESTORS CANADIAN SMALL CAP GROWTH CLASS, IG AGF CANADIAN DIVERSIFIED GROWTH CLASS, INVESTORS SUMMA™ CLASS, IG BEUTEL GOODMAN CANADIAN EQUITY CLASS, IG AGF CANADIAN GROWTH CLASS, IG MACKENZIE SELECT MANAGERS CANADA CLASS, IG FI CANADIAN EQUITY CLASS, INVESTORS U.S. LARGE CAP GROWTH CLASS, INVESTORS U.S. OPPORTUNITIES CLASS, INVESTORS U.S. LARGE CAP VALUE CLASS, IG AGF U.S. GROWTH CLASS, INVESTORS U.S. SMALL CAP CLASS, IG GOLDMAN SACHS U.S. EQUITY CLASS, IG FI U.S. EQUITY CLASS, INVESTORS GLOBAL CLASS, IG MACKENZIE UNIVERAL U.S. GROWTH LEADERS CLASS, IG MACKENZIE UNIVERSAL GLOBAL FUTURE CLASS, IG AGF INTERNATIONAL EQUITY CLASS, INVESTORS INTERNATIONAL SMALL CAP CLASS, IG MACKENZIE IVY FOREIGN EQUITY CLASS, IG FI GLOBAL EQUITY CLASS, INVESTORS EUROPEAN EQUITY CLASS, IG TEMPLETON INTERNATIONAL EQUITY CLASS, INVESTORS JAPANESE EQUITY CLASS, INVESTORS EUROPEAN MID-CAP EQUITY CLASS, INVESTORS NORTH AMERICAN EQUITY CLASS, INVESTORS PAN ASIAN GROWTH CLASS, INVESTORS PACIFIC INTERNATIONAL CLASS, IG MACKENZIE IVY EUROPEAN CLASS, IG AGF ASIAN GROWTH CLASS, INVESTORS GLOBAL CONSUMER COMPANIES CLASS, IG MACKENZIE UNIVERSAL EMERGING MARKETS CLASS, INVESTORS GLOBAL HEALTH CARE CLASS, INVESTORS GLOBAL FINANCIAL SERVICES CLASS, INVESTORS GLOBAL NATURAL RESOURCES CLASS, INVESTORS GLOBAL INFRASTRUCTURE CLASS, INVESTORS GLOBAL e.COMMERCE CLASS, INVESTORS GLOBAL SCIENCE & TECHNOLOGY CLASS, MANAGED YIELD CLASS, INVESTORS MERGERS & ACQUISITIONS CLASS and IG BISSETT CANADIAN EQUITY CLASS of Investors Group Corporate Class Inc. (the "Investors Group Corporate Class Funds")

- and -

INVESTORS REAL PROPERTY FUND

2.1.4 Power Corporation of Canada and Power Financial Corporation - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - Application by parent companies of subsidiaries that are reporting issuers for exemption from the requirement of the parent companies to file material contracts that are already filed by its subsidiaries – exemption granted subject to certain conditions.

Instruments Cited

National Instrument 51-102 Continuous Disclosure Obligations – s. 12.2(1*)*

November 19, 2004

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

AND

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

AND

IN THE MATTER OF
POWER CORPORATION OF CANADA
AND
POWER FINANCIAL CORPORATION

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Québec and Saskatchewan, (the "Jurisdictions") has received an application from Power Corporation of Canada ("PCC") and Power Financial Corporation ("PFC") (together, the "Filers") for a decision under the securities legislation of the Jurisdictions (the "Legislation") and in Québec by a revision of the general order that will provide the same result as an exemption order, that the Filers be exempt from the requirements under subsection 12.2(1) contained in National Instrument 51-102 - *Continuous Disclosure Obligations* ("NI 51-102") in regard to filing a copy of any contract material to the Filers that they or certain of the Filers' subsidiaries are parties to;

AND WHEREAS pursuant to the Mutual Reliance Review System for Exemptive Relief Applications (the "**System**"), l'Agence nationale d'encadrement du secteur financier (also known as "Autorité des marchés financiers") is the principal regulator for this application;

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

AND WHEREAS the Filers have represented to the Decision Makers that:

1. PCC was continued under the *Canada Business Corporations Act* (the "CBCA") on June 13, 1980 and is a reporting issuer in all of the provinces and territories of Canada where such concept exists;

2. The securities of PCC are listed on the Toronto Stock Exchange (the "TSX") under the trading symbol "POW";

3. PFC was continued under the CBCA on December 4, 1986 and is a reporting issuer in all of the provinces and territories of Canada where such concept exists;

4. The securities of PFC are listed on the TSX under the trading symbol "PWF";

5. The registered office of each of the Filers is located at 751 Victoria Square, Montréal, H2Y 2J3;

6. Neither of the Filers are in default of any of their respective obligations under the Legislation as a reporting issuer.

7. PCC is a publicly-traded holding company whose investments include:

   - a 66.4% interest in PFC;
   - 100% of the shares of Gesca Limitée, a Canadian publishing subsidiary of PCC;
   - 100% of the shares of Power Technology Investment Corporation, a Canadian technology and biotechnology investment subsidiary of PCC; and
   - cash, investments and other corporate assets;

8. PFC is a publicly-traded holding company whose investments include:

   - a 70.4% interest in Great-West Lifeco Inc. ("GWL"), a Canadian company, reporting issuer in all of the provinces and territories of Canada where such concept exists, whose shares are listed on the TSX under the trading symbol "GWO";
   - a 56.0% interest in IGM Financial Inc, formerly Investors Group Inc. ("IGM"), a Canadian company, reporting issuer in all

of the provinces and territories of Canada where such concept exists, whose shares are listed on the TSX under the trading symbol "IGI";

- through its wholly owned subsidiary Power Financial Europe B.V., a Netherlands company, a 50.0% interest in Parjointco N.V. ("Parjointco"), a Netherlands company; and

- an effective 27.2% interest through Parjointco in Pargesa Holding S.A., a Swiss holding company which holds interests in a selected number of large European companies and whose shares are listed on the Swiss Exchange;

9. The interests of GWL include:

- 100% of the shares of The Great-West Life Assurance Company ("GWLA"), a Canadian company, reporting issuer in all of the provinces and territories of Canada where such concept exists, which also has certain classes and series of preferred shares listed on the TSX under the trading symbols "GWL.PR.L" and "GWL.PR.O" and

- 100% of the shares of Great-West Life & Annuity Insurance Company, a private company existing under the laws of Colorado;

10. The interests of GWLA include:

- an indirect 100% interest in London Reinsurance Group Inc., a private company existing under the CBCA;

- 100% of the shares of Canada Life Financial Corporation ("CLFC"), a Canadian reporting issuer in all of the provinces and territories of Canada where such concept exists, which also has non-cumulative preferred shares listed on the TSX under the trading symbol "CL.PR";

- an indirect 100% interest in The Canada Life Assurance Company, a company existing under the CBCA; and

- a 3.5% interest in IGM;

11. The investments of IGM include:

- 100% of the shares of Mackenzie Financial Corporation, a private company existing under the *Business Corporations Act* (Ontario); and

- a 4.2% interest in GWL;

12. Each of the Filers, GWL and IGM is a constituent company of the S&P/TSX Composite Index;

13. GWL and IGM each has its' registered office in Winnipeg, Manitoba;

14. GWL and IGM are separate business units from each other and from PFC and PCC;

15. The direct and indirect subsidiaries of the Filers relevant to this application are GWL and its subsidiaries, IGM and its subsidiaries and, in the case of PCC, PFC and its subsidiaries (collectively, the "Subsidiaries");

16. Under subsection 12.2(1) of the NI 51-102, each of the Filers is required to file a copy of any contract material to the Filers that they or any of their respective subsidiaries, including the Subsidiaries, are parties to;

17. Under subsection 12.2(1) of NI 51-102, GWL, GWLA, CLFC and IGM, all subsidiaries of the Filers and Canadian reporting issuers, are also required to file a copy of any contract material to GWL, GWLA, CLFC and IGM that they or any of their respective subsidiaries are parties to;

18. Under subsection 12.2(1) of NI 51-102, PFC, a subsidiary of PCC and a Canadian reporting issuer, is also required to file a copy of any contract material to PFC that it or any of its subsidiaries is a party to;

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 pursuant to the Legislation is that:

(i) the Filers shall be exempt from the requirement under subsection 12.2(1) of NI 51-102 to file a copy of any contract material to the Filers that GWL or any of GWL's subsidiaries is a party to, provided that GWL is (a) a reporting issuer that is required to file contracts material to GWL that GWL or any of its subsidiaries is a party to; (b) listed on the TSX; and (c) a constituent company of the S&P/TSX Composite Index;

(ii) the Filers shall be exempt from the requirement under subsection 12.2(1) of NI 51-102 to file a copy of any contract

material to the Filers that IGM or any of IGM's subsidiaries is a party to, provided that IGM is (a) a reporting issuer that is required to file contracts material to IGM that IGM or any of its subsidiaries is a party to; (b) listed on the TSX; and (c) a constituent company of the S&P/TSX Composite Index;

(iii) PCC shall be exempt from the requirement under subsection 12.2(1) of NI 51-102 to file a copy of any contract material to PCC that PFC or any of PFC's subsidiaries is a party to, provided that PFC is (a) a reporting issuer that is required to file contracts material to PFC that PFC or any of its subsidiaries (other than the Subsidiaries) is a party to; (b) listed on the TSX; and (c) a constituent company of the S&P/TSX Composite Index;

(iv) the exemptions provided in this Decision to PCC are subject to the further condition that PCC shall disclose in each of its Annual Information Forms that (a) PFC, GWL and IGM, the major direct and indirect subsidiaries of PCC, are reporting issuers under Canadian securities legislation; (b) PFC, GWL and IGM are subject to the same continuous disclosure obligations as is PCC and that these obligations include the requirement to file annual and interim financial statements, material change reports and copies of material contracts; and (c) investors who wish to do so may view such documents under the respective company profiles at www.sedar.com;

(v) the exemptions provided in this Decision to PFC are subject to the further condition that PFC shall disclose in each of its Annual Information Forms that (a) GWL and IGM, the major direct subsidiaries of PFC, are reporting issuers under Canadian securities legislation; (b) GWL and IGM are subject to the same continuous disclosure obligations as is PFC and that these obligations include the requirement to file annual and interim financial statements, material change reports and copies of material contracts; and (c) investors who wish to do so may view such documents under the respective company profiles at www.sedar.com.

"Jean St-Gelais"
Président-directeur général

2.1.5 Boomerang Tracking Inc. - MRRS Decision

Headnote

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

Applicable Ontario Statutory Provisions

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

November 25, 2004

McCarthy Tétrault LLP
1170 Peel Street
Montreal, Québec H3B 4S8

Attn: Mr. Gianni Chiazzese

Dear Mr. Chiazzese:

Re: Boomerang Tracking Inc. (the "Applicant") - Application to Cease to be a Reporting Issuer under the securities legislation of Alberta, Ontario and Québec (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.

"Marie-Christine Barrette"
Chef du Service du financement des société

2.1.6 Thales - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – Application for relief from prospectus requirements in respect of certain trades in units of an employee savings fund made pursuant to an offering by French issuer – Relief from registration and prospectus requirements upon the redemption of such units for shares of the issuer – Relief from the registration and prospectus requirements granted in respect of first trade of such shares where such trade is made through the facilities of a stock exchange outside of Canada – Relief granted to the manager of the fund from the adviser registration requirement.

Applicable Ontario Statutory Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 25, 53 and 74(1).

Rules

Multilateral Instrument 45-102 Resale of Securities.

November 26, 2004

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
QUÉBEC, ONTARIO, AND NOVA SCOTIA
(THE "JURISDICTIONS")

AND

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

AND

IN THE MATTER OF
THALES
(THE "FILER")

MRRS DECISION DOCUMENT

Background

The local securities regulatory authority or regulator (the "**Decision Maker**") in each of the Jurisdictions has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the "**Legislation**") for:

(i) an exemption from the dealer registration requirements and the prospectus requirements of the Legislation so that such requirements shall not apply to:

(i) certain trades in units ("**Units**") by a compartment (the "**Compartment**") of the

Actionnariat Salarié Thales (the "**Fund**") made pursuant to the Offering (as defined below) to or with Qualifying Employees (as defined below) resident in the Jurisdictions who elect to participate in the Offering (the "**Canadian Participants**");

(ii) trades of ordinary shares of the Filer (the "**Shares**") by the Compartment to Canadian Participants upon the redemption of Units by Canadian Participants pursuant to the Offering; and

(iii) the first trade of any Shares acquired by Canadian Participants under the Offering; and

(ii) an exemption from the adviser registration requirements and dealer registration requirements so that such requirements shall not apply to the manager of the Fund, Crédit Agricole Asset Management (formerly known as Crédit Lyonnais Asset Management) (the "**Manager**"), to the extent that its activities in relation to the Offering require compliance with the adviser registration requirements and dealer registration requirements;

(collectively, the "**Requested Relief**").

Under the Mutual Reliance Review System for Exemptive Relief Applications

(a) the Québec Autorité des marchés financiers is the principal regulator for this application, and

(b) this MRRS decision document evidences the decision of each Decision Maker.

Interpretation

Defined terms contained in National Instrument 14-101 Definitions have the same meaning in this decision unless they are otherwise defined in this decision.

Representations

This decision is based on the following facts represented by the Filer:

1. The Filer is a corporation formed under the laws of France, with a head office located in Neuilly-sur-Seine (Hauts de Seine), France. It is not and has no intention of becoming a reporting issuer (or equivalent) under the Legislation. The Shares are listed on Euronext Paris and Deutsche Börse.

2. The Filer carries on business in Canada through its affiliate, Thales Canada Inc. (the "**Canadian Affiliate**" and, together with the Filer and other affiliates of the Filer, the "**Thales Group**"). The Canadian Affiliate is a direct controlled subsidiary of the Filer and is not, and has no intention of becoming, a reporting issuer under the Legislation.

3. The Filer has established "Thales 2004 Offer", a worldwide stock purchase plan for employees of the Thales Group (the "**Offering**").

4. The Offering is subject to regulatory oversight by the French Autorité des marchés financiers ("**French AMF**").

5. Only persons who have been employees of a member of the Thales Group for a minimum of three months prior to the close of the offering period for the Offering, as well as certain former employees who have retired from an affiliate of the Thales Group and who continue to hold units in French investment funds (fonds commun de placement d'entreprise or "**FCPEs**") in connection with previous employee share offerings by the Filer (the "**Former Employees**" and together with the current employees of the Thales Group, the "**Qualifying Employees**") will be invited to participate in the Offering.

6. The Fund is an existing FCPE (which is subdivided into compartments) that has been used for previous employee share offerings of the Filer. The Fund was established to facilitate the participation of Qualifying Employees who choose to participate in the Offering ("**Participants**") and to simplify custodial arrangements for such participation. The Fund is not and has no intention of becoming a reporting issuer. The Shares purchased under the Offering will be held in the Compartment. Only Qualifying Employees will be allowed to hold Units of the Compartment in amounts proportionate to their respective investments in the Compartment.

7. Under the Offering:

(a) The "**Purchase Price**" for the Shares shall be the market price (the opening price on Euronext Paris) of the Shares on the date of sale, with the date of sale to be determined by the board of directors or the president acting on behalf of the board.

(b) The Shares were acquired by the Filer under its share repurchase program. Under the terms of such program, the Filer may not sell the Shares for less than 20 euros per share. Consequently, if the market price per share at the time that the price for this Offering is fixed is lower than 25 euros per share (i.e., the sum of 20 euros plus the cost of Plan Shares (as defined below), in a ratio of one for four), the Filer will be obliged to cancel this Offering and the purchase orders will be considered void.

(c) The Compartment will apply the amount of the Purchase Price contributed by Participants to subscribe for Shares.

(d) The Participants will receive Units in the Compartment representing the Purchase Price of the Shares and the Plan Shares (as defined below). They will receive one Unit for each Share purchased.

(e) For every four Shares acquired on behalf of a Participant, the Participant will receive, via the Compartment, at the same time as he/she receives the Shares purchased via the Compartment, one Share from the Filer, such Share being paid for by the Participant's employer ("**Plan Shares**"). Fractions of Plan Shares will be allocated in the event a number of Shares other than a multiple of four Shares is purchased by the Participant via the Compartment.

(f) The maximum number of Plan Shares that can be allocated to any Participant cannot exceed a value equivalent to the lower of (i) three times the Participant's contribution, and (ii) 3,450 euros.

(g) Any dividends paid on the Shares held in the Compartment will be received by the Compartment and reinvested in additional Shares to be held in the Compartment. The value of the Units will be increased to reflect such reinvestment.

(h) For Canadian federal income tax purposes, the Canadian Participants will be deemed to receive any dividends paid on the Shares held by the Fund on their behalf, at the time such dividends are received by the Fund. This will be the case notwithstanding the reinvestment of such dividend amounts by the Fund to acquire additional Shares on behalf of Canadian Participants. Consequently, the Canadian Participants will be required to fund the tax liabilities associated with the dividends without immediate recourse to the actual dividends.

(i) The Units issued pursuant to the Offering will be subject to a hold period of approximately five years (the "**Lock-Up Period**"), subject to certain exceptions prescribed by French law (such as a release on death or termination of employment).

(j) At the end of the Lock-Up Period, or in the event of an early unwind resulting from the Canadian Participant exercising one of the exceptions to the Lock-Up Period prescribed by French law, a Canadian Participant may choose to redeem his or her Units in consideration for Shares represented by each Unit or a payment of an amount in cash equal to the then market value of the Shares represented by each Unit, or continue to hold the Units and redeem them at a later date.

(k) Participants must contribute a minimum of 120 euros in order to participate in the Offering. The total amount invested by a

Canadian Participant in the Offering cannot exceed 25% of his or her estimated gross annual remuneration for 2004 (excluding the value of the Plan Shares), although a lower limit may be established by the Canadian Affiliate.

(l) The Filer will cancel this Offering in the event of a concurrent or imminent offering of Shares to Thales Group employees by the French State. The French State is a major shareholder of the Filer (through a holding company called TSA) and, under French privatisation law, were the French State or TSA to make any market sale of the Filer's Shares, they would be obliged to make an offering of Shares to the employees of the group. The Board of Directors of the Filer has decided that if the French State makes a public announcement, prior to the sale of the Shares under the present Offering, of a sale of Shares to employees of the Thales Group in accordance with the French privatisation laws, this Offering will be cancelled and the purchase orders will be considered void.

8. The Manager is a portfolio management company governed by the laws of France. The Manager is accredited and registered with the French AMF to manage French investment funds and complies with the rules of the French AMF. The Manager is not and has no intention of becoming a reporting issuer under the Legislation.

9. The Manager may, for the Compartment's account, acquire, sell or exchange all securities in the portfolio of the Compartment. The Compartment's portfolio will consist of Shares and may include cash in respect of dividends paid on the Shares and cash equivalents that the Compartment may hold pending investments in Shares and for purposes of Unit redemptions. The Manager's portfolio management activities in connection with the Offering and the Compartment are limited to purchasing Shares from the Filer using the Purchase Price and dividends received on the Shares, and selling such Shares as necessary in order to fund redemption requests.

10. The Manager is also responsible for preparing accounting documents and publishing periodic informational documents as provided by the rules of the Fund. The Manager's activities in no way affect the underlying value of the Shares. None of the Filer, the Manager, the Canadian Affiliate or any of their employees, agents or representatives will provide investment advice to the Canadian Participants with respect to an investment in the Shares or the Units.

11. Shares issued in the Offering will be deposited in the Compartment through Crédit Lyonnais (the "**Depositary**"), a large French commercial bank subject to French banking legislation.

12. Under French law, the Depositary must be selected by the Manager from among a limited number of companies identified on a list by the French Minister of the Economy, and its appointment must be approved by the French AMF. The Depositary carries out orders to purchase, trade and sell securities in the portfolio and takes all necessary action to allow the Fund to exercise the rights relating to the securities held in its portfolio.

13. Canadian Participants will not be induced to participate in the Offering by expectation of employment or continued employment.

14. The Canadian Participants will receive an information package in the French or English language, as applicable, which will include a summary of the terms of the Offering and a tax notice containing a description of Canadian income tax consequences of subscribing to and holding the Units and redeeming Units at the end of the Lock-Up Period.

15. Upon request, Canadian Participants may receive copies of the *Document de Référence* (in French or English) filed with the French AMF in respect of the Shares and a copy of the Fund's rules (which are analogous to company by-laws). The Canadian Participants will also receive copies of the continuous disclosure materials relating to the Filer furnished to the Filer's shareholders generally.

16. There are approximately 255 Qualifying Employees resident in Canada, in the provinces of Ontario (97), Québec (155) and Nova Scotia (3), who represent in the aggregate less than 1% of the number of Qualifying Employees worldwide.

17. There will be no market for the Shares or the Units in Canada. The Units will not be listed on any exchange.

18. As of the date hereof and after giving effect to the Offering, Canadian residents do not and will not beneficially own (which term, for the purposes of this paragraph, is deemed to include all Shares held by the Compartment on behalf of Canadian Participants) more than 10% of the Shares and do not and will not represent in number more than 10% of the total number of holders of the Shares as shown on the books of the Filer.

Decision

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 Requested Relief is granted provided that:

1. the first trade in any Units or Shares acquired by Canadian Participants pursuant to this Decision, in a Jurisdiction, shall be deemed a distribution or a primary distribution to the public under the Legislation of such Jurisdiction; and

2. the first trade in Shares acquired by Canadian Participants pursuant to this Decision is executed through an exchange, or a market, outside of Canada, or to a person or company outside of Canada.

"Josée Deslauriers"
Directrice des marchés des capitaux
Autorité des marchés financiers (Québec)

2.2 Orders

2.2.1 Cogient Corp. - s. 144

Headnote

Section 144 - Revocation of cease trade order where issuer has brought filings of financial statements up to date.

Applicable Ontario Statutory Provisions

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

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

AND

**IN THE MATTER OF
COGIENT CORP.**

**ORDER
(Section 144)**

WHEREAS the securities of Cogient Corp. (the Issuer) are subject to a cease trade order made by the Director on behalf of the Ontario Securities Commission on August 20, 2004 (the Cease Trade Order);

AND WHEREAS by order of the Director dated September 1, 2004, the Cease Trade Order was partially revoked to facilitate the completion of a $175,000 debenture financing by the Issuer;

AND WHEREAS the Issuer has made application to the Commission pursuant to section 144 of the Act for an order revoking the Cease Trade Order;

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

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

1. the Issuer is a reporting issuer under the Act;

2. the authorized capital of the Issuer consists of an unlimited number of common shares (the Common Shares) and 8,000,000 preference shares (the Preference Shares) of which approximately 40,291,600 Common Shares and 2,000,000 Preference Shares are issued and outstanding;

3. the Cease Trade Order was issued as a result of the Issuer's failure to file its audited financial statements for the year ended March 31, 2004 (the Financial Statements) as required under Ontario securities law;

4. the Financial Statements were filed with the Commission on October 1, 2004;

5. except for the Cease Trade Order, the Issuer is not otherwise in default of any of the requirements of the Act or the regulations made thereunder; and

6. the Issuer was not previously subject to a cease trade order of the Commission except for a cease trade order dated September 1, 1995;

AND UPON the Director being of the opinion 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 revoked.

November 24, 2004.

"John Hughes"

2.2.2 Scotiabank Capital Trust - OSC Rule 13-502

Headnote

Issuer exempt from requirement to pay participation fees, subject to conditions.

Ontario Rules Cited

Ontario Securities Commission Rule 13-502 Fees.

IN THE MATTER OF
ONTARIO SECURITIES COMMMISSION
RULE 13-502 FEES

AND

IN THE MATTER OF
THE BANK OF NOVA SCOTIA
SCOTIABANK CAPITAL TRUST

ORDER

WHEREAS the Director has received an application from The Bank of Nova Scotia (the "Bank") and Scotiabank Capital Trust (the "Trust") for an order, pursuant to Section 6.1 of OSC Rule 13-502 Fees (the "Fees Rule"), that the requirement to pay a participation fee under Section 2.2 of the Fees Rule shall not apply to the Trust, subject to certain terms and conditions.

AND WHEREAS the Bank and the Trust have represented to the Director that:

1. The Trust is an open-ended trust established under the laws of the Province of Ontario by Computershare Trust Company of Canada, as trustee (the "Trustee"), pursuant to a declaration of trust dated March 28, 2002 (as amended and restated from time to time).

2. The Trust has a financial year-end of December 31.

3. The Trust is a reporting issuer in Ontario and, to its knowledge, is not in default of any requirement under the securities legislation of the Province of Ontario.

4. The Bank is the administrative agent of the Trust pursuant to and administration and advisory agreement dated March 28, 2002 (as amended and restated from time to time) and, in such capacity, provides advice and counsel with respect to the administration and day-to-day operations of the Trust and other matters as may be requested by the Trustee from time to time.

5. The outstanding securities of the Trust consist of (i) Special Trust Securities (the "Special Trust Securities"), which are voting securities of the Trust, (ii) Scotiabank Trust Securities – Series 2002-1 (the "Scotia BaTS II Series 2002-1"), and

(iii) Scotiabank Trust Securities – Series 2003-1 (the Scotia BaTS II Series 2003-1", together with the Special Trust Securities and the Scotia BaTS II Series 2002-1, the "Trust Securities"). All outstanding Special Trust Securities are held by the Bank. The Trust distributed 750,000 Scotia BaTS II Series 2002-1 and 750,000 Scotia BaTS II Series 2003-1 pursuant to prospectuses dated April 23, 2003 and February 6, 2003, respectively (the "Offerings"). None of the Trust Securities are listed on a stock exchange.

6. The Trust is a special purpose vehicle established solely for the purposes of effecting the Offerings in order to provide the Bank with a cost-effective means of raising capital for Canadian financial institution regulatory purposes. The assets and liabilities of the Trust are reported on the consolidated balance sheet of the Bank. The Trust does not carry on any independent business activities other than to acquire and hold assets to generate income for distribution to holders of the Trust Securities.

7. Pursuant to the MRRS Decision Document dated July 26, 2002 (the "July 26, 2002 Continuous Disclosure Exemption") granted to the Trust by the OSC, as principal regulator, on behalf of itself and other decision makers (collectively, the "Decision Makers"), the Decision Makers determined that the requirements contained in the securities legislation of the Province of Ontario and in other applicable jurisdictions (collectively, the "Legislation"):

(a) to file interim financial statements and audited annual financial statements (collectively, "Financial Statements") with the Decision Makers and deliver such statements to the holders of Trust Securities;

(b) to make an annual filing ("Annual Filing"), where applicable, with the Decision Makers in lieu of filing an information circular;

(c) to file an annual report ("Annual Report") and an information circular with the Decision Maker in the Province of Québec and deliver such report or information circular to the holders of Trust Securities resident in the Province of Québec;

shall not apply to the Trust for so long as:

(i) the Bank remains a reporting issuer under the Legislation;

(ii) the Bank files with the Decision Makers, in electronic format under the Trust's SEDAR profile, the documents listed in clauses (a) to (c) above in this paragraph 7, at the same time as they are required under the Legislation to be filed by the Bank;

(iii) the Trust pays all filing fees that would otherwise be payable by the Trust in connection with the filing of the documents referred to in clauses (a) to (c) above in this paragraph 7;

(iv) the Bank sends its Financial Statements and Annual Filing, where applicable, to holders of Trust Securities and its Annual Report to holders of Trust Securities resident in the Province of Québec at the same time and in the same manner as if the holders of Trust Securities were holders of the common shares of the Bank;

(v) all outstanding securities of the Trust are either Scotia BaTS II 2002-1 or Special Trust Securities;

(vi) the rights and obligations (other than the economic terms thereof) of holders of additional series of Scotiabank Trust Securities are the same in all material respects as the rights and obligations of the holders of the Scotia BaTS II Series 2002-1 as of the date of the Continuous Disclosure Exemption; and

(vii) the Bank or its affiliates are the beneficial owners of all Special Trust Securities;

provided that if a material adverse change occurs in the affairs of the Trust the Continuous Disclosure Exemption shall expire 30 days after the date of such change.

In addition, the Decision Makers in Ontario, Saskatchewan and Québec determined that the requirements to file an annual information form ("AIF") and annual management's discussion and analysis ("MD&A") of the financial condition and results of operation of the Trust with the Decision Makers in Ontario, Saskatchewan and Québec, an interim MD&A in Ontario and Saskatchewan and send such MD&A to securityholders of the Trust, where applicable, shall not apply to the Trust for so long as:

(i) the conditions set out in clauses (i), (v), (vi) and (vii) above in this paragraph 7 are complied with;

(ii) the Bank files its AIF and its annual and interim MD&A with the Decision Makers, as applicable, in electronic format under the Trust's SEDAR profile at the same time as they are required under the Legislation to be filed by the Bank

(iii) the Trust pays all filing fees that would otherwise be payable by the Trust in connection with the filing of documents referred to in clauses (a) to (c) above in this paragraph 7;

(iv) the Bank sends its annual and interim MD&A and its AIF, as applicable, to holders of Trust Securities at the same time and in the same manner as if the holders of Trust Securities were holders of common shares of the Bank;

and provided if a material adverse change occurs in the affairs of the Trust. The July 26, 2002 Continuous Disclosure Exemption shall expire 30 days after the date of such change.

8. Pursuant to the MRRS Decision Document dated May 28, 2004 (the "May 28, 2004 Continuous Disclosure Exemption") granted to the Trust by the OSC, as principal regulator, on behalf of itself and other Decision makers provided that the requirements contained in the legislation:

(a) to file Annual Certificates with the Decision Makers under section 2.1 of MI 52-109; and

(b) to file Interim Certificates with the Decision Makers under section 3.1 of MI 52-109;

shall not apply to the Trust for so long as:

(i) the Trust is not required to, and does not, file its own Interim filings and Annual Filings;

(ii) the Bank files with the Decision Makers, in electronic format under the Trust's SEDAR profile, the Bank's Annual Certificates and Interim Certificates at the same time as such documents are required under the Legislation to be filed by the Bank;

(iii) the Trust qualifies for the relief contemplated by, and is in compliance with, the requirements and conditions set out in the Previous Decision;

and provided that if a material adverse change occurs in the affairs of the Trust, this Decision shall expire 30 days after the date of such change.

9. The Trust was established by the bank in order to comply with the regulatory requirements of the Office of the Superintendent of Financial Institutions ("OSFI") relating to the issuance of innovative Tier 1 capital instruments (as contained in OSFI's Principles Governing Inclusion of Innovative Instruments in Tier 1 Capital dated August 2001 (the "OSFI Guideline").

10. OSFI maintains strict guidelines and standards with respect to the capital adequacy requirements of federally regulated financial institutions, including the Bank, and, in particular, specifies minimum required amounts of Tier 1 capital to be maintained by such institutions. Tier 1 capital consists of common shareholders' equity, qualifying non-cumulative perpetual preferred shares, qualifying innovative instruments and qualifying non-controlling interests arising on consolidation from Tier 1 capital instruments. Innovative instruments, such as the Scotia BaTS II Series 2002-1 and the Scotia BaTS II Series 2003-1, must satisfy the detailed requirements of the OSFI Guideline to be included in Tier 1 capital. Accordingly, the innovative instruments (Scotia BaTS II Series 2002-1 and Scotia BaTS II Series 2003-1) must be issued by a special purpose vehicle (Scotiabank Capital Trust), which is a consolidated non-operating entity whose primary purpose is to raise innovative Tier 1 capital (the Trust is included in the financial statements of the Bank on a fully-consolidated basis). OSFI approved the inclusion of the Scotia BaTS II Series 2002-1 and the Scotia BaTS II Series 2003-1 as Tier 1 capital of the Bank on April 25, 2002 and February 11, 2003, respectively.

11. No continuous disclosure documents concerning only the Trust will be filed with the OSC unless the conditions in the Continuous Disclosure Exemption are not satisfied.

12. The Trust would be required (but for this order) to pay participation fees under the Fees Rule.

13. The Bank will not issue additional Scotiabank Trust Securities through the Trust.

THE ORDER of the Director under the Fees Rule is that the requirement to pay a participation fee under Section 2.2 of the Fees Rule shall not apply to the Trust, for so long as:

(i) the Bank and the Trust continue to satisfy all of the conditions contained in the July 26, 2004 Continuous Disclosure Exemption and the May 28, 2004 Continuous Disclosure Exemption;

(ii) the Bank does not issue further securities out of the Trust; and

(iii) the capitalization of the Trust represented by the Scotia BaTS II Series 2002-1 and Scotia BaTS II Series 2003-1 is included in the participation fee calculation applicable to the Bank.

November 25, 2004.

"Cameron McInnis"

2.2.3 TigerTel Communications Inc. - ss. 83.1(1)

Headnote

Subsection 83.1(1) – issuer deemed to be a reporting issuer in Ontario – issuer has been a reporting issuer in British Columbia and Alberta since November 26, 2001 – issuer's securities are listed and posted for trading on the TSX Venture Exchange – continuous disclosure requirements of Alberta and British Columbia are substantively the same as those of Ontario.

Applicable Ontario Statutes

Securities Act, R.S.O. 1990, c. S.5, as am., s. 83.1(1).

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

AND

IN THE MATTER OF
TIGERTEL COMMUNICATIONS INC.

ORDER
(Subsection 83.1(1))

UPON the application of TigerTel Communications Inc. ("**TigerTel**") for an order pursuant to subsection 83.1(1) of the Act deeming TigerTel to be a reporting issuer for the purposes of Ontario securities legislation.

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

AND UPON TigerTel representing to the Commission as follows:

1. TigerTel's predecessor, Consolidated Technologies Holdings Inc. had been deemed an "inactive issuer" by the Canadian Venture Exchange prior to November 26, 2001 when it acquired all of the issued and outstanding shares of TigerTel Communications Inc. At the time of the acquisition, it changed its name to TigerTel Communications Corp. On May 1, 2002, TigerTel Communications Corp. amalgamated with its wholly-owned subsidiary, TigerTel Communications Inc. pursuant to the provisions of the *Canada Business Corporations Act* to form TigerTel Communications Inc.

2. TigerTel is a valid and existing company under the *Canada Business Corporations Act*.

3. The head office and registered office of TigerTel is located at 220 - 2560 Matheson Blvd. East Mississauga, Ontario L4W 4Y9.

4. TigerTel's authorized share capital consists of an unlimited number of common shares without par value. As at September 27, 2004, TigerTel had 30,625,614 common shares (the "Common Shares") issued and outstanding.

5. TigerTel has been a reporting issuer in British Columbia and Alberta since November 26, 2001. TigerTel is not a reporting issuer in Ontario or any other jurisdiction other than British Columbia and Alberta.

6. TigerTel's common shares are currently listed and posted for trading on the TSX Venture Exchange under trading symbol TTL.

7. TigerTel is in compliance with all of the requirements of the TSX Venture Exchange.

8. TigerTel has a significant connection to Ontario for the following reasons:

   i. according to a shareholder list as at November 7, 2003, prepared by TigerTel's registrar and transfer agent, CIBC Mellon Trust Co., approximately 25,300,615 Common Shares of TigerTel were registered in the names of persons having an address in the Province of Ontario, representing more than 90% of all issued and outstanding shares of the Issuer; and

   ii. TigerTel maintains its corporate head office in Mississauga Ontario, and the majority of its directors and officers reside in Ontario.

9. TigerTel has been a reporting issuer under the *Securities Act* (British Columbia) (the "BC Act") since November 26, 2001 and a reporting issuer under the *Securities Act* (Alberta) (the "Alberta Act") since November 26, 2001.

10. TigerTel is not in default of any requirements of the B.C. Act, the Alberta Act, or any of the rules and regulations thereunder, and is not on the lists of defaulting reporting issuers maintained pursuant to the B.C. Act and the Alberta Act;

11. The continuous disclosure requirements under the BC Act and the Alberta Act are substantially the same as the requirements under the Act.

12. The continuous disclosure materials filed by TigerTel under the Alberta Act and the BC Act are available on the System for Electronic Document Analyses and Retrieval. TigerTel's continuous disclosure record is up to date.

13. None of TigerTel's officers or directors nor, to the knowledge of TigerTel and its officers and directors, any of its controlling shareholders has:

   i. been the subject of any penalties or sanctions imposed by a court relating to Canadian securities legislation or a Canadian securities regulatory authority;

   ii. entered into a settlement agreement with a Canadian securities regulatory authority; or

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

14. None of TigerTel's officers or directors nor, to the knowledge of TigerTel and its officers and directors, any of its controlling shareholders, is or has been subject to:

   i. any known ongoing or concluded investigations relating by any Canadian securities regulatory authority or a court or regulatory body, other than a Canadian securities regulatory authority, that would be likely to be considered important to a reasonable investor making an investment decision; or

   ii. any bankruptcy or insolvency proceedings, or other proceedings, arrangements or compromises with creditors, or the appointment of a receiver, receiver manager or trustee, within the preceding 10 years.

15. None of TigerTel's officers or directors nor, to the knowledge of TigerTel and its officers and directors, any of its controlling shareholders, is or has been at the time of such event an officer or director of any other issuer which is or has been subject to:

   i. any cease trade or similar orders, or orders that denied access to any exemptions under Ontario securities law, for a period of more than 30 consecutive days within the preceding 10 years; or

   ii. any bankruptcy or insolvency proceedings, or other proceedings, arrangements or compromises with creditors, or the appointment of a receiver, receiver manager or trustee, within the preceding 10 years.

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

IT IS HEREBY ORDERED pursuant to subsection 83.1(1) of the Act that TigerTel is deemed to be a reporting issuer for the purposes of Ontario securities legislation.

November 19, 2004.

"Cameron McInnis"

2.3 Rulings

2.3.1 Harris Partners Limited and Harris Partners (USA) Limited - ss. 74(1)

Headnote

Trades by U.S. licensed broker dealer, which is an affiliate of Ontario registered investment dealer, exempted from requirements of clause 25(1)(a) of the Act, for trades made to persons or companies that are resident in the U.S.A., where the trade is made by the U.S. dealer (in its own right, or on behalf of another person or company resident in the U.S.) through individuals that are officers or salespersons of both the U.S. licensed dealer and Ontario registrant – Individuals must be appropriately registered to make the trade on behalf of the Ontario registrant if instead the Ontario registrant were making the trade to an Ontario resident.

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 25(1)(a), 74(1).

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

AND

IN THE MATTER OF
HARRIS PARTNERS LIMITED
AND HARRIS PARTNERS (USA) LIMITED

RULING
(SUBSECTION 74(1))

UPON the application (the "Application") of Harris Partners Limited ("Harris Canada") and Harris Partners (USA) Limited ("Harris U.S.") to the Ontario Securities Commission (the "Commission") for a ruling, pursuant to subsection 74(1) of the Act, that, where persons ("dual representatives") who are salespersons or officers of Harris U.S., who are also registered under the Act to trade on behalf of Harris Canada as salespersons or officers of Harris Canada, act on behalf of Harris U.S. in respect of trades in securities to persons or companies ("U.S. Clients") that are resident in the United States of America (the "U.S.A."), and the trade is made by Harris U.S., in its own right or on behalf of other U.S. Clients, such trades shall not be subject to clause 25(1)(a) of the Act;

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

AND UPON Harris Canada having represented to the Commission that:

1. Harris Canada, a corporation incorporated under the laws of Ontario, is registered under the Act as a dealer in the categories of "broker" and "investment dealer".

2. Harris Canada is a wholly-owned subsidiary of 2037490 Ontario Inc. ("Harris Holdco").

3. The head office (the "Ontario Office") of Harris Canada is in Ontario.

4. Harris U.S., a corporation incorporated under the laws of Ontario, is not registered under the Act.

5. Harris U.S. is a wholly-owned subsidiary of Harris Holdco.

6. Harris U.S. will operate out of the Ontario Office.

7. Harris U.S. is in the process of applying for: (a) registration as a "broker-dealer" by the Securities and Exchange Commission of the U.S.A. to carry on the business of a broker-dealer in the U.S.A., pursuant to section 15(b) of the *Securities Exchange Act of 1934* of the U.S.A., and (b) to be a member of the National Association of Securities Dealers, Inc.

8. Harris U.S. was established as a vehicle for trading in Canadian securities with U.S. Clients, the majority of whom are institutional investors.

9. Harris U.S. will not trade in securities with or on behalf of persons or companies who are resident in Canada.

10. Although dual representatives will primarily act on behalf of Harris Canada, they may also act in Ontario on behalf of Harris U.S. in respect of trades with or on behalf of U.S. Clients.

11. Where Harris U.S. trades with or on behalf of U.S. Clients, Harris U.S. and any dual representatives who acts on behalf of Harris U.S. in respect of such trade, will comply with all registration and other requirements of applicable securities legislation in the U.S.A.

12. Harris U.S. will file with the Commission such reports as to its trading activities as the Commission may from time to time require.

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

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

IT IS RULED, pursuant to subsection 74(1) of the Act, that trades in securities to U.S. Clients, that are made by Harris U.S., for itself or on behalf of other U.S. Clients, and on behalf of Harris U.S. by dual representatives, shall not be subject to clause 25(1)(a) of the Act, provided that, at the time of the trade:

(A) Harris Canada is registered under the Act as a dealer in a category that would permit Harris Canada to act as a dealer for the trade, in compliance with clause 25(1)(a) of the Act, if the trade were instead being made by Harris Canada to a person or company resident in Ontario; and

(B) the registration of the relevant dual representative(s) would permit the dual representative to act on behalf of Harris Canada in respect of such trade, in compliance with clause 25(1)(a) of the Act, if the trade were instead being made by the dual representative on behalf of Harris Canada to a person or company resident in Ontario.

November 23, 2004

"Paul M. Moore" "David L. Knight"

2.3.2 Network Portfolio Management Inc. and Dominion Equity (2004-2) Flow-Through Limited Partnership - ss. 74(1)

Headnote

Adviser registered in Alberta (and its Alberta registered representatives) exempted from the adviser registration requirement in clause 25(1)(c) of the Act for acting as an adviser to a limited partnership, subject to conditions – Conditions require that: no activities in respect of the operation of the partnership have occurred in Ontario (except for activities in respect of the distribution of units of limited partnership interest); the adviser is not ordinary resident in Ontario; all advice concerning the investing and in or the buying or selling of securities that is given by the adviser (and its representatives) to the partnership is given in Alberta; and the adviser (and its representatives) are appropriately registered in Alberta.

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 25(1)(c), 74(1).

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

AND

IN THE MATTER OF
NETWORK PORTFOLIO MANAGEMENT INC. AND DOMINION EQUITY (2004-2) FLOW-THROUGH LIMITED PARTNERSHIP

RULING
(Subsection 74(1))

UPON the application (the "Application") of Network Portfolio Management Inc. ("Network") to the Ontario Securities Commission (the "Commission") for a ruling, under section 74(1) of the Act, that neither Network nor any of its representatives or officers (each, a "Representative") shall be subject to the adviser registration requirement in clause 25(1)(c) of the Act for acting as an adviser to Dominion Equity (2004-2) Flow-Through Limited Partnership (the "Partnership");

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

AND UPON Network having represented to the Commission that:

1. Network is a corporation incorporated under the laws of Alberta.

2. Although Network is not a registrant under the Act, Network is registered under the Securities Act (Alberta) as an adviser in the categories of "investment counsel" and "portfolio manager".

3. The Partnership is a limited partnership formed under the laws of Ontario to invest in: (i) flow-through shares of resource issuers whose shares are listed on a Canadian stock exchange; and (ii) flow-through shares of private resource issuers.

4. The general partner of the Partnership is Dominion Equity Management (2004-2) Inc. (the "General Partner").

5. The General Partner is a corporation incorporated under the laws of Alberta and is an indirect wholly-owned subsidiary of Network.

6. The Partnership is not now, and does not intend to become, a reporting issuer under the Act.

7. Units ("Units") of limited partnership interest in the Partnership will be offered on a private-placement basis, by way of offering memorandum, pursuant to exemptions from prospectus requirement under the securities legislation of Ontario, Alberta and British Columbia.

8. Although the Partnership has a place of business in Ontario, the principal place of business for the Partnership is in Alberta and, except for activities related to the offering of Units, no activities in respect of the operation of the Partnership will take place in Ontario.

9. The Partnership is now, and expects to continue to be, ordinarily resident in Alberta.

10. None of the directing mind or management of the Partnership is or will be resident in Ontario.

11. Under an investment management agreement made between the General Partner, on behalf of the Partnership, and Network will act as exclusive investment manager for the portfolio of investments of the Partnership, including making all decisions related to the investment of the net proceeds available for investment from the offering of Units.

12. Any advice as to the investing in or the buying or selling of securities that is given by Network to the Partnership will be given and received in Alberta.

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

IT IS RULED, pursuant to subsection 74(1) of the Act, that neither Network, nor any Representative acting on behalf of Network, shall be subject to the adviser registration requirement in clause 25(l)(c) of the Act, in respect of their acting as adviser to the Partnership, provided that, at the relevant time:

A. no activities in respect of the operation of the Partnership have occurred in Ontario,

except for activities in respect of the distribution of Units;

B. Network is not ordinarily resident in Ontario;

C. all advice concerning the investing in or the buying or selling of securities that is given by Network, or by the Representative on behalf of Network, to the Partnership is given in Alberta;

D. Network is appropriately registered as an adviser under the *Securities Act* (Alberta) to give the advice referred to in paragraph C; and

E. the Representative is appropriately registered to act as an adviser on behalf of Network under the Securities Act (Alberta), to give the advice on behalf of Network, referred to in paragraph C.

October 19, 2004.

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

Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 Reasons for Decision

3.1.1 Murray Hoult Pollitt and Pollitt & Co. Inc.

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

AND

THE SETTLEMENT AGREEMENT WITH
Murray Hoult PollitT and Pollitt & Co. Inc.

reasons for the decision of the
ontario securities commission

Hearing:	Wednesday, November 17, 2004	
Panel:	Paul M. Moore, Q.C.	Vice-Chair (Chair of the Panel)
	Robert W. Davis	Commissioner
	David L. Knight	Commissioner
Counsel:	Kate Wooton	For Staff of the Ontario Securities Commission
	David Stevens	For Murray Pollitt and Pollitt & Co. Inc.

The following statement has been prepared for purposes of publication in the Ontario Securities Commission Bulletin and is based on the transcript of the hearing, including oral reasons delivered at the hearing on the settlement agreement between staff of the Commission and Murray Hoult Pollitt and Pollitt & Co. Inc. in the matter of Robert Cassels, Murray Hoult Pollitt and Pollitt & Co. Inc. The transcript has been edited, supplemented and approved by the chair of the panel for the purpose of providing a public record of the decision. This extract should be read together with the settlement agreement and the order signed by the panel.

Vice-Chair Moore:

[1] We have decided that this agreement is in accordance with the public interest, and, therefore, we approve the settlement agreement.

The Facts

[2] The facts are fully set out in the settlement agreement dated November 11th, 2004.

[3] Mr. Pollitt is registered in Ontario under the Act as a trading officer, and is a director and the president of Pollitt & Co. of which he is a majority shareholder.

[4] Pollitt & Co. is registered in Ontario as a securities dealer in the category of broker.

[5] The facts that gave rise to this matter occurred in 2002. In October, Scotia Capital Inc. commenced discussions with a company called United Grain Growers Limited, also known as Agricore, in respect of a $100 million convertible debenture bought deal financing. These discussions led to the formation of an underwriting syndicate to be led by Scotia and co-led by National Bank Financial. Pollitt & Co. was invited to participate in the syndicate.

[6] The key facts occurred within an hour on November 11th, 2002.

[7] At approximately 2:45 p.m. a brief conference call was convened by the lead underwriters to formally invite certain other dealers, including Pollitt & Co., to participate in the syndicate. During this call the terms of the anticipated financing were discussed.

[8] In the 15 minutes following this brief call, each of the dealers that were invited to participate, including Pollitt & Co., confirmed to the lead underwriters their participation in the deal, and at approximately 3:15 p.m. the lead underwriters presented the company with a fully syndicated bought deal.

[9] At approximately 3:26 p.m., the deal was finalized.

[10] At approximately 3:38 p.m., at Agricore's request, trading in the shares of Agricore was halted by The Toronto Stock Exchange.

[11] The underwriters and Agricore had previously discussed the issuing of a press release after the close of business at 4:00 p.m.

[12] The coupon rate on the debentures was 9%, and the conversion price was $7.50 per share. The market price at the time was $6.

[13] Mr. Pollitt concluded that the interest rate and the conversion terms would make a convertible debenture highly attractive to potential purchasers. He also considered that the convertible debenture offering would be highly dilutive to the existing shareholders of Agricore, including clients of Pollitt & Co.

[14] Mr. Pollitt called a few of his institutional clients to give them a heads-up on the forthcoming transaction.

[15] In actual fact, when the shares of Agricore resumed trading on November 12, they opened at $5.90.

They closed that day at $5.31. By the close of markets on the next day, they were trading at $5.14.

[16] Pollitt & Co.'s participation in the underwriting was to be only 3% of the offering. When the lead underwriters found out shortly after 3:00 p.m. that some institutions were making inquiries about the deal and realized that the secret was out, they immediately made inquiries to find out the source of the leak.

[17] Pollitt & Co. admitted that it had given a heads-up to some of its clients.

[18] As a result, Pollitt & Co. was excluded from the underwriting syndicate and forfeited approximately $100,000 of profits it would have otherwise made.

[19] Also as a result of this matter, Pollitt & Co. has been denied participation in other underwritings and has suffered loss of fees of approximately $200,000 in addition to the $100,000 referred to previously.

Action Contrary to the Public Interest

[20] The seriousness of the conduct is undisputed. Mr. Pollitt and Pollitt & Co. have acted contrary to the provision of the Act dealing with tipping, in particular section 76(1) of the Act.

[21] In addition, the conduct is contrary to the public interest with respect to the rules and regulations relating to pre-marketing activities in the context of a bought deal as set out in National Instrument 44-101 and also contrary to sections 53(1) and 76(2) of the Act.

Seriousness of Conduct

[22] Tipping is just as serious as illegal insider trading. It is conduct that undermines confidence in the marketplace. As a result, it is in the public interest to deal swiftly and firmly with violations that constitute tipping.

Sanctions

[23] Coming to the settlement agreement, we have to decide whether or not the proposed sanctions that have been agreed to by the parties are within the parameters of acceptability to achieve the public interest goal of deterrence and prevention.

[24] In *Committee for Equal Treatment of Asbestos Minority Shareholders v. Ontario Securities Commission,* (2002), 199 D.L.R. (4th) 577, at 590 to 591, the Supreme Court of Canada set out clearly that the purpose of the Commission's public interest jurisdiction under section 127 is neither remedial nor punitive. Accordingly, we have to be careful not to treat precedents with the rigour a court might treat sentencing guidelines when exercising a punitive jurisdiction.

Sanctions are for Prospective Purposes

[25] The Supreme Court of Canada stated in *Asbestos* that our jurisdiction, in the public interest, is protective and preventative, intended to be exercised to prevent likely future harm to Ontario's capital markets. Accordingly, we really need to look to the future and determine what sanctions are appropriate to prevent and protect against future conduct by the particular respondents and as a deterrent to other participants in the marketplace.

[26] *Re Belteco Holdings Inc.* (1998), 21 O.S.C.B. 7747 makes it clear that each case has to be decided on its particular facts. In my view this especially applies to the appropriateness of sanctions.

[27] *Re Mithras Management Ltd.* (1990), 13 O.S.C.B. 1600, at 1610-1611 makes it clear that in devising sanctions to restrain as best we can future conduct that is likely to be prejudicial to the public interest in having capital markets that are both fair and efficient, “we must, of necessity, look to past conduct as a guide to what we believe a person's future conduct might reasonably be expected to be. We are not prescient after all.”

[28] In *Mithras*, the Commission went on to observe as to certain factors that were relevant in that particular case based on past conduct that would help the Commission to decide what was likely to happen in the future and what sanctions would be appropriate.

Seriousness of Tipping

[29] In *Re M.C.J.C. Holdings and Michael Cowpland* (2002), 25 O.S.C.B. 1133, at 1134 this Commission stated:

> We have a duty to consider what is in the public interest. To do that, we have to take into account what sanctions are appropriate to protect the integrity of the marketplace where illegal insider trading has been admitted. In doing this, we have to take into account circumstances that are appropriate to the particular respondents. This requires us to be satisfied that the proposed sanctions are proportionately appropriate with respect to the circumstances facing the particular respondents.

[30] As I said earlier, we regard tipping as seriously as we do illegal insider trading. The quote from *Cowpland* is equally applicable to the case before us today.

Appropriate Factors for Sanctioning

[31] In *Belteco* the Commission set out six factors that may be relevant in considering appropriate sanctions: 1) the seriousness of the allegations; 2) a respondent's experience in the marketplace; 3) the level of a respondent's activity in the marketplace; 4) whether or not there has been a recognition of the seriousness of the improprieties; 5) whether or not the sanctions imposed may serve to deter not only those involved in the case being contested but any like-minded persons from engaging in

similar abuses in the capital markets; and, 6) any mitigating factors.

[32] *Cowpland* set out six additional factors that may also be relevant: 7) the size of any profit or loss avoided from the illegal conduct; 8) the size of any financial sanctions or voluntary payment when considering other factors; 9) the effect any sanction might have on the livelihood of a respondent; 10) the restraint any sanctions may have on the ability of a respondent to participate without check in the capital markets; 11) the reputation and prestige of the respondent; and, 12)the shame or financial pain that any sanction would reasonably cause to the respondent and the remorse of that respondent.

Acceptability of Agreed Sanctions

[33] The role of the Commission in reviewing a settlement agreement is not to substitute the sanctions it would impose in a contested hearing for what is proposed in the settlement agreement, but rather to make sure the agreed sanctions are within acceptable parameters: *Re Sohan Singh Kooner et al*, (2002) 25 O.S.C.B. 2691 at 2692.

[34] We believe it is particularly important in this case to give great weight to staff's views of what might happen in the future with respect to these respondents. Staff has worked closely with the respondents over the last two or three months in coming to the settlement agreement. While this panel must form its own opinion and needs to look at all factors and the views of staff are only one of those factors – in this case we do give great weight to the views of staff.

[35] The agreed sanctions are at the lighter end in the panoply of severity that has been applied in past cases. We agree with staff and respondents' counsel that there are significant mitigating factors in this case.

[36] The conduct complained of was an isolated incident. It occurred over a very short period of time, and the respondents have been most cooperative right from the start.

[37] One of the objectives of law enforcement is speed and efficiency. We note that the statement of allegations in this matter was issued three months ago and this matter was ready to be brought on in short order. Therefore, the cooperation of the respondents has been significant in meeting the objective of a speedy resolution of this matter.

[38] We note that Pollitt & Co. is a relatively small dealer and has suffered substantial financial pain as a result of the conduct it has engaged in because of the adverse publicity and the immediate impact on its business.

[39] We note also that immediately upon the matter coming to light, Pollitt & Co. retained Cassels Brock Regulatory Consultation Inc. to review its practices and procedures and has agreed, as part of the sanctions, to have the recommendations made by the consulting firm reviewed to see that they have been properly implemented.

[40] We note that the conduct of the respondents was not directly for their own profit but was for the profit of their clients, and, in particular, they do not appear to have made any financial gains from their wrongdoing.

[41] The respondents have not been the subject of any proceedings before the Commission or, as far as we know, any other regulatory body. So, as I said before, this does appear to be an isolated incident.

[42] The respondents recognize the seriousness of what they have done.

[43] We believe that the sanctions proposed are appropriately proportionate with regard to these respondents.

[44] Accordingly, we will issue an order to the following effect as agreed to in the agreed statement of facts: 1) pursuant to clause 1 of subsection 127(1) of the Act, the registration of the respondent Murray Pollitt as a trading officer will be suspended effective the close of business today for a period of 30 days; 2) pursuant to subsection 127(2) and further to a review of its practices and procedures in 2002 and 2003, Pollitt & Co. will retain Cassels Brock Regulatory Consulting Inc., at its sole expense, to ensure that its revised practices and procedures have been properly implemented and to ensure that compliance staff and trading officers are properly trained in their obligations, roles, and responsibilities; 3) pursuant to clause 6 of subsection 127(1) of the Act, the respondents will be reprimanded by the Commission; and, 4) pursuant to section 127.1 of the Act the respondents or either of them will make payment by certified cheque to the Commission in the amount of $27,000 in respect of a portion of the costs of the investigation and proceeding in relation to this matter.

[45] Before I ask Mr. Pollitt to rise so I can admonish him and administer the reprimand, Commissioner Davis has a comment.

Commissioner Davis:

[46] Thank you, Mr. Chair. In considering the evidence before us, in particular that there is no direct benefit that has been derived - and in fact there have apparently been substantial costs to the respondents of $327,000 based on the evidence - I certainly agree that the proposed sanctions are appropriate.

[47] I'd like to observe, however, that there were obviously reputational costs. Those are difficult to measure. But motivation to do this might go beyond direct benefits and include indirect – and, again, probably immeasurable – benefits, the major one of which could be or would be maintaining or enhancing the goodwill of clients. So I'd just like that comment to be on the record.

Vice-Chair Moore:

[48] Mr. Pollitt, you and Pollitt & Co. are hereby reprimanded. I know that you understand the seriousness

of what you have done and that you intend, henceforth, to keep your previously unblemished record free from blemish. Thank you. You may sit down.

November 17th, 2004.

"Paul M. Moore"

3.1.2 Robert Cassels

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

AND

THE SETTLEMENT AGREEMENT
WITH ROBERT CASSELS

REASONS FOR THE DECISION OF THE
ONTARIO SECURITIES COMMISSION

Hearing: Wednesday, November 17, 2004

Panel:	Paul M. Moore, Q.C.	Vice-Chair (Chair of the Panel)
	Robert W. Davis	Commissioner
	David L. Knight	Commissioner
Counsel:	Kate Wooton	For Staff of the Ontario Securities Commission
	David Roebuck	For Robert Cassels
	Wendy Berman	

The following statement has been prepared for purposes of publication in the Ontario Securities Commission Bulletin and is based on the transcript of the hearing, including oral reasons delivered at the hearing on the settlement agreement between staff of the Commission and Robert Cassels in the matter of Robert Cassels, Murray Hoult Pollitt and Pollitt & Co. Inc. The transcript has been edited, supplemented and approved by the chair of the panel for the purpose of providing a public record of the decision. This extract should be read together with the settlement agreement and the order signed by the panel.

Vice-Chair Moore:

[1] This is a hearing under section 127 of the Act for the Commission to consider whether it is in the public interest to approve a proposed settlement agreement between staff and the respondent, Robert Cassels, and to make an order approving the sanctions agreed to by staff and Cassels in relation to Cassels' conduct.

[2] We approve the settlement agreement as being in the public interest.

[3] It's important to note that staff have chosen not to proceed against Cassels in respect of the insider trading allegations set out in the statement of allegations.

[4] Staff advised that, looking at the relevant telephone call transcript reflecting the conduct in question and recognizing the possibility of different interpretations, it is staff's interpretation that there was no dishonesty intended, that the intention was to do what was right but that there was a lot of confusion and negligence in communicating instructions.

[5] Counsel for Cassels pointed out that Cassels recognizes that as a registrant he should be held to a higher standard of competency in this question of communication than a member of the public and that he acknowledges that his conduct was not appropriate for a registrant.

[6] Therefore, the settlement agreement before us today is not based on illegal insider trading, but on a violation of the spirit of section 2.1 of the Act. That section refers to the primary mandate of the Commission to maintain high standards of fitness and business conduct to ensure honest and responsible conduct by market participants.

[7] Although no specific section of the Act is alleged as having been violated, staff and the respondent agree that the respondent, who was a registrant, failed to maintain high standards of fitness and business conduct, through negligence on his part.

[8] We accept staff's interpretation of the telephone call transcript.

[9] There are several statements in the transcript, such as questions as to whether what Mr. Cassels was suggesting would be all right or not, and also some suggestions that before any action be taken the registered representative to whom he was talking check back with him. That didn't happen. It was a case of the horse getting out of the barn before the doors were opened.

The Facts

[10] Briefly, the facts were that Cassels is registered in Ontario as an investment counsel and portfolio manager with the firm of Cassels Investment Management Inc. He is an officer and director and is a majority shareholder of that company. He serves as chief compliance officer and ultimate responsible person.

[11] On November the 11th, 2002 at approximately 3:08 p.m. Cassels received a voice mail from Pollitt & Co., a registered dealer, advising of a $100 million convertible debenture issue proposed as a bought deal financing for Agricore and indicated that if Cassels was interested in participating in the deal he should contact Pollitt & Co..

[12] At approximately 3:14 p.m. Cassels spoke again with Pollitt & Co. and was advised of the terms of the bought deal. At the time of these communications, Cassels Investment Management held just under 70,000 shares of Agricore on behalf of various clients.

[13] At approximately 3:26 p.m., Cassels called his registered representative at another dealer and during the course of the telephone conversation between Cassels and the registered representative of the other dealer, Cassels explored the possibility of selling shares because he expected that the price of the stock could drop. An excerpt of the actual telephone call transcript is set out in the agreed statement of facts.

[14] It is key to note that the end of the conversation between Mr. Cassels and the registered representative, the question was asked whether there was a lower limit of price. Cassels said he wasn't sure what the lower limit was. The registered representative said: “Okay. Let me come back.” And then Cassels said: “And maybe we just have to go on the market, but maybe you could get a bid for it, I don't know.” The registered representative said: “Sure, I'll find out.” And Cassels said: “Okay, thanks. Will you call me on my cell?” And the registered representative said: “Perfect.”

[15] At approximately 3:30 p.m. a sell ticket was issued by the registered representative to sell 69,750 shares of Agricore on behalf of Cassels Investment Management. At approximately 3:32 p.m. 3,700 shares of Agricore were sold on the market at $6. The convertible price, by the way, under the debenture was above that. The market price at the time was $6, and subsequently the price went lower.

[16] Immediately following this conversation, Cassels called Agricore at approximately 3:36 p.m. to ascertain whether the issue was public. He was unable to find anybody knowledgeable at Agricore.

[17] Subsequent to the trade taking place, at approximately 3:34 p.m. the registered representative spoke with his superior at his dealer about his discussions with Cassels. Immediately following this conversation, at 3:38 p.m., the registered representative called Cassels and left a message advising that he did not think he could go ahead and sell the stock without further clarification in respect of the information known to Cassels.

[18] Shortly after the registered representative left Cassels the message, Cassels contacted the registered representative at 3:40 p.m. and advised that he agreed the stock should not be sold without further clarification.

[19] At approximately 3:38 p.m. while the registered representative was leaving the message referred to above, trading in shares of Agricore was halted by The Toronto Stock Exchange.

[20] After 4:00 p.m. Cassels learned that the registered representative had sold some stock, and that trading in the stock had been halted.

[21] We accept as a fact that it was not Cassels' intention at the time to place an order to sell Agricore shares until he ascertained whether the bought deal was public and what the market conditions were. We accept the factual submissions of staff and Mr. Cassels that this was a question of negligent behaviour and not dishonesty on his part.

Acceptability of Agreed Sanctions

[22] Staff and Cassels have agreed to the following sanctions: 1) pursuant to clause 1 of subsection 127(1) of the Act, the registration granted to Cassels under the Act will be suspended for a period of 30 days effective from the

date of the order of the Commission approving the settlement agreement; 2) pursuant to clause 127(2) of the Act, Cassels will be required to successfully complete the Canadian Securities Institute's Conduct and Practices Handbook Course within one year of the date of the order of the Commission approving the settlement agreement; 3) pursuant to clause 6 of subsection 127(1) of the Act, Cassels will be reprimanded by the Commission; 4) pursuant to section 127.1 of the Act, Cassels agrees to make payment by certified cheque to the Commission in the amount of $6,000 in respect of a portion of the costs of the investigation and proceeding in relation to this matter; and, 5) Cassels has agreed to attend in person to receive the reprimand.

[23] I'm not going to refer to the law in this matter other than to say we set out the relevant considerations in the hearing that approved a settlement agreement with Pollitt and Pollitt & Co. Inc., prior to this hearing. As we concluded in Pollitt, the mandate of the Commission is to act in the public interest on a preventative and protective basis looking to future conduct based on past conduct. It is not to punish or remediate.

[24] The Commission has held that in determining sanctions, prior decisions should be viewed cautiously as each case must depend on its particular facts. I refer specifically to *Re Belteco Holdings Inc.* (1998), 21 O.S.C.B. 7747.

[25] It is not very instructive to look at other cases because of the uniqueness of the fact situation in this case.

[26] We have a dual role as a Commission: to be fair and honest to investors as well as to registrants.

[27] We accept the submission of counsel for Cassels that his reputation is a very important asset and has been harmed in this matter. There's no reason why it should be harmed further by inappropriate sanctions.

[28] One mitigating factor is that the conduct in question was not only an isolated event, but it happened in a brief span of time with the suggestion at the end of the telephone call that decisions discussed were not final. The registered representative would check back. The time frame is from 3:08 p.m. to approximately three quarters of an hour later.

[29] Although Cassels' conduct was contrary to the public interest, it was not at the high end of the spectrum in terms of seriousness.

[30] We have no reason to believe that such conduct will be undertaken again in the future or that somehow the conduct indicates unfitness to continue as a registrant. We do, however, think it is appropriate that Cassels take the course he has agreed to take.

[31] We note that Cassels is remorseful for his conduct. He has approximately 14 years of experience in the industry. As we said, his reputation has already suffered.

[32] Finally, I'd like to observe that one of the objectives of the securities regulation system is to deal speedily with aberrations of conduct among market participants. We note that this matter, partly through the cooperation of Cassels, has been brought on quickly. That is to be encouraged, and the fact that Cassels has been very cooperative right from the start is an indication to us that he is truly remorseful for what happened.

[33] Taking all these facts into consideration, we are very comfortable in approving this settlement agreement as being in the public interest. Commissioner Knight, do you have a word or two you'd like to say?

Commissioner Knight:

[34] Thank you, Mr. Chairman, I do. Coming back to the one-year period that the draft order would allow for completion of this course, as I said earlier, I think one year is a long time, and my concern is not sufficient to not approve the order, but do I urge Mr. Cassels to get on with it and to complete that program as soon as is reasonably possible. Thank you.

Vice-Chair Moore:

[35] Mr. Cassels, would you please stand? Mr. Cassels, you've heard the proceedings today. You are remorseful. You have learned a lesson. We hereby reprimand you and trust that you will not conduct yourself in this way in the future.

November 17th, 2004.

“Paul M. Moore”

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
CDA International Inc.	23 Nov 04	03 Dec 04		
DXStorm.com Inc.	24 Nov 04	06 Dec 04		
Tengtu International Corp.	23 Nov 04	03 Dec 04		
Terra Industries Inc.	23 Nov 04	03 Dec 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
MDC Partners Inc.	19 Nov 04	02 Dec 04			
Straight Forward Marketing Corporation	18 Nov 04	01 Dec 04			
Star Navigation Systems Group Ltd.	18 Nov 04	01 Dec 04			
ECLIPS Inc.	08 Nov 04	22 Nov 04		23 Nov 04	
Argus Corporation Limited	25 May 04	03 Jun 04	03 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		
Nortel Networks Corporation	17 May 04	31 May 04	31 May 04		
Nortel Networks Limited	17 May 04	31 May 04	31 May 04		

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Chapter 5

Rules and Policies

5.1.1 Notice of National Policy 41-201 Income Trusts and Other Indirect Offerings

NOTICE OF NATIONAL POLICY 41-201
INCOME TRUSTS AND OTHER INDIRECT OFFERINGS

December 3, 2004.

Notice of Policy

The Ontario Securities Commission (the Commission), together with other members of the Canadian Securities Administrators (the CSA or we), has, under section 143.8 of the *Securities Act* (Ontario) (the Act), adopted National Policy 41-201 Income Trusts and Other Indirect Offerings (the Policy).

The Policy will be adopted on December 3, 2004.

Background

On October 24, 2003, the CSA published a proposed version of the Policy for comment (the Draft Policy). During the comment period, which ended on December 23, 2003, we received 21 comment letters. We received 3 comment letters after the expiry of the comment period.

Substance and purpose of the Policy

The Policy provides guidance and clarification to market participants about income trusts and other indirect offering structures. The CSA wants to ensure that everyone investing in income trust offerings has access to sufficient information to make an informed investment decision. We believe that it is beneficial to express our view about how the existing regulatory framework applies to non-corporate issuers (such as income trusts) and to indirect offerings, in order to minimize inconsistent interpretations and better ensure that the intent of the regulatory requirements is preserved.

We note that legislative changes in Alberta relating to the concepts of insider and control, as well as unitholder liability, clarify the framework for income trusts in Alberta. Similar legislation is being considered in Ontario and British Columbia.

Summary of changes to the Draft Policy

After considering the comments received, we have made changes to the Draft Policy. As these changes are not material, we are not republishing the Policy for a further comment period. The CSA plans to revisit the Policy in approximately two years.

This section describes changes made to the Draft Policy. We have considered the comments received and thank all the commenters. The names of the commenters and a summary of their comments, together with our responses, are contained in Appendices A and B to this notice. We have attached a blacklined version of the Policy (blacklined against the Draft Policy) as Appendix C to this notice.

Introduction

We have revised section 1.1 of the Policy to clarify the reasons for drafting a policy rather than a rule.

Definition of income trust

We have deleted the reference to “substantially all” in section 1.2 to reflect situations where a unitholder is entitled to less than substantially all of the net cash flows generated by an operating entity.

We have added language to clarify that the Policy is not intended to apply to issuers of asset-backed securities or capital trust securities.

Description of direct and indirect offerings

We have made several drafting changes to make the distinction between direct and indirect offerings clearer.

Risk factors

We have added a section relating to risk factors, in which we remind issuers to disclose relevant risk factors in the prospectus.

We have added a recommendation about the risk factor relating to the potential inapplicability of insolvency and restructuring legislation in the trust context.

Distributable cash

We have replaced the term "non-taxable" with "tax-deferred".

We have determined that the more specific breakdown between "return on" and "return of" capital is more appropriate in the context of continuous disclosure documents, such as MD&A. In the context of the initial offering document, we recommend that issuers provide that breakdown, if a forecast has been prepared. If no forecast has been prepared, we recommend that issuers provide cover page disclosure which explains to investors that the distribution will contain a breakdown of both a "return on" and "return of" capital.

Non-GAAP measures

Since publication of the Draft Policy on October 24, 2003, the CSA published CSA Staff Notice 52-306 – *Non-GAAP Financial Measures*. We have revised section 2.5 of the Policy accordingly.

Material debt

We have revised the Policy to ensure that all material debt, regardless of term length, is captured. We also clarify that only material credit agreements need to be filed.

We have revised the Policy to capture debt incurred by an entity other than the operating entity.

Stability ratings

We have removed the recommendation for issuers to include disclosure about the absence of a stability rating, and the reasons for not obtaining one.

Determination of unit offering price

We have clarified the Policy to explain that the valuation section applies in the context of an initial public offering rather than in the context of subsequent offerings and acquisitions.

Continuous disclosure

As a result of recent amendments to OSC Rule 61-501 and Autorité des marchés financiers' (AMF) regulation entitled Policy Statement Q-27, we have removed the reference to OSC Rule 61-501 and AMF's regulation entitled Policy Statement Q-27.

Management's Discussion and Analysis (MD&A)

We have added a section to the Policy relating to MD&A, specifically about our recommendations relating to MD&A disclosure about risks and uncertainties, and about distributed cash.

Comparative financial information

Section 3.2 of the Policy was revised to take into account the issuance on March 19, 2004 by the Canadian Institute of Chartered Accountants' Emerging Issues Committee (EIC) of EIC Abstract 145 - Basis of Accounting for Assets Acquired Upon the Formation of an Income Trust, applicable for transactions initiated on or after January 1, 2004.

Prospectus liability

We have clarified that we are not amending the legislative definition of promoter through the Policy. We have also elaborated upon concerns relating to the use of contractual representations and warranties in scenarios where active vendors that would be akin to selling security holders in a direct offering have not signed a prospectus certificate.

Sales and marketing materials

We have removed the exclusion of "return of capital" from the definition of "yield".

Corporate governance

We have added a section entitled "Corporate governance" to deal specifically with governance issues in the income trust context. In particular, we have added guidance about the investor confidence initiatives, and about broader corporate law concerns.

Questions

Please refer your questions about the Policy to any of:

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APPENDIX A
TO NOTICE

LIST OF COMMENTERS ON
NATIONAL POLICY 41-201
INCOME TRUSTS AND OTHER INDIRECT OFFERINGS

1. Canadian Association of Income Funds by letter dated Nov. 26, 2003
2. ARC Energy Trust by letter dated Dec. 7, 2003
3. Pension Investment Association of Canada by letter dated Dec.12, 2003
4. Government of Alberta, Revenue by letter dated Dec. 16, 2003
5. Canadian Oil Sands by letter dated Dec. 17, 2003
6. CIPPREC by letter dated Dec. 19, 2003
7. Gluskin Sheff + Associates Inc. by letter dated Dec. 22, 2003
8. Fasken Martineau DuMoulin LLP by letter dated Dec. 23, 2003
9. McCarthy Tétrault LLP by letter dated Dec. 23, 2003
10. Torys LLP by letter dated Dec. 23, 2003
11. Osler, Hoskin & Harcourt LLP by letter dated Dec. 23, 2003
12. Burnet, Duckworth & Palmer LLP by letter dated Dec. 23, 2003
13. Standard & Poor's by letter dated Dec. 23, 2003
14. RBC Capital Markets by letter dated Dec. 23, 2003
15. Goodman & Company by letter dated Dec. 23, 2003
16. Blake, Cassels & Graydon LLP by letter dated Dec. 23, 2003
17. Financial Executives International by letter dated Dec. 23, 2003
18. TSX Group by letter dated Dec. 23, 2003
19. Harvest Energy Trust by letter dated Dec. 23, 2003
20. Signature Funds by letter dated Dec. 19, 2003
21. William E. Hewitt, CFA by letter dated Dec. 23, 2003
22. Fraser Milner Casgrain LLP by letter dated Dec. 23, 2003*
23. Ross Smith Energy Group Ltd. by letter dated Jan. 19, 2004*
24. British Columbia Investment Management Corporation by letter dated Jan. 14, 2004*

* These comment letters were received after the expiry of the 60-day comment period.

APPENDIX B
TO NOTICE

NATIONAL POLICY 41- 201 INCOME TRUSTS AND OTHER INDIRECT OFFERINGS (THE POLICY)
COMMENTS RECEIVED DURING 60-DAY COMMENT PERIOD COMMENCING
OCTOBER 24, 2003 AND ENDING DECEMBER 23, 2003

No.	Theme	Comment	Response
1.	General support for initiative (Part 1 - General)	The majority of the commenters express general support for the initiative and the format of the Policy.	The CSA acknowledges the support of the commenters.
2.	Format of Policy (Part 1 - General)	One commenter suggests adding a summary of the core guidance, in order to allow market participants to quickly access the "required elements" without reading the entire document. Several commenters note that the separation of the descriptive portion of the Policy from other sections of the Policy might be beneficial to investors. However, the majority of commenters encourage the CSA to retain the current format of the Policy, noting that the Policy is easy to follow in its current format.	We have decided to retain the current format of the Policy because the majority of commenters support the format.
3.	Scope of Policy – acceptable and suggestion to expand (Part 1 - General)	A number of commenters express support and agreement with respect to the scope of the Policy, while a few commenters suggest expanding the scope of the Policy to include governance issues. In particular, one commenter recommends that the Policy be expanded to clarify how the existing rules regarding audit Committees and CEO/CFO certifications under Multilateral Instrument *Certification of Disclosure in Issuers' Annual and Interim Filings* (MI 52-109) and Multilateral Instrument 52-110 *Audit Committees* (MI 52-110) apply to trusts.	We appreciate the expressions of support for the scope of the Policy. We have added a section to the Policy to deal specifically with governance issues. In particular, we have added the following recommendations: 1. that issuers provide prospectus disclosure about how they intend to comply with MI 52-109, MI 52-110, proposed Multilateral Policy 58-201 *Effective Corporate Governance* (MP 58-201) and proposed Multilateral Instrument 58-101 *Disclosure of Corporate Governance Practices* (MI 58-101), where those instruments are applicable, and 2. that issuers disclose whether a unitholder has substantially the same protections, rights and remedies as a shareholder and if not, explain how those protections, rights and remedies differ.
4.	Scope of Policy - too broad (Part 1 - General)	One commenter notes that the stated scope of the Policy is overly broad because market participants may be uncertain about how the Policy may apply to a particular transaction. The same commenter recommends that specific examples be provided about what is meant by "structures in other contexts".	Section 1.1 of the Policy specifically refers to the reorganization of a corporate entity into a trust as one example of the income trust structure "in other contexts". As noted in section 1.1 of the Policy, we expect issuers to apply the principles described in the Policy to the income trust structure in other contexts such as reorganizations.
5.	Scope of Policy - policy versus rule (Part 1 -	A number of commenters express a concern that the Policy is framed as a policy rather than as a rule. One commenter points to specific sections within the Policy that contain "prescriptive"	We have revised section 1.1 of the Policy to clarify the reasons for drafting a policy rather than a rule. We explain that the existing regulatory framework applies to income

No.	Theme	Comment	Response
	General)	language. One commenter suggests that the CSA explain within the Policy that it has been implemented as a policy rather than a rule because the CSA believes that the existing regulatory framework captures the issues relating to income trusts and other indirect offerings. One commenter suggests that more prescriptive language be used in the Policy (ie, "require" rather than "expect" or "encourage', as lead-in language).	trusts and other indirect offering structures, and that the Policy has been drafted to guide issuers and their counsel in applying this framework. We intentionally use language that provides guidance and recommendations since we have drafted a policy rather than a rule. The purpose of a policy is to provide guidance and recommendations, based on existing legislative requirements, whereas the purpose of a rule is to provide mandatory requirements. Since we have drafted a policy rather than a rule, and based on existing case law (such as *Ainsley Financial Corp.* v. *Ontario (Securities Commission)* (1994), 21 O.R. (3d) 104), we do not consider it appropriate to make the language in the Policy more prescriptive.
6.	Republication of Policy (Part 1 - General)	One commenter suggests that the Policy be revisited after the resolution of the "unlimited liability issue" and/or the inclusion of income trusts in the S&P/TSX Composite Index.	We believe that this guidance is important to market participants at this time due to the large number of income trust offering structures in the current market. This does not preclude us from revisiting issues relating to income trusts in the future. We will continue to monitor legislative initiatives and will update the Policy to make necessary changes. We welcome commenters' continued input in this regard. We also note that legislation relating to unitholder liability has been passed in Alberta, and similar legislation relating to unitholder liability is being considered in Ontario and in British Columbia. In Québec, provisions relating to unitholder liability were enacted in 1994 and are provided for in the Civil Code of Québec.
7.	Scope of Policy - reorganiza-tions (Section 1.1)	One commenter notes that the Policy should not apply to reorganizations of a trust and its subsidiaries unless there is an issuance to the public of securities.	In a reorganization, security holders are asked to make a decision about a proposed transaction that will affect their security holdings in the issuer. The information circular that describes the reorganization is required to contain prospectus-level disclosure. The Policy explains what information should be considered so that this standard is met.
8.	Purpose of Policy (Section 1.1)	One commenter suggests that the CSA add language to the Policy to clarify when and how issuers using a direct offering structure should follow the guidance described in the Policy.	The legislative framework applies in the context of both direct and indirect offering structures, but the Policy is intended to specifically provide guidance within the existing framework for income trusts and other indirect offering structures. Rather than adding clarifying language, and to avoid potential confusion, we have deleted the sentence that refers to direct offering structures.

No.	Theme	Comment	Response
9.	Definition of income trust (Section 1.2)	One commenter suggests stating that the entitlement to substantially all of the cash flow from the operating entity may be in the form of a royalty payment, interest payments, or dividends. We have also received suggestions from several advisory committees to delete the reference to "substantially all" in section 1.2 of the Policy.	We have decided to retain the current language. Our intention is to have a flexible definition of distributable cash that captures different forms of cash flow. We have deleted the reference to "substantially all" in section 1.2 to reflect situations where a unitholder is entitled to less than substantially all of the net cash flows generated by an operating entity.
10.	Definition of "operating entity" (Section 1.3)	One commenter notes that the definition of "operating entity" is broad enough to capture most special purpose issuers of asset-backed securities, although those issuers distribute debt rather than equity. The commenter suggests that there be an exemption for issuers of asset-backed securities with an approved rating, as such terms are defined in National Instrument 44-101 – *Short Form Prospectus Distributions*.	We have added language to clarify that the Policy is not intended to apply to issuers of asset-backed securities or capital trust securities.
11.	Definition of "operating entity" (Section 1.3)	One commenter suggests that clarifying language be added to the Policy to explain that only the material subsidiaries of operating entities are meant to be captured by the Policy. For example, the commenter notes that if there are subsidiary entities which constitute less than 20 per cent of the overall consolidated operations of a trust, there should not be specific disclosure (such as separate financial statements or detailed disclosure) required in relation to those smaller entities if those smaller entities comprise a different segment of the business.	The Policy does not require information about non-material subsidiaries of the operating entity. We note that section 3.1(i) of the Policy, in the context of the undertaking relating to financial statements (and where consolidation is not permitted), states that as long as the operating entity (including information about any of its significant business interests) represents a significant asset of the income trust, the income trust will provide unitholders with separate financial statements for the operating entity (and any of its significant business interests).
12.	Description of direct and indirect offerings (Section 1.6)	The majority of commenters agree that the description of direct and indirect offerings is clear. However, a number of commenters note that the distinction could be made clearer. One commenter notes that more emphasis should be placed on the broad tenet that indirect offerings, regardless of differences due to legal structures, are not different from direct offerings when it comes to the obligation of reporting requirements for public issuers.	We have made several drafting changes to make the distinction between direct and indirect offerings clearer. In particular, we have noted that although the existing regulatory framework properly captures both direct and indirect offerings, the purpose of the Policy is to provide guidance and clarification to market participants about how we believe the existing regulatory framework should be applied within the context of income trusts and other indirect offerings.
13.	Risk factors (Part 2 - General)	A number of commenters note that current prospectus requirements already provide the necessary guidance about risk factors, except in relation to unique features of income trusts such as the potential for unlimited liability and the fact that income trusts potentially distribute a significant portion of their cash flow. Several commenters agree that it is appropriate to give guidance on operating entity related risk factors. They believe that only limited guidance on particular risk factors is warranted and if given, should emphasize that the guidance is not exhaustive.	We agree that it is appropriate to provide only limited guidance on risk factors. We agree that risk factors relating to the operating entity, the non-assured nature of distributable cash, and the fact that income trusts potentially distribute a significant portion of their cash flow are significant.

No.	Theme	Comment	Response
		Several commenters recommend giving greater prominence to the disclosure of risk factors by encouraging the placement of risk factors closer to the front, rather than at the end, of the prospectus.	We have decided not to encourage issuers to provide risk factor disclosure closer to the front because we believe that the summary of risk factors in the "Prospectus Summary" section provides sufficient information at the front of the prospectus. We have, however, forwarded this comment to a CSA committee that is currently revisiting the prospectus requirements because we believe that this issue is not unique to income trusts.
14.	Risk factors - insolvency and restructuring legislation (Part 2 - General)	One commenter recommends the inclusion of a specific risk factor regarding the potential inapplicability of insolvency and restructuring legislation in the trust context.	We agree that there is uncertainty about whether insolvency and restructuring legislation is applicable in the trust context. We have added a recommendation about this potential risk factor within the new "Risk Factors" section.
15.	Risk factors - disclosure of all relevant risk factors (Part 2 - General)	One commenter notes that several key documents are filed after the offering has closed and is concerned that issuers may not be providing disclosure about those documents in the prospectus.	We agree that all relevant risks relating to the offering should be disclosed in the prospectus, regardless of when the executed documents are filed.
16.	Distributable cash (Sections 2.1 - 2.4)	A number of commenters suggest that sections 2.2 and 2.4 of the Policy be revised to explain that distributions classified as a return of capital reduce the cost base of the units and should be referred to as "tax-deferred" rather than "non-taxable" returns of capital. In particular, one commenter notes that this point is particularly relevant in the context of REITs because a large portion of the distributions of many REITs constitute "tax-deferred" returns of capital (such as returns sheltered by the application of capital cost allowance to buildings and equipment).	We understand that many commenters prefer the term "tax-deferred" to "non-taxable". Although both terms could be used in this context, we have replaced the term "non-taxable" with "tax-deferred".
17.	Distributable cash - cover page disclosure regarding "return on" and "return of" capital (Section 2.4)	Several commenters agree that more information on the specific breakdown of distributable cash figures is needed and should be highly visible on the cover page. They also note that disclosure of distributions and their origins should be clear and simple to understand, including any pro forma projections of distributions in the prospectus. One commenter suggests that the proposed language may not be appropriate in follow-on offerings by income trusts whose units are publicly traded. One commenter notes that the recommended distinctions are useful in both the prospectus and continuous disclosure contexts. A number of other commenters suggest that face page disclosure relating to the estimated split between taxable and tax-deferred returns of capital be eliminated or alternatively, that the time period for these estimates be limited to 12 months. The commenters note that the face page disclosure recommended in the Policy may be (a) inconsistently available for all income trust issuers,	We believe that information that describes the distribution as containing both a "return on" and a "return of" capital is useful information to investors, in both the initial and subsequent offerings. However, we have determined that the more specific breakdown between "return on" and "return of" capital is more appropriate in the context of continuous disclosure documents, such as MD&A. In the context of the initial offering document, we recommend that issuers provide the breakdown, if a forecast has been prepared. If no forecast has been prepared, we recommend that issuers provide cover page information which explains to investors that the distribution will contain a breakdown of both a "return on" and "return of" capital.

No.	Theme	Comment	Response
		(b) misleading, (c) lacking in meaning or usefulness, (d) subject to change, and (e) time-consuming and costly to prepare. However, those that have the information should be encouraged to provide it. Several commenters express concern that this recommendation would call for the preparation of a forecast, which is time-consuming, costly and results in more complex disclosure for investors. One commenter notes that the disclosure suggested in section 2.4 does not contemplate that an income trust might hold income-producing properties rather than an operating business.	
18.	Distributable cash - non-GAAP measures (Section 2.5)	One commenter notes that for many investors, GAAP earnings statements are not well understood and can be manipulated.	It is not within the mandate of the CSA to change GAAP because GAAP is a standard established by the CICA rather than by the securities regulators. With respect to non-GAAP financial measures, as long as the guidance in CSA Staff Notice 52-306 – *Non-GAAP Financial Measures* (Staff Notice 52-306) is followed, the CSA does not object to the use of non-GAAP measures. We note that since the draft policy was published in October, 2003, the CSA published Staff Notice 52-306 (which replaces CSA Staff Notice 52-303), and the Policy has been revised accordingly.
19.	Cover page disclosure - general	One commenter notes that the recommended cover page disclosure may be too broad. The CSA should consider shortening the suggested cover page disclosure.	We believe that the recommended cover page disclosure is important information for investors. We have not revised this section.
20.	Short-term debt - significance of material debt (Part 2C)	Several commenters acknowledge the importance of the potential implications of short-term debt on distributable cash. Some suggest that disclosure be limited to material short-term debt, while others suggest that disclosure be expanded to include all significant debt, whether short or longer term. One commenter suggests this could be accomplished by disclosing overall debt obligations in the prospectus, financial statements or other continuous disclosure documents. One commenter notes that, in appropriate cases, an issuer should be explicitly permitted to provide disclosure regarding its different short-term debt obligations on an aggregated basis. Others express a concern that the emphasis on short-term debt in the Policy may overshadow the existence of other relevant risk factors and suggests citing examples of other relevant risk factors such as whether debt is fixed or floating rate debt, aggregate debt maturities, and the potential inapplicability of insolvency and restructuring legislation to the trust itself.	Our intention is to capture only *material* credit agreements. Since income trust offerings are sold on the basis of distributable cash, we consider all credit agreements that could have a potential impact on the ability of the trust to distribute distributable cash to its unitholders to be material contracts. For example, if a credit agreement contains a term which specifies that if the trust does not maintain specified ratios, it cannot distribute cash to unitholders, that term would be considered material since it could have a direct impact on the ability of the trust to distribute distributable cash. We agree that it is important to focus on all material debt, whether that debt is long- or short-term. We have therefore revised the Policy to clarify that disclosure of the principal terms of material credit agreements should be made. Material terms of a credit agreement would include, for example, information about the interest rate (including whether the rate is fixed or floating).

No.	Theme	Comment	Response
21.	Short-term debt - SEDAR filing of credit agreements (Part 2C)	Most commenters feel that the test for whether or not a contract is a material contract should be the same for all issuers. Several commenters believe that disclosure about the principal terms of the short-term debt provides adequate information about the financing arrangements of the income trust and the operating entity. They believe that it is unnecessary to file the agreements on SEDAR, and that the SEDAR filing puts them at a competitive disadvantage with other issuers.	Our intention is not to designate all credit agreements as material contracts. In the context of income trusts and other indirect offerings, we note that terms of credit agreements frequently have a potential impact on distributable cash. Whether or not a contract is material is a question of fact for issuers and filing counsel to determine. If issuers and filing counsel determine that a contract is material, that contract should be listed as a material contract and filed on SEDAR.
22.	Short-term debt - REITs (Part 2C)	One commenter notes that, in the case of REITs, issuers typically provide an aggregated mortgage chart indicating principal by maturity, by average interest rate and by percentage floating rate versus fixed rate exposure. The commenter believes that this type of consolidated disclosure is sufficient in that context.	We agree that this type of disclosure is detailed and informative. Generally speaking, the aggregated mortgage chart offers useful information to investors. However, we note that for investors to fully understand certain details relating to mortgage agreements that may differ in certain respects from information that is described in the chart, the filing of those credit agreements would offer valuable information.
23.	Short-term debt - characteriza-tion of short-term debt (Part 2C)	One commenter suggests referring to debt that has a term of five years or less, rather than to debt obligations that are “renewable” within five years or less. One commenter notes that the definition of “short-term debt” in the Policy differs from the accounting definition of that term, which may lead to confusion.	As noted above (Comment 20.), we have revised the Policy to include all debt (whether short- or long-term) that could have a potential impact on distributable cash.
24.	Short-term debt - debt incurred within overall structure (Part 2C)	One commenter suggests that we recommend disclosure of any short-term debt obligations which are owed within the overall ownership structure of the trust or any debt which would be eliminated upon consolidation, rather than uniquely short-term debt that is incurred by the operating entity. As well, the commenter notes that it is not always the operating entity that incurs the third-party debt.	We agree that the debt can be incurred at a level other than the operating entity. We have revised the Policy to capture debt incurred by an entity other than the operating entity.

No.	Theme	Comment	Response
25.	Executive compensation - support and suggestion for expansion	There is strong support among commenters for the executive compensation disclosure recommendations. A number of commenters suggest the inclusion of stronger wording and more robust requirements in the area of executive compensation, including specific and detailed disclosure relating to salaries and bonuses paid, options granted and other compensation awarded, as well as the underlying reasons for the payments, as this appears to be the largest area of inconsistent disclosure between income trusts.	We acknowledge the support of the commenters. We believe that the current recommendations in the Policy are sufficiently strong and robust to capture details such as salaries and bonuses paid, options granted and other compensation awarded. Section 2.15 of the Policy recommends that issuers provide information about executive compensation in the prospectus as if the operating entity is a subsidiary of the income trust at the time that a final receipt for the prospectus is issued. Under Form 51-102F6 *Statement of Executive Compensation*, issuers are required to provide detailed disclosure relating to executive compensation in connection with their continuous disclosure filings, along the lines identified by the commenters.
26.	Executive compensation - compensation agreements between employees of the trust and other parties	One commenter recommends that income trust issuers disclose compensation agreements between employees of the trust and any outside parties, including retainers, finders' fees, etc. to ensure that fees are reasonable and do not bias management to the detriment of public unitholders.	Paragraph (f) of the definition of "executive officer" in National Instrument 51-102 Continuous Disclosure Obligations includes "any other individual who performed a policy-making function in respect of the reporting issuer". Therefore, any individual that has performed a policy-making function in respect of the issuer falls within the definition of "executive officer", and will need to be considered for purposes of Form 51-102F6. We believe that this would capture the arrangements described by the commenter.
27.	Executive compensation - distinction between business management contracts and employment contracts with individual officers	One commenter believes that the Policy should distinguish between business management contracts, which should be fully disclosed, and employment contracts with individual officers, for which there should be only summary disclosure.	We believe that the material terms of both types of contracts should be disclosed. If terms of either of those contracts could have a material impact on distributable cash, we believe that full disclosure is warranted.
28.	Executive compensation - material changes and filing of plans on SEDAR	One commenter recommends that the final sentence of section 2.17 be rewritten as follows: "which would include any change in executive compensation that constitutes a material change". The same commenter notes that there does not appear to be any policy basis to distinguish between the disclosure of income trust executive compensation plans and those of corporations, nor should there be a distinction in terms of the requirement to file copies of plans on SEDAR. The same commenter expresses a belief that the current prospectus disclosure requirements are sufficient. Accordingly, the commenter disagrees with the requirement that internal management	We agree with the suggested clarification and we have revised the Policy accordingly. If terms of a management contract or management incentive plan could have a material impact on distributable cash, those terms should be disclosed and those contracts should be listed as material contracts and filed on SEDAR. We believe that it is more likely that terms of these contracts may be material in the context of income trusts than for other issuers. Therefore, while the test applied is the

No.	Theme	Comment	Response
		incentive plans be filed on SEDAR.	same, the results of applying that test may be that a greater number of those contracts are material.
29.	Executive compensation - disclosure about details relating to external management parties	One commenter notes that if management has decided to use an external management party, the justification and benefits of using external management should be clearly disclosed. Any formula used to compensate external management should be laid out in clear terms for investors to analyze.	We have added language to the Policy to explain that all terms relating to the compensation of external management, that could have an impact on distributable cash, should be disclosed. In this scenario, an explanation about why an issuer decided to use an external management company rather than retain an internal management structure can be important information for investors.
30.	Stability ratings (Sections 2.10 - 2.12) - potentially confusing and a possible false sense of security	Many commenters are concerned that our emphasis on disclosure of stability ratings, or the reasons why an issuer did not obtain one, may confuse investors and provide them with a false sense of security. As stability ratings are issued by bond rating agencies, some commenters believe that the ratings perpetuate a myth that income trusts are similar to bonds. Investors may be led to believe that they are investing in a fixed-income security. One commenter notes that the private enterprises that produce stability ratings are not unlike investment management firms. Both analyze income trusts in an attempt to determine whether the distributions are sustainable. The commenter notes that the individuals producing stability ratings are as prone to error as investment managers. The commenters generally believe that the most effective method of comparing income trusts is via rigorous, fundamental equity research, which is similar for comparisons among regular share corporations. Rather than relying on stability ratings, investors should be able to assess an investment in units of an income trust on the same basis as they would assess an investment in the securities of a regular share corporation. Several commenters note that there is no pervasive use of stability ratings to date. Certain income trusts may be suitable candidates for stability ratings but many are not due to the volatile and complex nature of their operations. One commenter notes that the capital markets currently effectively require certain types of income trusts to obtain stability ratings. The commenter believes that use of a rating should be governed by the requirements of the markets. Several commenters are concerned that the imposition of mandated stability ratings would add increased costs to issuers, particularly smaller capitalization issuers, without adding equivalent benefit to investors. Management time and operating expense associated with obtaining a rating is not necessarily helpful to investors nor in	We acknowledge the comments of the commenters. Although we continue to believe that stability ratings provide investors with a valuable tool for comparing their investments in different income trust issuers, we have removed the recommendation that issuers provide disclosure about the absence of a stability rating. However, we continue to expect issuers to disclose the rating, if one has been obtained, consistent with the prospectus form requirements.

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		their best economic interests.	
31.	Stability ratings (Sections 2.10 - 2.12) - recommended disclosure about change in stability rating	One commenter notes that where an income trust has a stability rating and there is a change in that rating, positive or negative, it is important to provide a reminder that such a change would constitute material information that would require immediate disclosure to the public.	We agree that this type of information would be material information that public investors should receive by way of a material change report. We believe that this requirement already exists within our current legislative framework, but we added a reminder to the Policy.
32.	Determination of unit offering price (Section 2.13)	One commenter notes that many REIT declarations of trust require an appraisal for every acquisition of real property throughout the life of the REIT. Asking for this disclosure with respect to every such valuation would result in the disclosure of much sensitive confidential information, and would also represent an unfair burden to REITs compared to traditional share corporations. The commenter believes that this requirement should be deleted.	The Policy does not recommend disclosure of every appraisal of real property throughout the life of a REIT. Our intention is to provide investors with disclosure about how the unit offering price is determined at the time of the initial public offering. This is because many investors are not aware of how that price is determined, since the process differs from the valuations that occur in a more traditional, direct initial public offering. We have clarified the Policy to explain that the valuation section applies in the context of an initial public offering rather than in the context of subsequent offerings and acquisitions.
33.	Continuous disclosure (Part 3)	Several commenters emphasize that income trust issuers must provide a suitable portrayal of the possible risks and potential adverse consequences of owning a narrowly focused business, particularly in the risk section of the prospectus and in the MD&A section of ongoing financial reports. The portrayal should be thorough but comprehensible to the average retail investor.	We agree with this suggestion, and we have added language to the Policy to explain, in particular, our recommendation that relevant disclosure be provided in both the prospectus and in the MD&A.
34.	Continuous disclosure - annual certification	A number of commenters express concern about annual certification of compliance with the undertakings provided under section 3.1 and suggest that the certification be included as an additional requirement of management information circulars, AIFs or annual reports as opposed to being a stand-alone filing.	We have decided not to remove the annual certificate recommendation in section 3.1 of the Policy. We note that we are in the process of adding a separate filing subtype to SEDAR entitled “annual certification”. This will enable issuers and filing counsel to easily file the annual certificate on SEDAR. We have referred the suggestion to incorporate the annual certificate into a continuous disclosure document such as the AIF, to the continuous disclosure working group as a possible amendment to the continuous disclosure rule.

No.	Theme	Comment	Response
35.	Continuous disclosure - consolidation under GAAP	One commenter notes that financial reporting should be governed by GAAP (as is the case for corporate reporting issuers). The commenter does not believe that special reporting requirements are warranted for income trust issuers.	We agree that financial reporting should generally be governed by GAAP. However, we also believe that, in the case of income trust issuers, investors need financial information about the operating entity in order to have all relevant information about their investment. For this reason, we have determined that it is important for investors to receive separate financial information about the operating entity in situations where GAAP does not require consolidation. We note that we expect to receive the undertaking described in this part even in situations where a prospectus includes consolidated financial results. This will ensure that investors continue to receive necessary information about the operating entity for as long as it remains a significant asset of the income trust, if the income trust ceases to consolidate the operating entity's financial results at some point in the future. We note that we are creating a separate SEDAR filing subtype entitled "operating entity financial statements", under which the separate financial statements can be filed. In cases where consolidation is required, we do not expect that separate financial information be provided.
36.	Continuous disclosure - information about distributed and distributable cash	Several commenters note, in response to a specific request for comment, that a comparison of distributed and distributable cash to expected distributable cash increases accountability and provides investors with readily available analysis. The continuous disclosure policy should consider that a fund's distribution policy changes over time and therefore a comparison to the targets originally outlined in a prospectus may not be appropriate.	We agree with the views expressed by the commenters, and have added language to the Policy to express our expectation that issuers provide a comparison of distributed and distributable cash to expected distributable cash on a continuous basis.
37.	Continuous Disclosure - OSC Rule 61-501 and Q-27 undertaking (Section 3.1)	One commenter submits that the undertaking with respect to Ontario Securities Commission Rule 61-501 *Insider Bids, Issuer Bids, Going Private Transactions and Related Party Transactions* (Rule 61-501) and the AMF's regulation entitled Policy Statement No. Q-27 *Protection of Minority Securityholders in the Course of Certain Transactions* (Q-27) should only be required to the extent that GAAP prohibits the consolidation of financial statements of the income trust and operating entity.	We have deleted the references to Rule 61-501 and Q-27 in the undertaking due to amendments to Rule 61-501 and Q-27 that address income trusts.

No.	Theme	Comment	Response
38.	Continuous Disclosure - operating entity financial statements (Section 3.1)	One commenter notes that the proposed requirements for disclosing operating entity financial statements should apply to income trusts in the same manner as they apply to holding companies. The commenter also inquires into what is meant by "significant asset".	Income trusts and regular share corporations are treated equally in situations where GAAP requires consolidation. Therefore, we do not expect to see separate financial statements of the operating entity where its financial results are consolidated. However, we view the income trust offering as an indirect offering of the underlying operating entity, and the operating entity is frequently the only significant asset of the income trust. Therefore, in situations where GAAP does not require consolidation of the operating entity financial results into the income trust's financial statements, and the operating entity represents a significant asset of the income trust, we have recommended that separate financial statements of the operating entity be provided. This ensures that investors are provided with meaningful disclosure about their investment. Income trusts and their advisors should determine whether the operating entity is a significant asset of the income trust based upon their particular circumstances.
39.	Comparative financial information (Section 3.2)	One commenter notes that there may be circumstances where comparative information is not available on a basis that is relevant or not available at all, particularly if assets have been purchased from multiple parties. Several commenters note that it may not be appropriate to assume that comparative financial information can be provided. They note that preparing comparative information for periods prior to an income trust's IPO can be problematic and may not be particularly helpful when presented together with information from post-IPO periods. This is because the operating business may not have only operated in a different form but may have been operated as a division of a larger enterprise or the operating business itself may consist of assets and businesses previously owned and conducted in whole or in part by a variety of legal entities.	We agree that there may be unique situations where providing comparative information would not be appropriate. For example, this may occur in situations where the income trust is formed as a result of multiple acquisitions. In these circumstances, we would consider accepting an explanation within the notes to the financial statements or in the MD&A, as applicable.
40.	Definition of insider (Section 3.4)	Several commenters feel that it is inappropriate to amend the definition of insider through undertakings as opposed to the more appropriate mechanism of legislative amendment.	We are not amending the definition of insider under the legislation through the undertaking suggested in the Policy. Securities legislation provides the securities regulatory authority or regulator with the discretion to refuse a receipt for a prospectus where it is in the public interest to do so. One issue that we often face with income trust prospectuses is whether it is in the public interest to issue a receipt when persons who would be insiders if the operating entity went public in a direct offering avoid the insider reporting and trading provisions of securities legislation

No.	Theme	Comment	Response
			because of the income trust structure. A practice has developed to address this issue where income trusts provide the undertaking described in the Policy. We wish to make this practice transparent through the Policy so that issuers are aware of our concern and have a suggested approach when planning their offerings. We agree that in the longer term, this concern could be addressed through legislative amendment, which is already occurring in some jurisdictions (see consequential amendments to the *Securities Act* (Alberta), in effect July 1, 2004). In the interim, however, our concern regarding insiders of an operating entity can be addressed through other means such as the undertakings described in the Policy.
41.	Undertaking relating to insiders - "appropriate measures" (Section 3.4)	One commenter notes that the Policy does not define "appropriate measures", and it would appear that one of the only methods to do so would be through employment covenants. This might prove to be impractical, and could lead to undesirable results. Another commenter points out that as insider reporting is the responsibility of the individual and not the entity, it is impractical to expect an income trust to enter into contractual commitments with external persons not covered by the insider rules but who possess material undisclosed information about the trust. The best the income trust could be expected to do would be to notify these individuals, but it should not be held responsible for the actions of persons over which it has no authority.	We acknowledge that income trusts may have to resolve some practical issues in implementing the undertakings suggested in the Policy. We do not intend to define exactly which measures are appropriate. We believe that income trusts and their advisors are in the best position to judge what measures are appropriate based upon their particular circumstances.
42.	Undertaking relating to insiders - third party managers (Section 3.4)	One commenter agrees that insiders of the operating entity should be caught by the ambit of insider trading reporting rules as if the operating entity was the reporting issuer and suggests that a similar policy concern apply to third party managers.	We agree with the commenter. The Policy provides that there may be situations when we will request that additional undertakings be provided. Note that in Alberta, recent legislative amendments deem certain persons to be insiders of an income trust, such as the operating entity and manager of an income trust.
43.	Prospectus liability - support for clarification (Part 4)	One commenter welcomes clarification on the issue of prospectus liability. The commenter notes that it is critical to market integrity that issuers who access Canadian capital markets do so with transparency and full accountability. Vendors or promoters who indirectly access our capital markets through income trusts and other indirect offerings should be held accountable for their actions as they would be in a direct offering.	We acknowledge the support of the commenter.
44.	Prospectus liability - rule versus policy (Part 4)	One commenter notes that certain statements in the Policy (such as staff's view about application of the definition of "promoter") may be an improper modification of legislation.	The Policy is a CSA policy and reflects the views of the securities regulatory authorities across Canada. It is not a CSA staff notice. We are not amending or modifying the

No.	Theme	Comment	Response
			definition of "promoter" where it exists under Canadian securities legislation. We provide guidance on how the definition of promoter under securities legislation may apply in the context of income trust offerings. Securities legislation also provides the securities regulatory authority or regulator with the discretion to refuse a receipt for a prospectus where it is in the public interest to do so. An issue we often face with income trust prospectuses is whether it is in the public interest to issue a receipt when persons who would be selling security holders if the operating entity went public in a direct offering, avoid selling security holder provisions of securities legislation because of the income trust structure. A practice has developed to address this issue where selling security holders who are not promoters accept liability similar to that provided under the selling security holder provisions of securities legislation by entering into contractual arrangements with the issuer regarding the disclosure in the prospectus. We wish to make our concerns with this practice transparent through the Policy so that issuers are aware of our concerns and have a suggested approach when planning their offerings. We acknowledge that in the longer term, our concerns with the applicability of selling security holder provisions could be addressed through legislative amendment. In the interim, however, our concerns with vendors who are akin to selling security holders can be addressed through other means as discussed below.
45.	Prospectus liability - definition of promoter (Section 4.3.1)	One commenter states that it is not clear whether the receipt of proceeds in and of itself is contemplated as defining those who should be within the statutory definition of "promoter" in all jurisdictions. However, in most instances the commenter notes that it would expect the regulators to require vendors who receive substantial proceeds to execute a certificate as a promoter on the basis that they have had sufficient involvement in the founding, organizing or reorganizing of the trust.	We do not intend to create the impression that the receipt of proceeds in and of itself is contemplated as defining those who should be within the statutory definition of "promoter". We agree with the commenter that vendors who receive significant proceeds from an offering in consideration of services or property in connection with the founding, organizing or substantial reorganizing of an income trust may be promoters under securities legislation and required to execute a certificate in the prospectus. It is a question of fact whether a vendor is a promoter under securities legislation. We have amended the guidance provided in the Policy regarding promoters.
46.	Prospectus liability and distinction between arm's length and non-arm's	A number of commenters note that there is no clear distinction between arm's length and non-arm's length transactions in this part of the Policy. In other words, one commenter notes that it would be helpful if the Policy made it clear that where there is a bona fide arm's length negotiation between the	We generally agree with the commenters. Our concerns lie primarily with vendors that negotiate the terms of the purchase of the business by the income trust, and are also involved in the negotiation of the terms of the public offering with the underwriter(s).

No.	Theme	Comment	Response
	length transactions (Part 4)	issuer and vendor and the vendor is not involved in the offering process and does not have the ability to materially affect control of the issuer, the principles set out in Part 4 do not apply. This concern was specifically highlighted by one commenter in the context of REITs.	Where the transaction is a bona fide arm's length transaction, these concerns do not generally arise. We have amended the guidance provided in the Policy to address this issue.
47.	Prospectus liability - private equity investors (Part 4)	According to one commenter, in circumstances where the vendor is not acting as principal but, instead, is managing the investment on behalf of others (this is typically the case with private equity investors), the fund manager should only have liability for prospectus disclosure if it has acted in a manner analogous to a control person. For example, with private equity investors, it is typical for the asset management company to occupy one or more positions on the board and to have a fairly active involvement with senior management of the company. In these circumstances, it can fairly be concluded that the fund manager possesses a high degree of knowledge regarding the issuer and is in a position to accept liability for prospectus disclosure. The amount of this liability should be no greater than the proceeds realized by the fund manager as a result of the public offering.	As discussed above (Comment 45.), it is a question of fact whether a vendor has acted as promoter of an income trust. The presence of a private equity fund's asset manager on the operating entity's board of directors and fairly active involvement with senior management could indicate that a private equity fund has acted as a promoter. If, however, the particular factual circumstances indicate that a private equity fund or vendor did not take the initiative in founding the income trust or is not receiving proceeds in consideration of services or property under the offering in connection with the founding of the income trust, such a vendor may not be a promoter under securities legislation. Such a vendor may be more akin to a selling security holder under securities legislation. If the private equity fund or vendor is more akin to a selling security holder than a promoter, we expect that income trusts and vendors will address the potential loss, due to the income trust structure, of any rights and remedies with which securities legislation provides investors against vendors in a direct offering. We agree with the commenter that a vendor that has acted in a manner analogous to a control person is in a position to accept liability for prospectus disclosure. Public interest concerns regarding the potential loss of statutory rights and remedies could be addressed by a private equity fund or vendor accepting liability by entering into contractual arrangements that provide investors with similar rights and remedies against the vendors to those afforded by securities legislation in a direct offering. The vendor's liability could be subject to a due diligence defence. We expect that the amount of this liability would be commensurate with the proceeds realized by the vendor or the fund manager on behalf of the private equity fund under the public offering.
48.	Meaning of promoter - "significant portion" (Section 4.3.1)	One commenter notes that it should be possible to ultimately receive some amount of the offering proceeds without being considered a promoter.	We agree with the commenter and have amended the guidance provided in the Policy to address this issue.

No.	Theme	Comment	Response
49.	Description of vendors' representations, warranties, and indemnities (Section 4.4.3)	One commenter disagrees with the requirement to provide a "detailed description of the vendors' representations, warranties and indemnities contained in the acquisition agreement". The commenter expresses skepticism over whether such summary disclosure is possible, without reproducing the entire list of representations.	We believe that an income trust should be able to provide an investor with meaningful disclosure without reproducing the entire list of representations. The purpose of the disclosure is two-fold. The first purpose is to alert investors that they may not have the same statutory remedies against the vendors as they would have in a direct offering. The second purpose is to inform investors what protections have been negotiated between the parties as a meaningful alternative to the remedies that may not be available to investors under securities legislation on account of the income trust structure.
50.	Sales and marketing materials (Part 5)	Several commenters believe that the expectation to file sales and marketing materials should apply to all issuers, not only to income trust issuers. Another commenter states that issuers should not be held responsible for documents like green sheets, which are the responsibility of underwriters and over which the issuer has limited control. Several commenters also note that the definition of yield in section 5.1 is confusing. For example, one commenter notes that the term "yield" is normally used to mean the total amount to be distributed by an issuer, divided by the market price of the particular share or unit, expressed as a percentage. The commenters question the exclusion of return of capital and suggest that it is more appropriate to refer to taxable and tax deferred distributions.	We continue to feel that it is appropriate to expect income trust issuers to file sales and marketing materials with their preliminary prospectuses based on the specific concerns that we have with respect to income trusts and other indirect offerings that are marketed primarily on the basis of yield. We may ask other issuers to file their sales and marketing material when similar concerns arise. We have revised the definition of yield in section 5.1 to address the concerns raised.

APPENDIX C
TO NOTICE

COMPARISON BETWEEN PROPOSED AND FINAL VERSIONS OF
NATIONAL POLICY 41-201 INCOME TRUSTS AND OTHER INDIRECT OFFERINGS

~~6.1.2 Proposed~~ National Policy 41-201 Income Trusts and Other Indirect Offerings

~~PROPOSED~~ NATIONAL POLICY 41-201
INCOME TRUSTS
AND
OTHER INDIRECT OFFERINGS

Part 1 - Introduction

1.1 What is the purpose of the policy?

It is a fundamental principle that everyone investing in securities should have access to sufficient information to make an informed investment decision. The Canadian Securities Administrators (the CSA or we) believe that there are distinct attributes of an investment in income trust units that should be clearly disclosed.

Within our securities regulatory framework, raising capital in the public markets results in certain rights and obligations attaching to issuers and investors. We believe that it would be beneficial to express our view in a policy about how the existing regulatory framework applies to non-corporate issuers (such as income trusts) and to indirect offerings, in order to minimize inconsistent interpretations and to better ensure that the intent of the requirements is preserved. Our concerns relate to the quality and nature of prospectus disclosure and continuous disclosure records, accountability for prospectus disclosure and liability for insider trading. We have drafted a policy rather than a rule because we believe that the existing regulatory framework captures the issues relating to income trusts and other indirect offerings. Our goal is to provide guidance and recommendations about how income trusts and other indirect offering structures fit within the existing regulatory framework rather than create a new regulatory framework for income trusts and other indirect offering structures. We also identify factors that relate to the exercise of the regulator's discretion in a prospectus offering.

This policy provides guidance and clarification by all jurisdictions represented by the CSA. Although the primary focus of this policy is on income trusts, we believe that much of the guidance and clarification that we provide is useful for other indirect offering structures. As well, the principles can apply more generally to issuers that offer securities which entitle holders of those securities to the net cash flow generated by the issuer's business or its properties. We provide guidance about prospectus disclosure and prospectus liability to minimize situations where staff might recommend against issuance of a receipt for a ~~final~~ prospectus where it would appear that the offering may be contrary to the public interest due to insufficient disclosure, structure of the offering, or a combination of the two~~. Many of the principles that we describe apply equally to direct offering structures~~.

Although the main focus of this policy is on the income trust structure in the context of public offerings, these principles also apply to income trust structures in other contexts, such as the reorganization of a corporate entity into a trust. Although an offering document is not prepared in a reorganization, we expect that the ~~resulting prospectus-level disclosure~~information circular provided to relevant security holders, and that contains prospectus-level disclosure, will follow the principles set out in this policy. The principles that we describe also apply to income trusts in the fulfillment of their ongoing continuous disclosure obligations. In addition, when we are determining whether to grant exemptive relief to an income trust issuer in connection with a reorganization or other similar transaction, we will consider the principles described in Part 3 of this policy.

1.2 What do we mean when we refer to an income trust in this policy?

When we refer to an income trust or issuer in this policy, we are referring to a trust or other entity (including corporate and non-corporate entities) that issues securities which entitle the holder to ~~substantially all of the~~ net cash flows generated by: (i) an underlying business owned by the trust or other entity, or (ii) the income-producing properties owned by the trust or other entity. This includes business income trusts, real estate investment trusts and royalty trusts. In our view, this does not include an entity that falls within the definition of "investment fund" contained in proposed National Instrument 81-106 *Investment Fund Continuous Disclosure*~~.~~, or an entity that issues asset-backed securities or capital trust securities.

1.3 What is an operating entity?

In the most basic income trust structure, the operating entity is: (i) a subsidiary of the income trust with an underlying business, or (ii) income-producing properties owned directly by the income trust. In more complex structures, there may be a number of intervening entities above the operating entity. Generally, the operating entity is the first entity in the structure that has an underlying business which generates cash flows. There may be more than one operating entity in the income trust structure.

In addition to identifying the operating entity, it is also important to understand the operating entity's business. In some cases, its business is to own, operate and produce revenues from its assets. In other cases, its business is to own an interest in a joint venture or to derive a revenue stream from holding a portfolio of investments or financial instruments.

1.4 How is an income trust structured?

Typically, an income trust holds a combination of debt and equity or royalty interests in an entity owning or operating a business ~~(the operating entity). Substantially all of the net~~. Net cash flows that are generated by the operating entity's business are distributed to the income trust. The income trust then distributes that cash flow to its investors (referred to as unitholders or investors).

An income trust focuses on the ownership and management of assets of the operating entity. ~~The principal purpose of the income trust is to distribute cash generated by the operating entity to its unitholders.~~

Often the pre-offering owners (referred to as owners or vendors) of the operating entity (or its predecessors) sell less than their entire interest in the operating entity to the income trust. Through their retained ownership interest, the vendors ~~participate~~have a role in what the distributions of the operating entity's net income will be.

1.5 What is an income trust offering?

In a typical income trust offering, an income trust is created to distribute units to the public. The proceeds that the income trust raises are used to acquire debt and equity or royalty interests in the operating entity, or interests in income producing properties. We view the income trust offering as a form of indirect offering. Instead of offering their securities directly to the public, the vendors sell their interests in the operating entity to the income trust. The income trust purchases those interests with proceeds that it raises through its offering of units to the public. The interests in the operating entity that the income trust acquires are thus indirectly offered to the public. Through their direct investment in units of the income trust, unitholders hold an indirect interest in the operating entity.

By issuing units under a prospectus, the income trust becomes a reporting issuer (or equivalent) under applicable securities laws. The operating entity typically remains a non-reporting issuer.

1.6 How does an indirect offering differ from a direct offering?

In a conventional direct offering, interests in the operating entity are offered to the public through a public distribution of the operating entity's securities. By contrast, in an indirect offering, interests in the operating entity are not offered directly to the public but are instead acquired by a separate entity (for example, an income trust or its subsidiary). The securities of this separate entity, such as units of a trust, are offered to the public under a prospectus. The issuer applies the proceeds of the offering to satisfy the purchase price of the interests in the operating entity.

In a direct initial public offering (IPO), an issuer may choose to finance the acquisition of another business with proceeds raised under the offering. In that scenario, the issuer and the vendors of the business are generally arm's~~-~~ length parties. This differs from the structure of an indirect offering, such as the initial public offering by most income trusts, where the income trust and the vendors of the business are not arm's~~-~~ length parties.

In an indirect offering, the vendors negotiate the terms of the purchase of the business by the income trust, and are also involved in the negotiation of the terms of the public offering with the underwriter(s).

If vendors initiate or are involved in the initial public offering process, we believe that they are effectively accessing the capital markets themselves. We consider them to be non-arm's length vendors. This fact gives rise to the concerns that we describe in Part 4. ~~Vendors~~Non-arm's length vendors that are involved in a ~~non-IPO~~follow-on offering ~~process~~ are also effectively accessing the capital markets through an indirect offering, and the concerns that we describe in Part 4 are equally applicable.

Part 2 - Prospectus disclosure

We describe below certain unique attributes of income trusts that we expect to be included in prospectus disclosure. We ~~would like~~recommend that these attributes, and the offering generally, ~~to~~ be described in a simple, clear and readable manner to ensure that investors understand the nature of their investment.

A. Distributable cash

2.1 What is distributable cash?

Distributable cash generally refers to the net cash generated by the income trust's businesses or assets that is available for distribution, at the discretion of the income trust, to the income trust's unitholders. The cash that is available to an income trust for distribution per unit varies with the operating performance of the income trust's business or assets, its capital requirements, and the number of units outstanding.

2.2 Does an income trust's distributable cash provide an investor with a consistent rate of return?

No. In many ways, investing in an income trust is more like an investment in an equity security rather than in a debt security. A fundamental characteristic that distinguishes income trust units from traditional fixed-income securities is that the income trust does not have a fixed obligation to make payments to investors. In other words, it has the ability to reduce or suspend distributions if circumstances warrant (see section 2.3 below for further details). The trust's ability to consistently make distributions to unitholders will fluctuate depending on the operations of the operating entity or the performance of the income trust's assets (such as income-producing real estate properties or oil- and gas-producing properties).

Unlike an issuer of a fixed-income security, an income trust does not promise to return the initial purchase price of the unit bought by the investor on a certain date in the future. Investors who choose to liquidate their holdings would generally do so by selling their unit(s) in the market~~.~~ at the prevailing market price.

In addition, unlike interest payments on an interest-bearing debt security, income trust cash distributions are, for Canadian tax purposes, composed of different types of payments (portions of which may be fully or partially taxable or may constitute ~~non-taxable~~tax-deferred returns of capital). The composition for tax purposes of those distributions may change over time, thus affecting the after-tax return to investors. Therefore, a unitholder's rate of return over a defined period may not be comparable to the rate of return on a fixed-income security that provides a "return on capital" over the same period. This is because a unitholder in an income trust may receive distributions that constitute a "return of capital" to some extent during the period. Returns on capital are generally taxed as ordinary income or as dividends in the hands of a unitholder. Returns of capital are generally ~~non-taxable to a unitholder (but~~tax-deferred (and reduce the unitholder's cost base in the unit for tax purposes).

2.3 How do the distribution policies of the income trust and the operating entity affect an investor's rate of return?

The distribution policy of the income trust generally stipulates that payments that the income trust receives from the operating entity (such as interest payments on the debt and dividends paid to common shareholders) will be distributed to unitholders. The distribution policy of the operating entity will generally stipulate that distributions to the income trust will be restricted if the operating entity breaches its covenants with third-party lenders (such as maintaining specified financial ratios or satisfying its interest and other expense obligations). Other operating entity obligations such as funding employee incentive plans or funding capital expenditures will frequently rank in priority to the operating entity's obligations to the income trust. In addition, the operating entity, or the income trust, might retain a portion of available distributable cash as a reserve. Funds in this reserve may be drawn upon to fund future distributions if distributable cash generated is below targeted amounts in any period.

2.4 What cover page disclosure do we expect about distributable cash?

To ensure that the information described in sections 2.1, 2.2 and 2.3 is adequately communicated to investors, we recommend that issuers include language ~~on the prospectus cover page~~ substantively similar to the following ~~would be helpful~~on the prospectus cover page:

> ~~The pricing of the units has been determined, in part, based on the estimate of distributable cash for the year ended~~A return on your investment in • ~~on page •~~.is not comparable to the return on an investment in a fixed-income security. The recovery of your initial investment is at risk, and the anticipated return on your investment is based on many performance assumptions. Although the income trust intends to make distributions of its available cash to ~~unitholders~~you, these cash distributions ~~are not assured~~may be reduced or suspended. The actual amount distributed will depend on numerous factors including ~~the operating entity's financial performance, debt covenants and obligations, working capital requirements, future capital requirements and, if applicable, the deductibility for tax purposes of interest payments on the debt of the operating entity [these details can be tailored according to the specific set of circumstances in each transaction]. The~~: [insert a discussion of the principal factors particular to this specific offering that could affect the predictability of cash flow to unitholders]. In addition, the market value of the units may ~~deteriorate~~decline if the income trust is unable to meet its cash distribution targets in the future, and that ~~deterioration may be material~~decline may be significant.
>
> It is important for you to consider the particular risk factors that may affect the industry in which you are investing, and therefore the stability of the distributions that you receive. See, for example, ***, under the section "Risk Factors".

[insert specific cross-reference to principal factors that could affect the predictability of cash flow to unitholders.] This section also describes the issuer's assessment of those risk factors, as well as the potential consequences to you if a risk should occur.

The after-tax return from an investment in units to unitholders subject to Canadian income tax ~~will depend, in part, on the composition for tax purposes of distributions paid by the income trust (portions of which may be fully or partially taxable or may constitute non taxable returns of capital). The composition for tax purposes of those distributions~~can be made up of both a return on and a return of capital. That composition may change over time, thus affecting ~~the~~your after-tax return~~ to unitholders. The estimated portion of your~~. [If a forecast has been prepared, include specific disclosure about the estimated portion of the investment that will be taxed as a return on capital ~~is •~~ and the estimated portion that will be taxed as return of capital ~~is •~~.] Returns on capital are generally taxed as ordinary income or as dividends in the hands of a unitholder. Returns of capital are generally ~~non-taxable to a unitholder (but~~tax-deferred (and reduce the unitholder's cost base in the unit for tax purposes).

~~An investment in the units is subject to a number of risks that should be considered by an investor. See "Risk Factors".~~

B. Distributable cash – non-GAAP measures

2.5 What disclosure do we expect about the income trust's estimate of its distributable cash?

~~Distributable cash is often presented in a manner, and based on financial measures, that is not prescribed by generally accepted accounting principles (GAAP). Frequently, income trusts refer to "EBITDA" (earnings before interest, taxes, depreciation and amortization) and "adjusted EBITDA" as being relevant measures of their performance (on the basis that investors are concerned primarily with cash flow). Income trusts frequently derive their distributable cash estimates from these amounts. In presenting adjusted EBITDA, income trusts commonly make and incorporate assumptions about how the operating entity's business will be conducted post offering. These include assumptions about capital expenditures, financing costs and administrative expenses, resulting in a distributable cash figure. Therefore, we expect any assumptions made to be clearly explained.~~

We remind issuers to refer to the guidelines contained in CSA Staff Notice 52-~~303~~306 – *Non-GAAP ~~Earnings~~Financial Measures*.

C. ~~Short-term~~Material debt

2.6 Why are we concerned about ~~the operating entity's short-term~~material debt?

We are concerned about debt obligations that are ~~renewable within 5 years or less that the operating entity has negotiated with persons other than the income trust (referred to as short-term debt). Those obligations typically rank before the operating entity's obligations to the income trust and, consequently, to~~incurred by the operating entity or other entity that rank before unitholders' entitlement to receive distributable cash. Although many non-income trust issuers have similar, or less conservative, capital structures, we are particularly concerned about the sensitivity of income trusts to cash flows. Specifically, we are concerned about reductions in distributions that might arise from increases in interest charges on floating-rate debt, a breach of financial covenants, a refinancing on less advantageous terms, or a failure to refinance.

2.7 What disclosure do we expect about ~~short-term~~material debt?

We expect the principal terms of the ~~operating entity's short-term~~material debt to be included in the income trust's prospectus. This would include the following information about the debt:

(a) the principal amount and the anticipated amount to be outstanding when the offering is closed,

(b) the term and interest~~,~~ rate (including whether the rate is fixed or floating),

(c) the term at which the debt is renewable, and the extent to which that term could have an impact on the ability to distribute cash,

(d) the priority of the debt relative to the securities of the operating entity held by the income trust,

(e) any security granted by the income trust to the lender over the operating entity's assets, and

(f) any other covenant(s) that could restrict the ability to distribute cash.

2.8 Are agreements relating to the ~~operating entity's short term~~material debt considered to be material contracts of the income trust?

We consider that in most cases, agreements relating to the ~~operating entity's short term~~material debt that have been negotiated with a lender other than the income trust, will be material contracts if terms of those agreements have a direct correlation with the anticipated cash distributions. For example, distributions from the operating entity to the income trust may be restricted if the operating entity fails to maintain certain covenants under a credit agreement. If the agreement contains terms that have a direct correlation with the anticipated cash distributions, and will be entered into on or about closing, we expect it to be listed as a material contract in the prospectus. We also expect a copy of ~~that~~the material agreement to be filed on SEDAR upon its execution.

2.9 Do we expect the income trust to include a separate risk factor about ~~short term~~the material debt?

Yes. We expect the income trust to include a separate risk factor about the ~~operating entity's short term~~material debt in the income trust's prospectus. We recommend that the risk factor include a discussion of the following points:

(a) the need for the ~~operating entity~~borrower to refinance ~~its short term~~the debt when the term of that debt expires,

(b) the potential negative impact on distributable cash if the debt is replaced by new debt that has less favourable terms,

(c) the impact on distributable cash if the ~~operating entity~~borrower cannot refinance the debt, and

(d) the fact that distributions from the operating entity to the income trust may be restricted if the ~~operating entity~~borrower fails to maintain certain covenants under the credit agreement (such as a failure to maintain certain customary financial ratios).

D. Stability ratings

2.10 What is a stability rating?

A stability rating is an opinion of an independent rating agency about the relative stability and sustainability of an income trust's cash distribution stream. Standard & Poor's (S&P's) and Dominion Bond Rating Services (DBRS) currently provide stability ratings on Canadian income trusts. A stability rating reflects the rating agency's assessment of an income trust's underlying business model, and the sustainability and variability in cash flow generation in the medium to long-term. The objective of these stability ratings is to compare the stability of rated Canadian income trusts with one another~~.~~ within a particular sector or industry.

2.11 Does an income trust need to obtain a stability rating?

No. However, the CSA believes that stability ratings offered by rating agencies, such as S&P's and DBRS, can provide useful information to investors.

We believe that choosing to invest in income trust units is, in substance, a decision to purchase the cash flow generated by the operating entity. The presentation of distributable cash in an income trust prospectus is often the best measure available to an investor of the issuer's potential to generate and distribute cash. However, ~~as discussed in this policy,~~ we are concerned that the use of non-GAAP measures by income trust issuers makes it difficult or impossible for investors to compare income trusts. Therefore, it is difficult to compare the risk of investing in one income trust relative to the risk of investing in another. We believe that stability ratings can supplement the presentation of distributable cash in the prospectus to provide an independent opinion on the ability of an income trust to meet its distributable cash targets consistently over a period of time relative to other rated Canadian income trusts within a particular sector or industry.

~~2.12 Do we expect an income trust to disclose whether it has or has not received a stability rating?~~

~~Yes. We expect the income trust to state on the prospectus cover page whether it has or has not received a stability rating. If an income trust chooses not to obtain a stability rating, we recommend that the income trust describe on the prospectus cover page its reasons for choosing not to obtain a rating.~~ **~~2.13~~ What disclosure do we expect about an income trust's stability rating?**

~~As described above, if~~If an income trust has received a stability rating, we expect the rating to be described on the cover page of the prospectus. ~~To assist investors, we recommend that the income trust explain within the prospectus that a stability rating~~ We expect the income trust to include disclosure about the rating in accordance with section 10.8 of Ontario Securities Commission

Form 41-501F1 *Information Required in a Prospectus* (or its successor), section 10.8 of Schedule 1 *Information Required in a Prospectus* to Quebec's regulation entitled Policy Statement No. Q-28 *General Prospectus Requirements* (or its successor), or section 8.7 of Form 44-101F3 *Short Form Prospectus* (or its successor). We recommend that this disclosure explain that a rating measures an income trust's ~~stability~~ stability relative to other rated Canadian income trusts ~~rather than relative to all income trusts. We expect the explanation to be substantively similar to the following:~~within a particular sector or industry. We also remind issuers of their statutory obligation to make timely disclosure of any material change in their affairs, which would include any change in a stability rating that constitutes a material change.

> ~~• has assigned a stability rating of • to the Units. The rating is based on a rating scale developed by •, which characterizes the stability of cash distribution streams. •'s stability analysis encompasses the variability and sustainability of a cash distribution stream in the medium to long-term with a single stability rating of • through •. Variability in the distribution stream refers to changes in the distribution from period to period over a business cycle, while sustainability of the distribution stream refers to the length of time that distributions can likely be made. Together, these two characteristics are referred to by • as the stability profile of the issuer. The stability rating scale is organized such that a rating of • signifies the lowest level of cash distribution variability and the highest level of cash distribution sustainability, while a rating of • signifies the highest level of variability and the highest amount of uncertainty in the sustainability of the cash distribution stream. A rating is not a recommendation to buy, sell or hold any security, and may be subject to revision or withdrawal at any time by •.~~

E. Determination of unit offering price

~~2.14~~2.13 What disclosure do we expect about the determination of the price of an income trust's units?

We do not currently ask that income trusts obtain a third-party valuation of the operating entity interests to be acquired (unless that valuation is otherwise required under securities legislation). However, if a third-party valuation is obtained in an initial public offering, we expect the income trust to describe the valuation in the prospectus and to file ~~the text of~~ the valuation on SEDAR. We expect the description to identify the parties involved, the principal variables and assumptions used in the valuation (particularly those which could, if adversely altered, cause a deterioration in the value of the issuer's investment). If no third-party valuation is obtained, we expect the prospectus to disclose that fact and to state that the value was determined solely through negotiation between the operating entity security holders and the underwriter(s).

F. Executive compensation

~~2.15~~2.14 What disclosure do we expect the income trust to provide about executive compensation for the operating entity?

We believe that the executive compensation of the operating entity's executives is important information for investors. We expect the income trust to provide that information in its prospectus as ~~though~~if the operating entity is a subsidiary of the income trust at the time that a ~~final~~ receipt for the prospectus is issued. We also remind issuers of their obligation under securities legislation to provide unitholders with executive compensation disclosure on ~~a continuous~~an ongoing basis.

~~2.16~~2.15 What disclosure do we expect about the income trust's management contracts and management incentive plans?

We believe that the material terms of management contracts and management incentive plans are relevant information for investors if terms of those contracts or plans have an impact on distributable cash. For example, if the term "distributable cash" is defined in a unique way in a management contract, we expect that term of the contract to be described. A further example would be information about why an issuer has decided to use an external management company rather than retain an internal management structure or, conversely, why an issuer has internalized management. We expect disclosure about those contracts and plans to be included in the prospectus. If those contracts and plans have not been finalized, we expect the anticipated material terms to be described in the prospectus.

~~2.17~~2.16 Do we expect management contracts and management incentive plans to be filed on SEDAR?

We expect the material contracts and plans referred to in section ~~2.16~~2.15 to be filed on SEDAR. If those material contracts and plans have not been finalized before filing the ~~final~~ prospectus, we expect the income trust to provide an undertaking from the income trust and the operating entity to the securities regulatory authorities that those contracts and plans will be filed as soon as practicable after execution. We also remind issuers of their statutory obligation to make timely disclosure of any material change in their affairs, which would include any ~~material change to prospectus disclosure about executive compensation.~~change in executive compensation that constitutes a material change.

G. Risk factors

2.17 General

We remind issuers of their obligation to disclose all relevant risk factors relating to the offering in the prospectus. We recommend that the description include the principal factors related to this specific offering that could affect the predictability of cash flow distributions to unitholders. We also recommend that issuers assess the likelihood of a risk occurring as well as the potential consequences to a unitholder if a risk should occur. Relevant risk factors can include risks relating to the operating entity business, the potential inapplicability to unitholders of certain corporate law rights and remedies, the potential inapplicability of insolvency and restructuring legislation in the trust context, and other factors relevant to income trusts and other indirect offerings that we have described in this policy.

Part 3 - Continuous disclosure

Reporting obligations relating to the operating entity

3.1 What continuous disclosure do we expect about the operating entity?

We believe that an income trust's performance and prospects depend primarily on the performance and operations of the operating entity. To make an informed decision about investing in an income trust's units, an investor generally needs comprehensive information about the operating entity, including: (i) the operating entity's interim and annual financial statements together with corresponding management discussion and analysis for those periods, (ii) complete business disclosure about the operating entity of the scope expected in an annual information form, and (iii) press releases and material change reports about any material changes in the business, operations or capital of the operating entity.

~~In addition, if the operating entity is a party to a "related party transaction" as defined in Ontario Securities Commission Rule 61-501 *Insider Bids, Issuer Bids, Going Private Transactions and Related Party Transactions* (Rule 61-501) and in the CVMQ's regulation entitled Policy Statement No. Q-27 *Protection of Minority Securityholders in the Course of Certain Transactions* (Q-27) (and any successor to Q-27), compliance with those rules will be expected.~~

To the extent the securities legislation in some CSA jurisdictions is ambiguous about whether the disclosure described above about the operating entity is required by a reporting issuer that is an income trust or other non-corporate entity, we expect the issuer to file an undertaking with the regulatory authorities prior to receiving a receipt for a ~~final~~ prospectus. We expect the undertaking to provide that while the issuer is a reporting issuer:

(i) in complying with its reporting issuer obligations, the income trust will treat the operating entity as a subsidiary of the income trust; however, if generally accepted accounting principles prohibit the consolidation of financial information of the operating entity and the income trust, we expect that, for as long as the operating entity (~~and~~including any of its significant business interests) represents a significant asset of the income trust, the income trust will provide unitholders with separate financial statements for the operating entity (~~and~~including information about any of its significant business interests), and

(ii) ~~the income trust will obtain a commitment from the operating entity to comply with Rule 61-501 and Q-27, as applicable, as if the operating entity were a reporting issuer and the income trust's unitholders held directly those securities of the operating entity which are held directly or indirectly by the income trust, and~~(iii) the income trust will annually certify that it has complied with this undertaking, and file the certificate on SEDAR concurrently with the filing of its annual financial statements.

We recognize that there are circumstances where the income trust does not have direct access to the operating entity's financial information. For example, in situations where the income trust holds less than a 50% interest in an operating entity, it may be difficult for the income trust to have direct access to that operating entity's financial information. In those types of scenarios, we expect the income trust to ensure that it can follow the guidance described in this section 3.1 either through terms of the acquisition agreement or otherwise.

3.2 Comparative financial information

Most income trusts are the continuation of an existing business that was previously operated under a different legal form (for example, a corporation). We believe that the change in legal form does not alter the substance of the business operations and therefore does not prevent an income trust from presenting comparative financial information for the underlying business during its initial interim and annual periods.

~~In situations where the transfer of the operating business into an income trust is accounted for at carrying amounts, we expect the income trust to provide complete financial statements with comparative figures that also reflect the operations of the business under the previous legal entity.~~

~~Recognizing that the legal structure of the entity has changed, and to ensure the continuity and the comparability of the periods presented for the statements of operations and cash flows, an income trust may want to present, using columns: (i) the results of the reporting period relating to the previous legal entity prior to the inception of the trust, (ii) the results of the reporting period from the creation of the income trust to the balance sheet date, and (iii) the results for the complete reporting period that would represent the aggregate of the results of (i) and (ii) on a pro forma basis. We expect the results for the complete reporting period to be shown in the financial statements. The information for the period prior to and after the creation of the income trust may be shown within, or in the notes to, the financial statements.~~

For those acquisitions accounted for by the purchase method, we expect income trusts to provide comparative financial information for the predecessor business in their interim and annual MD&A. Examples of relevant comparative information would include, but would not be limited to, the following:

- ~~Revenues/Sales~~revenues/sales,
- ~~Cost of Sales~~cost of sales,
- ~~Gross Margin~~gross margin,
- ~~General and Administrative Expenses, and~~general and administrative expenses, and
- ~~Net Income~~net income.

In situations where the transfer of the operating business into an income trust is accounted for at carrying amounts, we expect the income trust to provide complete financial statements with comparative figures that also reflect the operations of the business under the previous legal entity.

Where an issuer may believe that providing comparative information would not be appropriate, such as in certain situations where the income trust is formed as a result of multiple acquisitions, we encourage the issuer to engage in discussions with the relevant securities regulatory authority(ies) prior to filing the applicable continuous disclosure document(s).

3.3 Recognition of intangible assets

We remind income trust issuers that GAAP requires the appropriate recognition of all intangible assets on acquisitions to be accounted for under the purchase method. We encourage income trusts to provide a description of the method used to value the intangible assets in the offering document, so that investors may assess the objectivity of the valuation process.

3.4 Are "insiders" of the operating entity also insiders of the income trust for purposes of insider reporting obligations?

Consistent with our belief that the performance and prospects of the income trust depend on the performance and prospects of the operating entity, we believe each person who would be an "insider" (as that term is defined in applicable securities legislation) of the operating entity if the operating entity were a reporting issuer should comply with insider reporting requirements as if that person were also an insider of the trust.

To the extent the securities legislation in certain CSA jurisdictions is ambiguous about whether insiders of the operating entity are also insiders of the income trust or other non-corporate entity, that issuer is expected to file an undertaking with the regulatory authorities prior to receiving a receipt for a ~~final~~ prospectus. We expect the undertaking to provide that for so long as the income trust is a reporting issuer, the income trust will take the appropriate measures to require each person who would be an insider of the operating entity if the operating entity were a reporting issuer to: (i) file insider reports about trades in units of the income trust (including securities which are exchangeable into units of the trust), and (ii) comply with statutory prohibitions against insider trading. The income trust is expected to annually certify in the certificate described in section 3.1(iii) above that it has complied with this undertaking.

We are concerned that additional persons that may possess material undisclosed information about the income trust may: (i) not fall within the definition of "insider" (as that term is defined in applicable securities legislation) or (ii) not be caught by the undertaking. As a result, there may be situations where we will request that additional undertakings be provided. The income trust will need to obtain the contractual commitments from the persons and entities in order to comply with these undertakings.

Recent amendments to securities legislation in Alberta deem insiders of operating entities and management companies to be insiders of the income trust. Until similar clarifications are adopted in other jurisdictions, we will continue to expect income trusts to provide the undertaking described above.

3.5 Management's discussion and analysis (MD&A)

3.5.1 Risks and uncertainties

We recommend that an income trust disclose, in its interim and annual MD&A, the specific risks and uncertainties relating to the operations of the underlying operating entity or the income trust's assets, as applicable, and the potential impact of those risks and uncertainties on future distributions of the income trust.

3.5.2 Discussion of distributed cash

Although most income trusts intend to make distributions of their available cash to unitholders, these cash distributions are not assured. The actual amount distributed depends on numerous factors, including the operating entity's financial performance, debt covenants and obligations, working capital requirements and future capital requirements. It is important for unitholders to have information about the distributed cash that they receive, including whether the issuer borrowed amounts to finance the distribution, and whether distributions include amounts other than a return on capital. We therefore recommend that an issuer disclose in its interim and annual MD&A: (i) the source(s) of funding for distributions made in the current period to unitholders (such as cash generated by operations, borrowed funds, etc.), (ii) the breakdown between return on and return of capital for distributed cash, if available, and (iii) where applicable, a comparison between the expected distributable cash figure disclosed in the initial public offering document or circular, as applicable, and actual distributed cash.

Part 4 - Prospectus liability

4.1 What is the regulatory framework?

The central element of the prospectus system is the requirement that disclosure of all material facts relating to the offered securities and the issuer be provided so that investors can make informed investment decisions.

Although the prospectus serves a role in marketing securities, from a regulatory perspective, it is also a disclosure document that can give rise to liability. To provide discipline on prospectus disclosure, and to protect the integrity of the Canadian public markets, securities legislation imposes liability on certain persons involved in a public offering for any misrepresentation (as defined in applicable securities legislation) in a prospectus. Specifically, where a prospectus contains a misrepresentation, investors have the right to either rescind their purchases or to claim damages from the issuer or selling security holder that sold the securities, every director of the issuer, any promoters of the issuer, the underwriter(s) and certain other parties. Each of those parties (including each selling security holder) is jointly and severally liable for the damages experienced by investors as a result of the misrepresentation(s). We note that although "selling security holder" is not defined under applicable securities laws, the term is generally considered to mean persons who are selling securities of the class being distributed under the prospectus.

4.2 How does the regulatory framework about prospectus liability apply to indirect offerings?

In an indirect offering, the issuer uses the proceeds to acquire a business (and perhaps to repay indebtedness), and the disclosure (including financial disclosure) in the prospectus describes both the acquired business and the issuer. The proceeds are not retained by the issuer, and any prospectus misrepresentation that adversely affects the value of the acquired business may diminish the issuer's ability to satisfy a damages claim.

An underwriter's statutory liability in an indirect offering is the same as it is in a conventional direct offering. Underwriters sign a certificate about the disclosure contained in the issuer's prospectus and are potentially liable for a misrepresentation in the prospectus.

With respect to prospectus liability, what is different in the context of an indirect offering is that the former owners of the operating entity (referred to as vendors) who sell their ownership interests in the operating entity to the issuer and who are effectively accessing the public markets to liquidate their holdings, are not generally considered to be "selling security holders" within the meaning of securities legislation, as they are not selling the securities being offered under the prospectus. As a result, vendors who indirectly receive part of the proceeds of the offering in exchange for their operating entity interests do not (unless they qualify as promoters, which issue is addressed below) have statutory liability for a prospectus misrepresentation as they would if their operating entity security interests had been distributed directly to the public. Vendors of businesses to conventional issuers undertaking a direct offering would also not be considered "selling security holders" although they indirectly receive offering proceeds. However, as noted above, we believe those circumstances differ from an indirect offering because access to the public markets is being initiated primarily not by those vendors but by the issuer.

4.3 Promoter liability

4.3.1 What is the meaning of promoter?

Persons that are promoters of an issuer within the meaning of securities legislation are required to sign the issuer's prospectus in that capacity. As a consequence, those persons assume joint and several liability for prospectus misrepresentations up to a maximum amount equal to the gross proceeds of the offering. The term "promoter" is defined differently in provincial securities legislation across the CSA jurisdictions. It is not defined in the *Securities Act* (Quebec), and a broad approach is taken in Quebec with respect to examining those persons who would be considered promoters. We believe that a vendor that receives, directly or indirectly, a significant portion of the offering proceeds as consideration for services or property in connection with the founding or organizing of the business of an income trust issuer, is a promoter and should sign the prospectus in that capacity.

4.3.2 What constitutes the "business" of the income trust issuer?

In the context of indirect offerings, there appears to be uncertainty about whether the "business of an issuer", as that phrase is often used in the definition of "promoter" in some of the CSA jurisdictions, refers to the business of the issuer (the income trust) or to the business of the operating entity. More specifically, the question is whether the test depends on a person's involvement in the founding, organization or substantial reorganization of the operating entity's business, or whether involvement in the founding, organization, or substantial reorganization of the income trust itself will qualify a person as a promoter.

We believe that in most cases, the business of the income trust issuer is primarily to complete the public offering and to acquire the operating entity interest. Therefore, we generally focus on a person's involvement in the founding, organization, or substantial reorganization of the income trust itself.

We also believe that any person who initiated or took part in the formation, organization or substantial reorganization (as those terms are often used in the definition of "promoter") of the operating entity would not cease to be a promoter under the offering solely due to use of an indirect offering structure. The relationship between the income trust and the operating entity is not sufficiently at arm's- length to support this result. The question of whether a person takes part in the founding, organizing or substantial reorganizing of the income trust's business and of the operating entity's business is one of fact. Therefore, we would expect this determination to be made by the income trust and the underwriter(s) after reviewing the relevant facts.

4.3.3 What disclosure do we expect about the implications of the operating entity being identified as a promoter?

Where the operating entity signs the prospectus as promoter but the vendors are retaining no interest, or only a nominal interest, in the operating entity upon closing of the offering, the right to claim damages from the operating entity for misrepresentations offers limited or no additional benefit to investors. This is because all or a substantial majority of the interests in the operating entity are acquired by the income trust. Therefore, we expect the prospectus to describe that, despite the operating entity's statutory liability for a misrepresentation in the prospectus, there will be little or no practical benefit to investors who choose to exercise those rights against the operating entity. This is because a successful judgment would result in a deterioration of the operating entity's value (frequently the sole asset of the income trust) and a resulting decline in the value of the investor's securities. It is also likely that the operating entity would have a limited ability to satisfy the claim.

We believe this type of disclosure would be helpful to investors who may not understand the implications of the operating entity being identified as a promoter of the income trust, as is often the case.

Conversely, where the vendors retain a meaningful interest in the operating entity, the characterization of the operating entity as promoter will offer an additional benefit because the value in the operating entity held by vendors as their retained interest would be available to satisfy a damages claim without investors suffering a corresponding decline in the value of their securities of the income trust.

4.4 Contractual accountability

4.4.1 What accountability for prospectus disclosure is typically assumed by vendors through contractual arrangements?

Our review of indirect offering prospectuses indicates that in situations where vendors have not signed the prospectus, they typically assume, by contract, responsibility for matters relating to the operating entity's business. Vendors typically provide representations and warranties about the operating entity and its business to the issuer under the agreement (the acquisition agreement) pursuant to which the vendors sell, and the issuer acquires, the operating entity interests. As well, in several indirect offerings, the vendors have provided a representation in the acquisition agreement about the absence of any misrepresentation in the prospectus (a prospectus representation).

4.4.2 What are our concerns about the application of the regulatory framework to indirect offerings?

We are concerned that:

(i) investors in indirect offering structures may not appreciate that there is not always a statutory right of action against the vendors as there would be in a direct offering if the vendors were considered "selling security holders",

(ii) prospectus representations may not be given by vendors in circumstances where we would consider ~~that representation~~those representations to be appropriate, ~~and~~

(iii) prospectus disclosure of the vendors' representations and warranties, and limitations, in the acquisition agreement may not be sufficiently detailed or clearly set out to permit investors to understand the vendors' contractual accountability~~.~~, and

(iv) the vendors' representations and warranties may not adequately address the potential loss of rights and remedies that securities legislation would provide to investors in a direct offering.

4.4.3 What disclosure do we expect about the accountability of the vendors?

To address the concerns described in section 4.4.2, we expect prospectuses relating to indirect offerings, where part of the proceeds are being paid to vendors, to:

(i) include a clear statement that investors may not have a direct statutory right of action against each vendor for a misrepresentation in the prospectus unless that vendor is a promoter or director of the issuer, or is otherwise required to sign the prospectus,

(ii) include a detailed description of the vendors' representations, warranties and indemnities contained in the acquisition agreement (and any significant related limitations) and details about the negotiations (including the parties involved), together with a summary of these items in the summary section of the prospectus, ~~and~~

(iii) ~~(iii)~~ identify the acquisition agreement as a material contract and provide disclosure advising investors to review the terms of the acquisition agreement for a complete description of the vendors' representations, warranties and indemnities, and related limitations~~.~~, and

(iv) identify what measures have been implemented to provide investors with rights and remedies against the vendors in lieu of those afforded by securities legislation in a direct offering.

We also expect the summary of the relevant acquisition agreement provisions to include clear disclosure about the following:

(i) the aggregate cash proceeds being paid to the vendors for the sale of their operating entity interests,

(ii) the nature of the representations and warranties provided by the vendors, including any significant qualifications, and specifically whether a prospectus representation is provided,

(iii) the period of time that the representations and warranties will survive after closing,

(iv) any monetary limits on the vendors' indemnity obligations, and

(v) any other limitations on, or qualifications to, the vendors' indemnity obligations~~, such as deductibles or other thresholds that preclude indemnity claims against the vendors that are not, individually or in the aggregate, above a certain value or provide that any such claim will exclude or deduct that value or another prescribed amount from the total indemnity claim.~~.

We expect the summary of the acquisition agreement terms to provide investors with a clear description of the extent to which the vendors are supporting, with meaningful indemnities, the representations and warranties in favour of the issuer.

CSA staff may consider recommending against the issuance of a receipt for a prospectus if vendors receive cash proceeds from an indirect offering by selling their operating entity interests and do not take appropriate responsibility (directly or indirectly) for the information provided as a basis for the offering through the acquisition agreement, or as a result of signing the prospectus, or otherwise.

4.4.4 What are our concerns about the nature and extent of the representations and indemnities provided by vendors in the acquisition agreement?

Circumstances, including the nature of the operating entity and its business and the nature and extent of the vendors' interests (individually and in the aggregate) and their involvement in the operating entity, will affect the types of representations, warranties and indemnities that can reasonably be expected to be provided to the issuer by vendors in the context of an indirect offering.

Examples of circumstances where we have had concerns about vendors not taking this responsibility in the context of indirect offerings have included situations where:

(i) certain vendors (active vendors), such as:

- vendors that affect materially the control of the operating entity prior to the offering, and are involved in the offering process and/or the management or supervision of management of the operating entity prior to the offering,
- vendors that influence (whether alone or in conjunction with others) the offering process, and
- members of senior management of the operating entity

sell a substantial portion of their interest in the operating entity to the issuer on closing but do not

a. sign the issuer's prospectus as promoter, or

b. provide a prospectus representation in the acquisition agreement;

(ii) a vendor's obligation to indemnify the issuer if the prospectus representation is untrue~~,~~ is limited to an ~~unduly small percentage of~~amount less than the proceeds received by the vendor from the sale of the vendor's interest in the operating entity~~, and~~ or is subject to a deductible or other threshold that precludes claims against the vendors that are not, individually or in the aggregate, above a certain value; and

(iii) the vendor's responsibility for the information on which the offering is based is reduced unduly, having regard to the nature of the vendor's investment, as a result of the period during which claims may be asserted against the vendor for an untrue prospectus representation being significantly below the period in which claims may be asserted against the issuer for a prospectus misrepresentation.

If an active vendor's liability for an untrue representation in the acquisition agreement is conditional on the active vendor having knowledge of the inaccuracy, we expect that the active vendor would generally have a corresponding obligation to take reasonable steps to support the representation. For example, we would expect a non-management active vendor to make appropriate inquiries of management of the operating entity.

The CSA acknowledges that there may be constraints on the indemnities that certain vendors can provide and the survival period of those indemnities. In assessing whether the vendors have taken appropriate responsibility (directly or indirectly) for the information provided as a basis for the offering, we will generally assess the entire framework of representations, warranties and indemnities provided by the vendors as a group, as opposed to assessing each component or vendor individually. We believe this approach is consistent with the commercial realities within which the parties to those transactions allocate the risks and rewards of the transactions.

Part 5 - Sales and marketing materials

5.1 What are our concerns about sales and marketing materials?

Registrants often solicit interest from potential investors during the "waiting period" between the issuance of a receipt for a preliminary prospectus and the issuance of a receipt for the ~~final~~ prospectus, and in the period following the receipt for the ~~final~~ prospectus until the primary distribution is completed. Along with the distribution of the preliminary prospectus (or ~~final~~ prospectus, if then available) to potential investors, that process often involves the preparation and distribution of materials (such as green sheets) for the benefit of registered salespersons and banking group members. The information included in those materials is typically a simplified version of the disclosure in the ~~preliminary (or final)~~ prospectus, and must be limited to information included in, or directly derivable from the prospectus (the exceptions are information about the basic terms of comparable offerings and general market information not specific to the issuer).

Marketing materials used in the context of income trust offerings often include prominent reference to "yield". We are concerned that expressions of "yield" in those marketing materials may not be clearly understood, both because the term itself may have connotations or common usages that are not consistent with the attributes of income trust units and because the relationship between the "yield" described in the marketing materials and the information in the prospectus may not be clear.

"Yield" is generally used in the context of income trust offerings to refer to the return ~~(other than a return of capital)~~ that would be generated over a one-year period, as a percentage of the offering price of the units, if the amounts intended to be distributed by the income trust according to its distribution policy are so distributed.

5.2 What information do we expect the green sheets to contain?

We are concerned that use of the term yield in these marketing materials may imply that the distribution entitlement is fixed. We expect expressions of ~~"~~yield~~"~~ to be accompanied by disclosure that, unlike fixed-income securities, there is no obligation of the income trust to distribute to unitholders any fixed amount, and reductions in, or suspensions of, cash distributions may occur that would reduce yield based on the offering price.

A related concern is that disclosure of a yield in marketing materials may cause confusion because yield is not typically disclosed in the prospectus. If marketing materials contain an expression of yield, we expect the statement to be tied to the prospectus disclosure (including, in particular, the pro forma presentation of distributable cash in the prospectus). Specifically, we expect expressions of yield in income trust offering marketing materials to be accompanied by disclosure indicating the proportion of the pro forma distributable cash (as set out in the prospectus) that the stated yield would represent.

In addition, if reference is made to tax efficiencies that may be realized on distributions (such as returns of capital to investors), we expect that disclosure to be clear and, to the extent practical, quantified. For example, the estimated ~~"~~tax~~-free"~~deferred portion of distributions for the foreseeable period, and the tax implications, should be clearly stated or cross-referenced.

5.3 Do we expect income trusts to provide us with copies of their green sheets?

Yes. We expect income trust issuers to provide copies of all green sheets to the securities regulatory authorities when filing the preliminary prospectus, together with separate documentation providing a clear and concise explanation of how the yield figure (if contained in the green sheet) is derived from the prospectus disclosure. In addition, we may request that additional sales and marketing materials used in connection with an income trust offering be provided.

Part 6 – Corporate governance

6.1 CEO/CFO certification, audit committees, and effective corporate governance

We expect issuers to provide prospectus disclosure about how they will comply with the following instruments or their successors (note that the instruments are not in force in all jurisdictions):

(a) Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*,

(b) Multilateral Instrument 52-110 *Audit Committees*,

(c) Proposed National Policy 58-201 *Corporate Governance Guidelines*, and

(d) Proposed National Instrument 58-101 *Disclosure of Corporate Governance Practices*.

We remind issuers to look to the following sections of the above-noted instruments or the related companion policies for specific guidance about income trusts and other similar structures:

(a) part 4 of Companion Policy 52-109CP to Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*,

(b) section 1.2 of Companion Policy 52-110CP to Multilateral Instrument 52-110 *Audit Committees*, and

(c) section 1.2 of Proposed National Policy 58-201 *Corporate Governance Guidelines*.

6.2 Broader corporate law concerns

We are concerned that a unitholder in an income trust may not be afforded the same protections, rights and remedies as a shareholder in a corporation. We therefore recommend that issuers provide the following disclosure to unitholders:

A unitholder in the income trust has substantially all of the same protections, rights and remedies as a shareholder would have under the *Canada Business Corporations Act*. These protections, rights and remedies are contained in the [trust indenture, dated ***].

OR

A unitholder in the income trust has substantially all of the same protections, rights and remedies as a shareholder would have under the CBCA, except for the following: [list protections, rights and remedies that are not available to a unitholder.] The protections, rights and remedies available to a unitholder are contained in the [trust indenture, dated ***].

We further note that corporate legislation such as section 21 of the *Canada Business Corporations Act* provides a mechanism for persons to request a shareholder list for the purpose of making an offer to acquire securities of a corporation. We may review an income trust's refusal to provide a unitholders' list as a defensive tactic, as discussed in National Policy 62-202 -*Take-Over Bids - Defensive Tactics* or in Québec Notice 62-202 Relating to Take-Over Bids – Defensive Tactics if a potential offeror follows steps similar to those outlined in section 21 of the *Canada Business Corporations Act* in requesting a unitholders' list.

5.1.2 National Policy 41-201 Income Trusts and Other Indirect Offerings

NATIONAL POLICY 41-201
INCOME TRUSTS
AND
OTHER INDIRECT OFFERINGS

Part 1 - Introduction

1.1 What is the purpose of the policy?

It is a fundamental principle that everyone investing in securities should have access to sufficient information to make an informed investment decision. The Canadian Securities Administrators (the CSA or we) believe that there are distinct attributes of an investment in income trust units that should be clearly disclosed.

Within our securities regulatory framework, raising capital in the public markets results in certain rights and obligations attaching to issuers and investors. We believe that it would be beneficial to express our view in a policy about how the existing regulatory framework applies to non-corporate issuers (such as income trusts) and to indirect offerings, in order to minimize inconsistent interpretations and to better ensure that the intent of the requirements is preserved. Our concerns relate to the quality and nature of prospectus disclosure and continuous disclosure records, accountability for prospectus disclosure and liability for insider trading. We have drafted a policy rather than a rule because we believe that the existing regulatory framework captures the issues relating to income trusts and other indirect offerings. Our goal is to provide guidance and recommendations about how income trusts and other indirect offering structures fit within the existing regulatory framework rather than create a new regulatory framework for income trusts and other indirect offering structures. We also identify factors that relate to the exercise of the regulator's discretion in a prospectus offering.

This policy provides guidance and clarification by all jurisdictions represented by the CSA. Although the primary focus of this policy is on income trusts, we believe that much of the guidance and clarification that we provide is useful for other indirect offering structures. As well, the principles can apply more generally to issuers that offer securities which entitle holders of those securities to the net cash flow generated by the issuer's business or its properties. We provide guidance about prospectus disclosure and prospectus liability to minimize situations where staff might recommend against issuance of a receipt for a prospectus where it would appear that the offering may be contrary to the public interest due to insufficient disclosure, structure of the offering, or a combination of the two.

Although the main focus of this policy is on the income trust structure in the context of public offerings, these principles also apply to income trust structures in other contexts, such as the reorganization of a corporate entity into a trust. Although an offering document is not prepared in a reorganization, we expect that the information circular provided to relevant security holders, and that contains prospectus-level disclosure, will follow the principles set out in this policy. The principles that we describe also apply to income trusts in the fulfillment of their ongoing continuous disclosure obligations. In addition, when we are determining whether to grant exemptive relief to an income trust issuer in connection with a reorganization or other similar transaction, we will consider the principles described in Part 3 of this policy.

1.2 What do we mean when we refer to an income trust in this policy?

When we refer to an income trust or issuer in this policy, we are referring to a trust or other entity (including corporate and non-corporate entities) that issues securities which entitle the holder to net cash flows generated by: (i) an underlying business owned by the trust or other entity, or (ii) the income-producing properties owned by the trust or other entity. This includes business income trusts, real estate investment trusts and royalty trusts. In our view, this does not include an entity that falls within the definition of "investment fund" contained in proposed National Instrument 81-106 *Investment Fund Continuous Disclosure*, or an entity that issues asset-backed securities or capital trust securities.

1.3 What is an operating entity?

In the most basic income trust structure, the operating entity is: (i) a subsidiary of the income trust with an underlying business, or (ii) income-producing properties owned directly by the income trust. In more complex structures, there may be a number of intervening entities above the operating entity. Generally, the operating entity is the first entity in the structure that has an underlying business which generates cash flows. There may be more than one operating entity in the income trust structure.

In addition to identifying the operating entity, it is also important to understand the operating entity's business. In some cases, its business is to own, operate and produce revenues from its assets. In other cases, its business is to own an interest in a joint venture or to derive a revenue stream from holding a portfolio of investments or financial instruments.

1.4 How is an income trust structured?

Typically, an income trust holds a combination of debt and equity or royalty interests in an entity owning or operating a business. Net cash flows that are generated by the operating entity's business are distributed to the income trust. The income trust then distributes that cash flow to its investors (referred to as unitholders or investors).

An income trust focuses on the ownership and management of assets of the operating entity.

Often the pre-offering owners (referred to as owners or vendors) of the operating entity (or its predecessors) sell less than their entire interest in the operating entity to the income trust. Through their retained ownership interest, the vendors have a role in what the distributions of the operating entity's net income will be.

1.5 What is an income trust offering?

In a typical income trust offering, an income trust is created to distribute units to the public. The proceeds that the income trust raises are used to acquire debt and equity or royalty interests in the operating entity, or interests in income producing properties. We view the income trust offering as a form of indirect offering. Instead of offering their securities directly to the public, the vendors sell their interests in the operating entity to the income trust. The income trust purchases those interests with proceeds that it raises through its offering of units to the public. The interests in the operating entity that the income trust acquires are thus indirectly offered to the public. Through their direct investment in units of the income trust, unitholders hold an indirect interest in the operating entity.

By issuing units under a prospectus, the income trust becomes a reporting issuer (or equivalent) under applicable securities laws. The operating entity typically remains a non-reporting issuer.

1.6 How does an indirect offering differ from a direct offering?

In a conventional direct offering, interests in the operating entity are offered to the public through a public distribution of the operating entity's securities. By contrast, in an indirect offering, interests in the operating entity are not offered directly to the public but are instead acquired by a separate entity (for example, an income trust or its subsidiary). The securities of this separate entity, such as units of a trust, are offered to the public under a prospectus. The issuer applies the proceeds of the offering to satisfy the purchase price of the interests in the operating entity.

In a direct initial public offering (IPO), an issuer may choose to finance the acquisition of another business with proceeds raised under the offering. In that scenario, the issuer and the vendors of the business are generally arm's length parties. This differs from the structure of an indirect offering, such as the initial public offering by most income trusts, where the income trust and the vendors of the business are not arm's length parties.

In an indirect offering, the vendors negotiate the terms of the purchase of the business by the income trust, and are also involved in the negotiation of the terms of the public offering with the underwriter(s).

If vendors initiate or are involved in the initial public offering process, we believe that they are effectively accessing the capital markets themselves. We consider them to be non-arm's length vendors. This fact gives rise to the concerns that we describe in Part 4. Non-arm's length vendors that are involved in a follow-on offering are also effectively accessing the capital markets through an indirect offering, and the concerns that we describe in Part 4 are equally applicable.

Part 2 - Prospectus disclosure

We describe below certain unique attributes of income trusts that we expect to be included in prospectus disclosure. We recommend that these attributes, and the offering generally, be described in a simple, clear and readable manner to ensure that investors understand the nature of their investment.

A. Distributable cash

2.1 What is distributable cash?

Distributable cash generally refers to the net cash generated by the income trust's businesses or assets that is available for distribution, at the discretion of the income trust, to the income trust's unitholders. The cash that is available to an income trust for distribution per unit varies with the operating performance of the income trust's business or assets, its capital requirements, and the number of units outstanding.

2.2 Does an income trust's distributable cash provide an investor with a consistent rate of return?

No. In many ways, investing in an income trust is more like an investment in an equity security rather than in a debt security. A fundamental characteristic that distinguishes income trust units from traditional fixed-income securities is that the income trust does not have a fixed obligation to make payments to investors. In other words, it has the ability to reduce or suspend distributions if circumstances warrant (see section 2.3 below for further details). The trust's ability to consistently make distributions to unitholders will fluctuate depending on the operations of the operating entity or the performance of the income trust's assets (such as income-producing real estate properties or oil- and gas-producing properties).

Unlike an issuer of a fixed-income security, an income trust does not promise to return the initial purchase price of the unit bought by the investor on a certain date in the future. Investors who choose to liquidate their holdings would generally do so by selling their unit(s) in the market at the prevailing market price.

In addition, unlike interest payments on an interest-bearing debt security, income trust cash distributions are, for Canadian tax purposes, composed of different types of payments (portions of which may be fully or partially taxable or may constitute tax-deferred returns of capital). The composition for tax purposes of those distributions may change over time, thus affecting the after-tax return to investors. Therefore, a unitholder's rate of return over a defined period may not be comparable to the rate of return on a fixed-income security that provides a "return on capital" over the same period. This is because a unitholder in an income trust may receive distributions that constitute a "return of capital" to some extent during the period. Returns on capital are generally taxed as ordinary income or as dividends in the hands of a unitholder. Returns of capital are generally tax-deferred (and reduce the unitholder's cost base in the unit for tax purposes).

2.3 How do the distribution policies of the income trust and the operating entity affect an investor's rate of return?

The distribution policy of the income trust generally stipulates that payments that the income trust receives from the operating entity (such as interest payments on the debt and dividends paid to common shareholders) will be distributed to unitholders. The distribution policy of the operating entity will generally stipulate that distributions to the income trust will be restricted if the operating entity breaches its covenants with third-party lenders (such as maintaining specified financial ratios or satisfying its interest and other expense obligations). Other operating entity obligations such as funding employee incentive plans or funding capital expenditures will frequently rank in priority to the operating entity's obligations to the income trust. In addition, the operating entity, or the income trust, might retain a portion of available distributable cash as a reserve. Funds in this reserve may be drawn upon to fund future distributions if distributable cash generated is below targeted amounts in any period.

2.4 What cover page disclosure do we expect about distributable cash?

To ensure that the information described in sections 2.1, 2.2 and 2.3 is adequately communicated to investors, we recommend that issuers include language substantively similar to the following on the prospectus cover page:

> A return on your investment in • is not comparable to the return on an investment in a fixed-income security. The recovery of your initial investment is at risk, and the anticipated return on your investment is based on many performance assumptions. Although the income trust intends to make distributions of its available cash to you, these cash distributions may be reduced or suspended. The actual amount distributed will depend on numerous factors including: [insert a discussion of the principal factors particular to this specific offering that could affect the predictability of cash flow to unitholders]. In addition, the market value of the units may decline if the income trust is unable to meet its cash distribution targets in the future, and that decline may be significant.
>
> It is important for you to consider the particular risk factors that may affect the industry in which you are investing, and therefore the stability of the distributions that you receive. See, for example, ***, under the section "Risk Factors". [insert specific cross-reference to principal factors that could affect the predictability of cash flow to unitholders.] This section also describes the issuer's assessment of those risk factors, as well as the potential consequences to you if a risk should occur.
>
> The after-tax return from an investment in units to unitholders subject to Canadian income tax can be made up of both a return on and a return of capital. That composition may change over time, thus affecting your after-tax return. [If a forecast has been prepared, include specific disclosure about the estimated portion of the investment that will be taxed as a return on capital and the estimated portion that will be taxed as return of capital.] Returns on capital are generally taxed as ordinary income or as dividends in the hands of a unitholder. Returns of capital are generally tax-deferred (and reduce the unitholder's cost base in the unit for tax purposes).

B. Distributable cash – non-GAAP measures

2.5 What disclosure do we expect about the income trust's estimate of its distributable cash?

We remind issuers to refer to the guidelines contained in CSA Staff Notice 52-306 – *Non-GAAP Financial Measures*.

C. Material debt

2.6 Why are we concerned about material debt?

We are concerned about debt obligations that are incurred by the operating entity or other entity that rank before unitholders' entitlement to receive distributable cash. Although many non-income trust issuers have similar, or less conservative, capital structures, we are particularly concerned about the sensitivity of income trusts to cash flows. Specifically, we are concerned about reductions in distributions that might arise from increases in interest charges on floating-rate debt, a breach of financial covenants, a refinancing on less advantageous terms, or a failure to refinance.

2.7 What disclosure do we expect about material debt?

We expect the principal terms of the material debt to be included in the income trust's prospectus. This would include the following information about the debt:

(a) the principal amount and the anticipated amount to be outstanding when the offering is closed,

(b) the term and interest rate (including whether the rate is fixed or floating),

(c) the term at which the debt is renewable, and the extent to which that term could have an impact on the ability to distribute cash,

(d) the priority of the debt relative to the securities of the operating entity held by the income trust,

(e) any security granted by the income trust to the lender over the operating entity's assets, and

(f) any other covenant(s) that could restrict the ability to distribute cash.

2.8 Are agreements relating to the material debt considered to be material contracts of the income trust?

We consider that in most cases, agreements relating to the material debt that have been negotiated with a lender other than the income trust, will be material contracts if terms of those agreements have a direct correlation with the anticipated cash distributions. For example, distributions from the operating entity to the income trust may be restricted if the operating entity fails to maintain certain covenants under a credit agreement. If the agreement contains terms that have a direct correlation with the anticipated cash distributions, and will be entered into on or about closing, we expect it to be listed as a material contract in the prospectus. We also expect a copy of the material agreement to be filed on SEDAR upon its execution.

2.9 Do we expect the income trust to include a separate risk factor about the material debt?

Yes. We expect the income trust to include a separate risk factor about the material debt in the income trust's prospectus. We recommend that the risk factor include a discussion of the following points:

(a) the need for the borrower to refinance the debt when the term of that debt expires,

(b) the potential negative impact on distributable cash if the debt is replaced by new debt that has less favourable terms,

(c) the impact on distributable cash if the borrower cannot refinance the debt, and

(d) the fact that distributions from the operating entity to the income trust may be restricted if the borrower fails to maintain certain covenants under the credit agreement (such as a failure to maintain certain customary financial ratios).

D. Stability ratings

2.10 What is a stability rating?

A stability rating is an opinion of an independent rating agency about the relative stability and sustainability of an income trust's cash distribution stream. Standard & Poor's (S&P's) and Dominion Bond Rating Services (DBRS) currently provide stability ratings on Canadian income trusts. A stability rating reflects the rating agency's assessment of an income trust's underlying business model, and the sustainability and variability in cash flow generation in the medium to long-term. The objective of these stability ratings is to compare the stability of rated Canadian income trusts with one another within a particular sector or industry.

2.11 Does an income trust need to obtain a stability rating?

No. However, the CSA believes that stability ratings offered by rating agencies, such as S&P's and DBRS, can provide useful information to investors.

We believe that choosing to invest in income trust units is, in substance, a decision to purchase the cash flow generated by the operating entity. The presentation of distributable cash in an income trust prospectus is often the best measure available to an investor of the issuer's potential to generate and distribute cash. However, we are concerned that the use of non-GAAP measures by income trust issuers makes it difficult or impossible for investors to compare income trusts. Therefore, it is difficult to compare the risk of investing in one income trust relative to the risk of investing in another. We believe that stability ratings can supplement the presentation of distributable cash in the prospectus to provide an independent opinion on the ability of an income trust to meet its distributable cash targets consistently over a period of time relative to other rated Canadian income trusts within a particular sector or industry.

2.12 What disclosure do we expect about an income trust's stability rating?

If an income trust has received a stability rating, we expect the rating to be described on the cover page of the prospectus. We expect the income trust to include disclosure about the rating in accordance with section 10.8 of Ontario Securities Commission Form 41-501F1 *Information Required in a Prospectus* (or its successor), section 10.8 of Schedule 1 *Information Required in a Prospectus* to Quebec's regulation entitled Policy Statement No. Q-28 *General Prospectus Requirements* (or its successor), or section 8.7 of Form 44-101F3 *Short Form Prospectus* (or its successor). We recommend that this disclosure explain that a rating measures an income trust's stability relative to other rated Canadian income trusts within a particular sector or industry. We also remind issuers of their statutory obligation to make timely disclosure of any material change in their affairs, which would include any change in a stability rating that constitutes a material change.

E. Determination of unit offering price

2.13 What disclosure do we expect about the determination of the price of an income trust's units?

We do not currently ask that income trusts obtain a third-party valuation of the operating entity interests to be acquired (unless that valuation is otherwise required under securities legislation). However, if a third-party valuation is obtained in an initial public offering, we expect the income trust to describe the valuation in the prospectus and to file the valuation on SEDAR. We expect the description to identify the parties involved, the principal variables and assumptions used in the valuation (particularly those which could, if adversely altered, cause a deterioration in the value of the issuer's investment). If no third-party valuation is obtained, we expect the prospectus to disclose that fact and to state that the value was determined solely through negotiation between the operating entity security holders and the underwriter(s).

F. Executive compensation

2.14 What disclosure do we expect the income trust to provide about executive compensation for the operating entity?

We believe that the executive compensation of the operating entity's executives is important information for investors. We expect the income trust to provide that information in its prospectus as if the operating entity is a subsidiary of the income trust at the time that a receipt for the prospectus is issued. We also remind issuers of their obligation under securities legislation to provide unitholders with executive compensation disclosure on an ongoing basis.

2.15 What disclosure do we expect about the income trust's management contracts and management incentive plans?

We believe that the material terms of management contracts and management incentive plans are relevant information for investors if terms of those contracts or plans have an impact on distributable cash. For example, if the term "distributable cash" is defined in a unique way in a management contract, we expect that term of the contract to be described. A further example

would be information about why an issuer has decided to use an external management company rather than retain an internal management structure or, conversely, why an issuer has internalized management. We expect disclosure about those contracts and plans to be included in the prospectus. If those contracts and plans have not been finalized, we expect the anticipated material terms to be described in the prospectus.

2.16 Do we expect management contracts and management incentive plans to be filed on SEDAR?

We expect the material contracts and plans referred to in section 2.15 to be filed on SEDAR. If those material contracts and plans have not been finalized before filing the prospectus, we expect the income trust to provide an undertaking from the income trust and the operating entity to the securities regulatory authorities that those contracts and plans will be filed as soon as practicable after execution. We also remind issuers of their statutory obligation to make timely disclosure of any material change in their affairs, which would include any change in executive compensation that constitutes a material change.

G. Risk factors

2.17 General

We remind issuers of their obligation to disclose all relevant risk factors relating to the offering in the prospectus. We recommend that the description include the principal factors related to this specific offering that could affect the predictability of cash flow distributions to unitholders. We also recommend that issuers assess the likelihood of a risk occurring as well as the potential consequences to a unitholder if a risk should occur. Relevant risk factors can include risks relating to the operating entity business, the potential inapplicability to unitholders of certain corporate law rights and remedies, the potential inapplicability of insolvency and restructuring legislation in the trust context, and other factors relevant to income trusts and other indirect offerings that we have described in this policy.

Part 3 - Continuous disclosure

Reporting obligations relating to the operating entity

3.1 What continuous disclosure do we expect about the operating entity?

We believe that an income trust's performance and prospects depend primarily on the performance and operations of the operating entity. To make an informed decision about investing in an income trust's units, an investor generally needs comprehensive information about the operating entity, including: (i) the operating entity's interim and annual financial statements together with corresponding management discussion and analysis for those periods, (ii) complete business disclosure about the operating entity of the scope expected in an annual information form, and (iii) press releases and material change reports about any material changes in the business, operations or capital of the operating entity.

To the extent the securities legislation in some CSA jurisdictions is ambiguous about whether the disclosure described above about the operating entity is required by a reporting issuer that is an income trust or other non-corporate entity, we expect the issuer to file an undertaking with the regulatory authorities prior to receiving a receipt for a prospectus. We expect the undertaking to provide that while the issuer is a reporting issuer:

(i) in complying with its reporting issuer obligations, the income trust will treat the operating entity as a subsidiary of the income trust; however, if generally accepted accounting principles prohibit the consolidation of financial information of the operating entity and the income trust, we expect that, for as long as the operating entity (including any of its significant business interests) represents a significant asset of the income trust, the income trust will provide unitholders with separate financial statements for the operating entity (including information about any of its significant business interests), and

(ii) the income trust will annually certify that it has complied with this undertaking, and file the certificate on SEDAR concurrently with the filing of its annual financial statements.

We recognize that there are circumstances where the income trust does not have direct access to the operating entity's financial information. For example, in situations where the income trust holds less than a 50% interest in an operating entity, it may be difficult for the income trust to have direct access to that operating entity's financial information. In those types of scenarios, we expect the income trust to ensure that it can follow the guidance described in this section 3.1 either through terms of the acquisition agreement or otherwise.

3.2 Comparative financial information

Most income trusts are the continuation of an existing business that was previously operated under a different legal form (for example, a corporation). We believe that the change in legal form does not alter the substance of the business operations and

therefore does not prevent an income trust from presenting comparative financial information for the underlying business during its initial interim and annual periods.

For those acquisitions accounted for by the purchase method, we expect income trusts to provide comparative financial information for the predecessor business in their interim and annual MD&A. Examples of relevant comparative information would include, but would not be limited to, the following:

- revenues/sales,
- cost of sales,
- gross margin,
- general and administrative expenses, and
- net income.

In situations where the transfer of the operating business into an income trust is accounted for at carrying amounts, we expect the income trust to provide complete financial statements with comparative figures that also reflect the operations of the business under the previous legal entity.

Where an issuer may believe that providing comparative information would not be appropriate, such as in certain situations where the income trust is formed as a result of multiple acquisitions, we encourage the issuer to engage in discussions with the relevant securities regulatory authority(ies) prior to filing the applicable continuous disclosure document(s).

3.3 Recognition of intangible assets

We remind income trust issuers that GAAP requires the appropriate recognition of all intangible assets on acquisitions to be accounted for under the purchase method. We encourage income trusts to provide a description of the method used to value the intangible assets in the offering document, so that investors may assess the objectivity of the valuation process.

3.4 Are "insiders" of the operating entity also insiders of the income trust for purposes of insider reporting obligations?

Consistent with our belief that the performance and prospects of the income trust depend on the performance and prospects of the operating entity, we believe each person who would be an "insider" (as that term is defined in applicable securities legislation) of the operating entity if the operating entity were a reporting issuer should comply with insider reporting requirements as if that person were also an insider of the trust.

To the extent the securities legislation in certain CSA jurisdictions is ambiguous about whether insiders of the operating entity are also insiders of the income trust or other non-corporate entity, that issuer is expected to file an undertaking with the regulatory authorities prior to receiving a receipt for a prospectus. We expect the undertaking to provide that for so long as the income trust is a reporting issuer, the income trust will take the appropriate measures to require each person who would be an insider of the operating entity if the operating entity were a reporting issuer to: (i) file insider reports about trades in units of the income trust (including securities which are exchangeable into units of the trust), and (ii) comply with statutory prohibitions against insider trading. The income trust is expected to annually certify in the certificate described in section 3.1(iii) above that it has complied with this undertaking.

We are concerned that additional persons that may possess material undisclosed information about the income trust may: (i) not fall within the definition of "insider" (as that term is defined in applicable securities legislation) or (ii) not be caught by the undertaking. As a result, there may be situations where we will request that additional undertakings be provided. The income trust will need to obtain the contractual commitments from the persons and entities in order to comply with these undertakings.

Recent amendments to securities legislation in Alberta deem insiders of operating entities and management companies to be insiders of the income trust. Until similar clarifications are adopted in other jurisdictions, we will continue to expect income trusts to provide the undertaking described above.

3.5 Management's discussion and analysis (MD&A)

3.5.1 Risks and uncertainties

We recommend that an income trust disclose, in its interim and annual MD&A, the specific risks and uncertainties relating to the operations of the underlying operating entity or the income trust's assets, as applicable, and the potential impact of those risks and uncertainties on future distributions of the income trust.

3.5.2 Discussion of distributed cash

Although most income trusts intend to make distributions of their available cash to unitholders, these cash distributions are not assured. The actual amount distributed depends on numerous factors, including the operating entity's financial performance, debt covenants and obligations, working capital requirements and future capital requirements. It is important for unitholders to have information about the distributed cash that they receive, including whether the issuer borrowed amounts to finance the distribution, and whether distributions include amounts other than a return on capital. We therefore recommend that an issuer disclose in its interim and annual MD&A: (i) the source(s) of funding for distributions made in the current period to unitholders (such as cash generated by operations, borrowed funds, etc.), (ii) the breakdown between return on and return of capital for distributed cash, if available, and (iii) where applicable, a comparison between the expected distributable cash figure disclosed in the initial public offering document or circular, as applicable, and actual distributed cash.

Part 4 - Prospectus liability

4.1 What is the regulatory framework?

The central element of the prospectus system is the requirement that disclosure of all material facts relating to the offered securities and the issuer be provided so that investors can make informed investment decisions.

Although the prospectus serves a role in marketing securities, from a regulatory perspective, it is also a disclosure document that can give rise to liability. To provide discipline on prospectus disclosure, and to protect the integrity of the Canadian public markets, securities legislation imposes liability on certain persons involved in a public offering for any misrepresentation (as defined in applicable securities legislation) in a prospectus. Specifically, where a prospectus contains a misrepresentation, investors have the right to either rescind their purchases or to claim damages from the issuer or selling security holder that sold the securities, every director of the issuer, any promoters of the issuer, the underwriter(s) and certain other parties. Each of those parties (including each selling security holder) is jointly and severally liable for the damages experienced by investors as a result of the misrepresentation(s). We note that although "selling security holder" is not defined under applicable securities laws, the term is generally considered to mean persons who are selling securities of the class being distributed under the prospectus.

4.2 How does the regulatory framework about prospectus liability apply to indirect offerings?

In an indirect offering, the issuer uses the proceeds to acquire a business (and perhaps to repay indebtedness), and the disclosure (including financial disclosure) in the prospectus describes both the acquired business and the issuer. The proceeds are not retained by the issuer, and any prospectus misrepresentation that adversely affects the value of the acquired business may diminish the issuer's ability to satisfy a damages claim.

An underwriter's statutory liability in an indirect offering is the same as it is in a conventional direct offering. Underwriters sign a certificate about the disclosure contained in the issuer's prospectus and are potentially liable for a misrepresentation in the prospectus.

With respect to prospectus liability, what is different in the context of an indirect offering is that the former owners of the operating entity (referred to as vendors) who sell their ownership interests in the operating entity to the issuer and who are effectively accessing the public markets to liquidate their holdings, are not generally considered to be "selling security holders" within the meaning of securities legislation, as they are not selling the securities being offered under the prospectus. As a result, vendors who indirectly receive part of the proceeds of the offering in exchange for their operating entity interests do not (unless they qualify as promoters, which issue is addressed below) have statutory liability for a prospectus misrepresentation as they would if their operating entity security interests had been distributed directly to the public. Vendors of businesses to conventional issuers undertaking a direct offering would also not be considered "selling security holders" although they indirectly receive offering proceeds. However, as noted above, we believe those circumstances differ from an indirect offering because access to the public markets is being initiated primarily not by those vendors but by the issuer.

4.3 Promoter liability

4.3.1 What is the meaning of promoter?

Persons that are promoters of an issuer within the meaning of securities legislation are required to sign the issuer's prospectus in that capacity. As a consequence, those persons assume joint and several liability for prospectus misrepresentations up to a maximum amount equal to the gross proceeds of the offering. The term "promoter" is defined differently in provincial securities legislation across the CSA jurisdictions. It is not defined in the *Securities Act* (Quebec), and a broad approach is taken in Quebec with respect to examining those persons who would be considered promoters. We believe that a vendor that receives, directly or indirectly, a significant portion of the offering proceeds as consideration for services or property in connection with the founding or organizing of the business of an income trust issuer, is a promoter and should sign the prospectus in that capacity.

4.3.2 What constitutes the "business" of the income trust issuer?

In the context of indirect offerings, there appears to be uncertainty about whether the "business of an issuer", as that phrase is often used in the definition of "promoter" in some of the CSA jurisdictions, refers to the business of the issuer (the income trust) or to the business of the operating entity. More specifically, the question is whether the test depends on a person's involvement in the founding, organization or substantial reorganization of the operating entity's business, or whether involvement in the founding, organization, or substantial reorganization of the income trust itself will qualify a person as a promoter.

We believe that in most cases, the business of the income trust issuer is primarily to complete the public offering and to acquire the operating entity interest. Therefore, we generally focus on a person's involvement in the founding, organization, or substantial reorganization of the income trust itself.

We also believe that any person who initiated or took part in the formation, organization or substantial reorganization (as those terms are often used in the definition of "promoter") of the operating entity would not cease to be a promoter under the offering solely due to use of an indirect offering structure. The relationship between the income trust and the operating entity is not sufficiently at arm's length to support this result. The question of whether a person takes part in the founding, organizing or substantial reorganizing of the income trust's business and of the operating entity's business is one of fact. Therefore, we would expect this determination to be made by the income trust and the underwriter(s) after reviewing the relevant facts.

4.3.3 What disclosure do we expect about the implications of the operating entity being identified as a promoter?

Where the operating entity signs the prospectus as promoter but the vendors are retaining no interest, or only a nominal interest, in the operating entity upon closing of the offering, the right to claim damages from the operating entity for misrepresentations offers limited or no additional benefit to investors. This is because all or a substantial majority of the interests in the operating entity are acquired by the income trust. Therefore, we expect the prospectus to describe that, despite the operating entity's statutory liability for a misrepresentation in the prospectus, there will be little or no practical benefit to investors who choose to exercise those rights against the operating entity. This is because a successful judgment would result in a deterioration of the operating entity's value (frequently the sole asset of the income trust) and a resulting decline in the value of the investor's securities. It is also likely that the operating entity would have a limited ability to satisfy the claim.

We believe this type of disclosure would be helpful to investors who may not understand the implications of the operating entity being identified as a promoter of the income trust, as is often the case.

Conversely, where the vendors retain a meaningful interest in the operating entity, the characterization of the operating entity as promoter will offer an additional benefit because the value in the operating entity held by vendors as their retained interest would be available to satisfy a damages claim without investors suffering a corresponding decline in the value of their securities of the income trust.

4.4 Contractual accountability

4.4.1 What accountability for prospectus disclosure is typically assumed by vendors through contractual arrangements?

Our review of indirect offering prospectuses indicates that in situations where vendors have not signed the prospectus, they typically assume, by contract, responsibility for matters relating to the operating entity's business. Vendors typically provide representations and warranties about the operating entity and its business to the issuer under the agreement (the acquisition agreement) pursuant to which the vendors sell, and the issuer acquires, the operating entity interests. As well, in several indirect offerings, the vendors have provided a representation in the acquisition agreement about the absence of any misrepresentation in the prospectus (a prospectus representation).

4.4.2 What are our concerns about the application of the regulatory framework to indirect offerings?

We are concerned that:

(i) investors in indirect offering structures may not appreciate that there is not always a statutory right of action against the vendors as there would be in a direct offering if the vendors were considered "selling security holders",

(ii) prospectus representations may not be given by vendors in circumstances where we would consider those representations to be appropriate,

(iii) prospectus disclosure of the vendors' representations and warranties, and limitations, in the acquisition agreement may not be sufficiently detailed or clearly set out to permit investors to understand the vendors' contractual accountability, and

(iv) the vendors' representations and warranties may not adequately address the potential loss of rights and remedies that securities legislation would provide to investors in a direct offering.

4.4.3 What disclosure do we expect about the accountability of the vendors?

To address the concerns described in section 4.4.2, we expect prospectuses relating to indirect offerings, where part of the proceeds are being paid to vendors, to:

(i) include a clear statement that investors may not have a direct statutory right of action against each vendor for a misrepresentation in the prospectus unless that vendor is a promoter or director of the issuer, or is otherwise required to sign the prospectus,

(ii) include a detailed description of the vendors' representations, warranties and indemnities contained in the acquisition agreement (and any significant related limitations) and details about the negotiations (including the parties involved), together with a summary of these items in the summary section of the prospectus,

(v) identify the acquisition agreement as a material contract and provide disclosure advising investors to review the terms of the acquisition agreement for a complete description of the vendors' representations, warranties and indemnities, and related limitations, and

(vi) identify what measures have been implemented to provide investors with rights and remedies against the vendors in lieu of those afforded by securities legislation in a direct offering.

We also expect the summary of the relevant acquisition agreement provisions to include clear disclosure about the following:

(i) the aggregate cash proceeds being paid to the vendors for the sale of their operating entity interests,

(ii) the nature of the representations and warranties provided by the vendors, including any significant qualifications, and specifically whether a prospectus representation is provided,

(iii) the period of time that the representations and warranties will survive after closing,

(iv) any monetary limits on the vendors' indemnity obligations, and

(v) any other limitations on, or qualifications to, the vendors' indemnity obligations.

We expect the summary of the acquisition agreement terms to provide investors with a clear description of the extent to which the vendors are supporting, with meaningful indemnities, the representations and warranties in favour of the issuer.

CSA staff may consider recommending against the issuance of a receipt for a prospectus if vendors receive cash proceeds from an indirect offering by selling their operating entity interests and do not take appropriate responsibility (directly or indirectly) for the information provided as a basis for the offering through the acquisition agreement, or as a result of signing the prospectus, or otherwise.

4.4.4 What are our concerns about the nature and extent of the representations and indemnities provided by vendors in the acquisition agreement?

Circumstances, including the nature of the operating entity and its business and the nature and extent of the vendors' interests (individually and in the aggregate) and their involvement in the operating entity, will affect the types of representations, warranties and indemnities that can reasonably be expected to be provided to the issuer by vendors in the context of an indirect offering.

Examples of circumstances where we have had concerns about vendors not taking this responsibility in the context of indirect offerings have included situations where:

(i) certain vendors (active vendors), such as:

- vendors that affect materially the control of the operating entity prior to the offering, and are involved in the offering process and/or the management or supervision of management of the operating entity prior to the offering,
- vendors that influence (whether alone or in conjunction with others) the offering process, and
- members of senior management of the operating entity

sell a substantial portion of their interest in the operating entity to the issuer on closing but do not

a. sign the issuer's prospectus as promoter, or

b. provide a prospectus representation in the acquisition agreement;

(ii) a vendor's obligation to indemnify the issuer if the prospectus representation is untrue is limited to an amount less than the proceeds received by the vendor from the sale of the vendor's interest in the operating entity or is subject to a deductible or other threshold that precludes claims against the vendors that are not, individually or in the aggregate, above a certain value; and

(iii) the vendor's responsibility for the information on which the offering is based is reduced unduly, having regard to the nature of the vendor's investment, as a result of the period during which claims may be asserted against the vendor for an untrue prospectus representation being significantly below the period in which claims may be asserted against the issuer for a prospectus misrepresentation.

If an active vendor's liability for an untrue representation in the acquisition agreement is conditional on the active vendor having knowledge of the inaccuracy, we expect that the active vendor would generally have a corresponding obligation to take reasonable steps to support the representation. For example, we would expect a non-management active vendor to make appropriate inquiries of management of the operating entity.

The CSA acknowledges that there may be constraints on the indemnities that certain vendors can provide and the survival period of those indemnities. In assessing whether the vendors have taken appropriate responsibility (directly or indirectly) for the information provided as a basis for the offering, we will generally assess the entire framework of representations, warranties and indemnities provided by the vendors as a group, as opposed to assessing each component or vendor individually. We believe this approach is consistent with the commercial realities within which the parties to those transactions allocate the risks and rewards of the transactions.

Part 5 - Sales and marketing materials

5.1 What are our concerns about sales and marketing materials?

Registrants often solicit interest from potential investors during the "waiting period" between the issuance of a receipt for a preliminary prospectus and the issuance of a receipt for the prospectus, and in the period following the receipt for the prospectus until the primary distribution is completed. Along with the distribution of the preliminary prospectus (or prospectus, if then available) to potential investors, that process often involves the preparation and distribution of materials (such as green sheets) for the benefit of registered salespersons and banking group members. The information included in those materials is typically a simplified version of the disclosure in the prospectus, and must be limited to information included in, or directly derivable from the prospectus (the exceptions are information about the basic terms of comparable offerings and general market information not specific to the issuer).

Marketing materials used in the context of income trust offerings often include prominent reference to “yield”. We are concerned that expressions of “yield” in those marketing materials may not be clearly understood, both because the term itself may have connotations or common usages that are not consistent with the attributes of income trust units and because the relationship between the “yield” described in the marketing materials and the information in the prospectus may not be clear.

“Yield” is generally used in the context of income trust offerings to refer to the return that would be generated over a one-year period, as a percentage of the offering price of the units, if the amounts intended to be distributed by the income trust according to its distribution policy are so distributed.

5.2 What information do we expect the green sheets to contain?

We are concerned that use of the term yield in these marketing materials may imply that the distribution entitlement is fixed. We expect expressions of yield to be accompanied by disclosure that, unlike fixed-income securities, there is no obligation of the income trust to distribute to unitholders any fixed amount, and reductions in, or suspensions of, cash distributions may occur that would reduce yield based on the offering price.

A related concern is that disclosure of a yield in marketing materials may cause confusion because yield is not typically disclosed in the prospectus. If marketing materials contain an expression of yield, we expect the statement to be tied to the prospectus disclosure (including, in particular, the pro forma presentation of distributable cash in the prospectus). Specifically, we expect expressions of yield in income trust offering marketing materials to be accompanied by disclosure indicating the proportion of the pro forma distributable cash (as set out in the prospectus) that the stated yield would represent.

In addition, if reference is made to tax efficiencies that may be realized on distributions (such as returns of capital to investors), we expect that disclosure to be clear and, to the extent practical, quantified. For example, the estimated tax-deferred portion of distributions for the foreseeable period, and the tax implications, should be clearly stated or cross-referenced.

5.3 Do we expect income trusts to provide us with copies of their green sheets?

Yes. We expect income trust issuers to provide copies of all green sheets to the securities regulatory authorities when filing the preliminary prospectus, together with separate documentation providing a clear and concise explanation of how the yield figure (if contained in the green sheet) is derived from the prospectus disclosure. In addition, we may request that additional sales and marketing materials used in connection with an income trust offering be provided.

Part 6 – Corporate governance

6.1 CEO/CFO certification, audit committees, and effective corporate governance

We expect issuers to provide prospectus disclosure about how they will comply with the following instruments or their successors (note that the instruments are not in force in all jurisdictions):

(a) Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*,

(b) Multilateral Instrument 52-110 *Audit Committees*,

(c) Proposed National Policy 58-201 *Corporate Governance Guidelines*, and

(d) Proposed National Instrument 58-101 *Disclosure of Corporate Governance Practices*.

We remind issuers to look to the following sections of the above-noted instruments or the related companion policies for specific guidance about income trusts and other similar structures:

(a) part 4 of Companion Policy 52-109CP to Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*,

(b) section 1.2 of Companion Policy 52-110CP to Multilateral Instrument 52-110 *Audit Committees*, and

(c) section 1.2 of Proposed National Policy 58-201 *Corporate Governance Guidelines*.

6.2 Broader corporate law concerns

We are concerned that a unitholder in an income trust may not be afforded the same protections, rights and remedies as a shareholder in a corporation. We therefore recommend that issuers provide the following disclosure to unitholders:

A unitholder in the income trust has substantially all of the same protections, rights and remedies as a shareholder would have under the *Canada Business Corporations Act*. These protections, rights and remedies are contained in the [trust indenture, dated ***].

OR

A unitholder in the income trust has substantially all of the same protections, rights and remedies as a shareholder would have under the CBCA, except for the following: [list protections, rights and remedies that are not available to a unitholder.] The protections, rights and remedies available to a unitholder are contained in the [trust indenture, dated ***].

We further note that corporate legislation such as section 21 of the *Canada Business Corporations Act* provides a mechanism for persons to request a shareholder list for the purpose of making an offer to acquire securities of a corporation. We may review an income trust's refusal to provide a unitholders' list as a defensive tactic, as discussed in National Policy 62-202 -*Take-Over Bids - Defensive Tactics* or in Québec Notice 62-202 Relating to Take-Over Bids – Defensive Tactics if a potential offeror follows steps similar to those outlined in section 21 of the *Canada Business Corporations Act* in requesting a unitholders' list.

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Chapter 7

Insider Reporting

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

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

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

Chapter 8

Notice of Exempt Financings

REPORTS OF TRADES SUBMITTED ON FORM 45-501F1

Transaction Date	Purchaser	Security	Total Purchase Price ($)	Number of Securities
26-Oct-2004	Anuwara Ltd. Mr. Paul Damude	1358571 Ontario Inc. - Common Shares	450,000.00	1,080,000.00
10-Nov-2004 to 12-Nov-2004	3 Purchasers	Acuity Pooled Canadian Equity Fund - Trust Units	570,000.00	25,333.00
10-Nov-2004 to 12-Nov-2004	1067263 Ontario Ltd. Gary Farrow	Acuity Pooled Canadian Small Cap Fund - Trust Units	150,000.00	7,317.00
10-Nov-2004 Trust Units	Khalil Barsoum	Acuity Pooled Fixed Income Fund -	300,000.00	20,859.00
08-Nov-2004 to 15-Nov-2004	25 Purchasers Trust Units	Acuity Pooled High Income Fund -	3,740,474.62	202,188.00
10-Nov-2004 to 15-Nov-2004	4 Purchasers Trust Units	Acuity Pooled Income Trust Fund -	212,000.00	12,398.00
09-Nov-2004 Corporation - Warrants	8 Purchasers	ACE/SECURITY Laminates	1,404,499.85	1,080,383.00
11-Nov-2004 Debentures	Flatiron Capital	Aecon Group Inc. - Convertible	1,130,956.71	1,100,000.00
12-Nov-2004	Aegon Capital Management Rolor Securities Inc.	African Copper PLC - Shares	1,698,600.00	2,235,000.00
26-May-2004	Mackenzie Financial Corporation Kevin Reed	African Copper PLC - Units	105,305.82	309,723.00
15-Nov-2004 Notes	3 Purchasers	Algonquin Credit Card Trust -	150,000,000.00	3.00
15-Nov-2004	Sun Life Assurance Company of Canada	Allied Capital Corporation - Notes	17,904,000.00	17,904,000.00
21-Oct-2004	4 Purchasers	Arch Coal, Inc - Shares	8,434,790.39	6,250,000.00
31-Oct-2003	Royal Bank of Canada	Ashmore Emerging Markets Liquid Investment Portfolio - Shares	1,411,924.25	178,048.00
30-Jan-2004	Royal Bank of Canada	Ashmore Emerging Markets Liquid Investment Portfolio - Shares	655,741.80	77,328.00

27-Feb-2004	Royal Bank of Canada	Ashmore Emerging Markets Liquid Investment Portfolio - Shares	1,340,906.97	155,198.00
30-Apr-2004	Royal Bank of Canada	Ashmore Emerging Markets Liquid Investment Portfolio - Shares	503,860.94	58,048.00
30-Sep-2003	Connor Clark & Lunn Global Absolute Return Strategy Fund	Ashmore Emerging Markets Liquid Investment Portfolio - Shares	13,505.76	1,688.00
15-Dec-2003	Connor Clark & Lunn Global Absolute Return Strategy Fund	Ashmore Emerging Markets Liquid Investment Portfolio - Shares	104,996.76	12,979.00
31-Mar-2004	Connor Clark & Lunn Global Absolute Return Strategy Fund	Ashmore Emerging Markets Liquid Investment Portfolio - Shares	262,330.42	29,946.00
30-Jul-2004	BMO Nesbitt Burns Inc.	Ashmore Emerging Markets Liquid Investment Portfolio - Shares	1,262,979.41	142,548.00
12-Nov-2004	4 Purchasers	Atsana Semiconductor Corp. - Preferred Shares	1,097,918.41	916,230.00
12-Nov-2004	4 Purchasers	Aurogin Resources Ltd. - Units	200,000.00	200,000.00
12-Nov-2004	Limited Market Dealer Inc.	Aurogin Resources Ltd. - Warrants	0.00	200,000.00
09-Nov-2004	17 Purchasers	Avalon Resources Ltd. - Warrants	2,750,150.00	785,757.00
08-Nov-2004	Canadian Imperial Bank of Commerce	Banyan Capital Partners II Limited Partnership - Limited Partnership Units	5,000,000.00	5,000.00
10-Nov-2004	8 Purchasers	Berkley Resources Inc - Units	63,500.00	63,500.00
28-Oct-2004	Canada Life Assurance Company	BPC District Energy Investments Limited Partnership - Bonds	10,500,000.00	1.00
10-Nov-2004	1301902 Ontario Inc. 1301903 Ontario Inc	Buystream Inc - Common Shares	12,000.00	24,000.00
27-Oct-2004	Natcan Investment Management	Calamos Asset Management Inc - Shares	441,252.00	20,000.00
18-Nov-2004	41 Purchasers	Calloway Real Estate Investment Trust - Units	1,910,400.00	110,748.00
19-Nov-2004	6 Purchasers	Canadian Western Bank - Debentures	60,000,000.00	60,000,000.00
02-Nov-2004	10 Purchasers	CareVest Blended Mortgage Investment Corporation - Preferred Shares	192,861.00	192,861.00

02-Nov-2004 to 05-Nov-2004	3 Purchasers	CareVest First Mortgage Investment Corporation - Preferred Shares	176,960.00	176,960.00
02-Nov-2004	Laura Mestelman Peter Tanguay	CareVest Second Mortgage Investment Corporation - Preferred Shares	21,712.00	21,712.00
22-Oct-2004 to 03-Nov-2004	Centaur Balanced	Centaur Balanced Fund - Units	9,281.00	700.00
04-Nov-2004 to 11-Nov-2004	Centaur Balanced	Centaur Balanced Fund - Units	67,211.78	5,011.00
22-Oct-2004 to 03-Nov-2004	Centaur Bond Fund	Centaur Bond Fund - Units	9,140.95	9,141.00
04-Nov-2004 to 11-Nov-2004	Centaur Bond Fund	Centaur Bond Fund - Units	222,580.71	22,000.00
22-Oct-2004 to 03-Nov-2004	Centaur Canadian Equity	Centaur Canadian Equity - Units	12,458.85	137.00
04-Nov-2004 to 11-Nov-2004	Centaur Canadian Equity	Centaur Canadian Equity - Units	217,191.04	2,369.00
04-Nov-2004 to 11-Nov-2004	Centaur International	Centaur International Fund - Units	7,583.51	971.00
22-Oct-2004 to 03-Nov-2004	Centaur Money Market	Centaur Money Market - Units	514,429.75	514,430.00
04-Nov-2004 to 11-Nov-2004	Centaur Money Market	Centaur Money Market - Units	40,066.21	4,007.00
04-Nov-2004 to 11-Nov-2004	Centaur Small Cap	Centaur Small Cap - Units	22,147.62	359.00
04-Nov-2004 to 11-Nov-2004	Centaur US Equity	Centaur US Equity - Units	120,361.12	3,062.00
10-Nov-2004	Kilmer Corporate Investments Inc.	CFI Infrastructure Opportunities LP - Limited Partnership Units	37,500.00	15,000.00
16-Nov-2004	511919 N.B. Inc.	Clan Resources Ltd. - Units	70,000.00	70,000.00
07-Oct-2004	Diversiplex Corporation Wealthplan Corporation	CMS/Starpointe Indian Bend, L.P. - Limited Partnership Units	45,000.00	0.00
16-Nov-2004	Dr. Howard Sinclair-Johns	Dasher Exploration Ltd - Units	24,000.00	30,000.00
10-Nov-2004	8 Purchasers	Delphi Energy Corp. - Flow-Through Shares	3,247,002.00	1,082,334.00

15-Oct-2004	3 Purchasers	Disk Stream Inc. - Common Shares	2,010,000.00	4,020,000.00
12-Nov-2004	Fiducie Desjardins	DR Residential Mortgage Trust - Notes	15,000,000.00	15,000,000.00
03-Nov-2004	Environmental Engineering & Consultants Limited	DynaMotive Energy Systems Corporation - Warrants	10.00	312,500.00
04-Nov-2004	Transition Therapeutics Inc.	Ellipsis Neurotherapeutics Inc. - Shares	2,400,000.00	2,400,000.00
04-Nov-2004	23 Purchasers	Ellipsis Neurotherapeutics Inc. - Units	4,450,000.00	4,450,000.00
25-Nov-2004	Barrick Gold Corporation	Euroasian Minerals Inc. - Units	1,250,000.00	1,000,000.00
12-Nov-2004	3 Purchasers	Euston Capital Corp. - Common Shares	10,500.00	3,500.00
08-Nov-2004	Sherfam Inc.	Excalibur Limited Partnership - Limited Partnership Units	1,198,300.00	49,476.00
08-Nov-2004	Rockwater Capital Corporation	Fairway Capital Management Corp. - Shares	500,000.00	1,847,657.00
28-Oct-2004	Wolfden Resources Inc	First Narrows Resources Corp - Units	87,500.00	500,000.00
05-Nov-2004	5 Purchasers	First Treasury Private Debt Fund LP - Limited Partnership Units	600,000,000.00	600,000,000.00
01-Nov-2004	Mr. Zeev Vered R.V. Holdings Corp.	GangaGen Life Sciences Inc. - Preferred Shares	75,000.00	250,000.00
15-Nov-2004 to 16-Nov-2004	Westwind Partners Inc.	Gastar Explorations Ltd. - Common Share Purchase Warrant	0.00	237,792.00
15-Nov-2004 to 16-Nov-2004	15 Purchasers	Gastar Explorations Ltd. - Debentures	10,680,000.00	10,680.00
19-Aug-2004	3 Purchasers	Gold City Industries Ltd. - Units	1,170,000.00	4,680,000.00
29-Oct-2004	Jonathan Cahur	Gold City Industries Ltd. - Units	60,000.00	300,000.00
12-Nov-2004 Units	19 Purchasers	Grand Banks Energy Corporation -	1,569,900.00	2,276,355.00
12-Nov-2004	VentureLink Diversified Income VentureLink Fun Inc.	Groove Media Inc. - Common Shares	2.00	55,263.00
15-Nov-2004	Donald Wright	GRC 2004 Limited Partnership, The - Limited Partnership Units	950,000.00	25.00
10-Nov-2004	Crescendo Partners II LP Series	Hip Interactive Corp. - Common Shares	16,000,000.20	14,814,815.00
15-Nov-2004	5 Purchasers	Hudson Resources Inc. - Units	687,005.00	1,249,100.00

10-Nov-2004	4 Purchasers	IG Realty Investments Inc. - Common Shares	1,603,100.00	16,031.00
19-Nov-2004	12 Purchasers	In-Touch Survey Systems Ltd. - Convertible Debentures	401,000.00	401,000.00
05-Nov-2004	17 Purchasers	King's Bay Gold Corporation - Units	1,266,134.40	7,403,632.00
15-Nov-2004	9 Purchasers	Kingwest Avenue Portfolio - Units	367,680.00	16,419.00
31-Oct-2004	1420562 Ontario Inc.	Lancaster Fixed Income Fund - Trust Units	557,804.95	43,795.00
31-Oct-2004	1420563 Ontario Inc.	Lancaster Fixed Income Fund - Trust Units	557,804.95	43,795.00
31-Oct-2004	Lancaster Balanced Fund II	Lancaster Global Fund - Trust Units	1,901,146.44	212,063.00
16-Nov-2004	Geofine Exploration Consultants Ltd.	Lateegra Resources Corp. - Common Shares	9,000.00	30,000.00
30-Sep-2004	Catherine Holdings Ltd. Common Shares	Le Goyeau Holdings Limited -	300,000.00	276,681.00
12-Nov-2004	3 Purchasers	Leeward Capital Corp. - Units	250,000.00	2,500,000.00
16-Nov-2004	Province of Alberta Treasury	Maple NHA Mortgage Trust - Notes	50,000,000.00	50,000,000.00
08-Oct-2004	AMAXUR Holdings Inc Lantech Construction Limited	MediaOne Network Inc. - Common Shares	200,000.00	4,512.00
04-Nov-2004	3 Purchasers	Mist Mobility Integrated Systems Technology Inc. - Notes	900,000.00	3.00
12-Nov-2004	TMI Communications Delaware, LP	Mobile Satellite Ventures GP Inc. - Common Shares	0.95	95.00
12-Nov-2004	TMI Communications Delaware, LP	Mobile Satellite Ventures Inc. - Units	27,972,043.80	949,815.00
10-Nov-2004	MMV Financial Inc.	Momentum Healthware, Inc. - Units	2,029,800.00	1.00
19-Nov-2004	NCE Diversified Flow-Through (04) LP	Mountain Lake Resources Inc. - Flow-Through Shares	540,000.00	600,000.00
12-Nov-2004	6 Purchasers	Nevada Pacific Gold Ltd. - Units	2,610,200.16	2,690,928.00
12-Nov-2004	5 Purchasers	O'Donnell Emerging Companies Fund - Units	282,000.00	40,809.00
19-Nov-2004	Ralph Rossdeutcher Mr. Gary Holzendorff	O'Donnell Emerging Companies Fund - Units	88,964.89	12,893.00
17-Nov-2004	VentureLink Financial Services Innovation Fund Inc	PerformINS Inc, - Common Shares	1.00	4,000,000.00
17-Nov-2004	VentureLink Financial Services Innovation Fund Inc.	PerformINS Inc, - Debentures	2,000,000.00	2,000,000.00

18-Nov-2004	Goodman & Co.	PortalPlayer, Inc - Common Shares	20,496.90	1,000.00
12-Nov-2004	Vengrowth II Investment Fund Inc.	Potentia Semiconductor Corporation - Option	1.19	1.00
12-Nov-2004	Vengrowth II Investment Fund Inc.	Potentia Semiconductor Corporation - Preferred Shares	1,628,618.70	12,348,264.00
12-Nov-2004	3 Purchasers	Potentia Semiconductor Corporation - Preferred Shares	1,810,948.99	13,730,701.00
18-Nov-2004	R. Reid Sargeant Ronald A. Stewart	Premiax Financial Corp. - Debentures	115,000.00	100.00
10-Nov-2004	46 Purchasers	Richview Resources Inc. - Common Shares	3,268,450.00	9,965,600.00
05-Nov-2004	19 Purchasers	Sabina Resources Limited - Units	5,330,998.50	35,533,999.00
12-Nov-2004	Dianne Saxe Professional Corporation	SF Fund Limited Partnership II - Limited Partnership Units	150,000.00	15,000.00
08-Nov-2004	1168433 Ontario Inc 1378346 Ontario Inc.	Skywave Mobile Communications Inc. - Notes	688,000.00	688,000.00
04-Nov-2004	C. Alexander Squires Kim Le Von	Stealth Ventures Ltd. - Units	80,000.00	200,000.00
19-Nov-2004	4 Purchasers	Tagish Lake Gold Corp. - Common Shares	419,800.00	2,099,000.00
15-Nov-2004	3 Purchasers	Tm Bioscience Corporation - Debentures	5,664,550.00	5,664,550.00
15-Nov-2004	3 Purchasers	Tm Bioscience Corporation - Warrants	5,664,550.00	1,544,042.00
23-Nov-2004	CAFA CAWA	Trafalgar Trading Limited - Units	50,000,000.00	50,000,000.00
24-Nov-2004	C. Alexander Sqires	TUSK Energy Corporation - Common Shares	150,000.00	150,000.00
08-Nov-2004	4 Purchasers	UR- Energy Inc. - Flow-Through Shares	102,250.00	204,500.00
08-Nov-2004	4 Purchasers	UR- Energy Inc. - Units	102,250.00	409,000.00
17-Nov-2004	5 Purchasers	ValGold Resources Ltd. - Common Shares	118,800.00	330,000.00
25-Nov-2004	Mackenzie 2004 Resource Limited Partnership	Wesdome Gold Mines Inc. - Units	1,200,000.00	800,000.00
16-Nov-2004	4 Purchasers	Western Troy Capital Resources Inc. - Flow-Through Shares	80,000.00	177,777.00
16-Nov-2004	Allied Northern Resources Ltd.	Western Troy Capital Resources Inc. - Units	90,000.00	225,000.00
18-Nov-2004	9 Purchasers	Westrock Energy Ltd. - Common Shares	3,630,000.00	1,210,000.00

22-Oct-2004	GrowthWorks WV Canadian Fund Inc.	Whitehill Technologies Inc. - Preferred Shares	4,100,000.00	3,908,112.00
03-Sep-2004	INMET Mining Corporation	Woodruff Capital Management Inc. - Common Shares	420,000.00	400,000.00

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Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
BFI Canada Income Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated November 29, 2004
Mutual Reliance Review System Receipt dated November 30, 2004
Offering Price and Description:
$ * - * Subscription Receipts, each representing the right to receive one Unit
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
Promoter(s):
-
Project #715715

Issuer Name:
Canada Mortgage Acceptance Corporation
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated November 26, 2004
Mutual Reliance Review System Receipt dated November 26, 2004
Offering Price and Description:
$ * - (Approximate) Canada Mortgage Acceptance Corporation (Issuer) Mortgage Pass-Through Certificates, Series 2004-C2
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
TD Securities Inc.
CIBC World Markets Inc.
Promoter(s):
GMAC Residential Funding of Canada, Limited
Project #713955

Issuer Name:
CryoCath Technologies Inc.
Principal Regulator - Quebec
Type and Date:
Preliminary Short Form Prospectus dated November 25, 2004
Mutual Reliance Review System Receipt dated November 25, 2004
Offering Price and Description:
$25,000,300.00 - 3,846,200 Common Shares Price: $6.50 per Common Share
Underwriter(s) or Distributor(s):
GMP Securities Ltd.
Orion Securities Inc.
Research Capital Corporation
Desjardins Securities Inc.
Dloughy Merchant Group Inc.
Promoter(s):
-
Project #713464

Issuer Name:
Excel China Fund
Excel India China RSP Fund (Formerly, Excel Canadian Balanced Fund)
Excel India Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectuses dated November 23, 2004
Mutual Reliance Review System Receipt dated November 25, 2004
Offering Price and Description:
Series F Units
Underwriter(s) or Distributor(s):
Excel Funds Management Inc.
Promoter(s):
Excel Funds Management Inc.
Project #712983

Issuer Name:
Ford Credit Canada Limited
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Shelf Prospectus dated November 24, 2004
Mutual Reliance Review System Receipt dated November 25, 2004
Offering Price and Description:
$6,000,000,000.00 - Debt Securities (Unsecured)
Unconditionally guaranteed as to payment of principal, premium, if any, and interest, if any, by FORD MOTOR CREDIT COMPANY
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #713198

Issuer Name:
PEAK ENERGY SERVICES TRUST
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated November 24, 2004
Mutual Reliance Review System Receipt dated November 24, 2004
Offering Price and Description:
$30,000,400 - 3,352,000 Trust Units Price: $8.95 per Unit
Underwriter(s) or Distributor(s):
Canaccord Capital Corporation
Orion Securities Inc.
CIBC World Markets Inc.
TD Securities Inc.
Promoter(s):
-
Project #713118

Issuer Name:
Real Return Bond Fund - Quebec profile
Canadian Foreign Currency Bond Fund - Quebec profile
Zero Coupon Bond Fund - Quebec profile
Municipal Bond Fund - Quebec profile
Principal Regulator - Quebec
Type and Date:
Preliminary Simplified Prospectuses dated November 17, 2004
Mutual Reliance Review System Receipt dated November 24, 2004
Offering Price and Description:
Mutual Fund Securities Net Asset Value
Underwriter(s) or Distributor(s):
Les Fonds d'Investissements Spécialisés du Québec
Les Fonds d'investissements Spécialisés du Québec
Promoter(s):
-
Project #665869

Issuer Name:
The Data Group Income Fund
Principal Regulator - Ontario
Type and Date:
Amended and Restated Preliminary Prospectus dated November 26, 2004
Mutual Reliance Review System Receipt dated November 29, 2004
Offering Price and Description:
$ * - * Units Price: $10.00 per Unit
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
TD Securities Inc.
BMO Nesbitt Burns Inc.
Scotia Capital Inc.
National Bank Financial Inc.
Promoter(s):
Data Business Forms Limited
Project #708906

Issuer Name:
Vaquero Energy Ltd.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated November 24, 2004
Mutual Reliance Review System Receipt dated November 24, 2004
Offering Price and Description:
$12,000,345.00 - 2,758,700 Common Shares and $3,002,550.00 -541,000 Flow-Through Shares
Price: $4.35 per Common Share $5.55 per Flow-Through Share
Underwriter(s) or Distributor(s):
First Associates Investments Inc.
GMP Securities Ltd.
Tristone Capital Inc.
Acumen Capital Finance Partners Limited
Promoter(s):
-
Project #713043

Issuer Name:
Western Silver Corporation
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated November 26, 2004
Mutual Reliance Review System Receipt dated November 29, 2004
Offering Price and Description:
$ * - * Common Shares Price: $ * per Common Share
Underwriter(s) or Distributor(s):
Orion Securities Inc.
CIBC World Markets Inc.
Kingsdale Capital Markets Inc.
Promoter(s):
-
Project #714194

Issuer Name:
20-20 Technologies Inc.
Principal Regulator - Quebec
Type and Date:
Final Prospectus dated November 30, 2004
Mutual Reliance Review System Receipt dated November 30, 2004
Offering Price and Description:
C$40,001,000.00 - 6,154,000 Common Shares Price: C$6.50 per Common Share
Underwriter(s) or Distributor(s):
TD Securities Inc.
BMO Nesbitt Burns Inc.
Desjardins Securities Inc.
CIBC World Markets Inc.
Westwind Partners Inc.
Promoter(s):
-
Project #700932

Issuer Name:
407 International Inc.
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated November 24, 2004 to Final Short Form Base Shelf Prospectus dated November 17, 2003
Mutual Reliance Review System Receipt dated November 26, 2004
Offering Price and Description:
$1,300,000,000 - Medium-Term Notes (Secured)
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
RBC Dominion Securities Inc.
TD Securities Inc.
Scotia Capital Inc.
National Bank Financial Inc.
Casgrain & Company Limited
CIBC World Markets Inc.
Merill Lynch Canada Inc.
Promoter(s):
-
Project #587273

Issuer Name:
ACCUMULUS TALISMAN FUND
ACCUMULUS DIVERSIFIED MONTHLY INCOME FUND
ACCUMULUS SHORT-TERM INCOME FUND
ACCUMULUS BALANCED FUND
Principal Regulator - Ontario
Type and Date:
Amendment #2 dated November 18, 2004 to Final Simplified Prospectuses dated February 17, 2004
Mutual Reliance Review System Receipt dated November 26, 2004
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
McFarlane Gordon Inc.
McFarlane Gordon Inc.
Promoter(s):
Accumulus Management Ltd.
Project #582997

Issuer Name:
Adulis Resources Inc.
Principal Regulator - Alberta
Type and Date:
Final Prospectus dated November 24, 2004
Mutual Reliance Review System Receipt dated November 29, 2004
Offering Price and Description:
$50,000,000.00 - 18,181,818 Common Shares at $2.75 per Common Share
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #699745

Issuer Name:
Augen Limited Partnership 2004-1
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated November 26, 2004 to Final Prospectus dated June 29, 2004
Mutual Reliance Review System Receipt dated November 30, 2004
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
IPC Securities Corporation
Berkshire Securities Inc.
Wellington West Capital Inc.
McFarlane Gordon Inc.
Foster & Associates Financial Services Inc.
Promoter(s):
Augen General Partner X Inc.
Project #635990

Issuer Name:
AUREUS VENTURES INC.
Principal Regulator - British Columbia
Type and Date:
Final CPC Prospectus dated November 23, 2004
Mutual Reliance Review System Receipt dated November 25, 2004
Offering Price and Description:
$1,500,000.00 - 6,000,000 Common Shares Price: $0.25 per Common Share
Underwriter(s) or Distributor(s):
First Associates Investments Inc.
Promoter(s):
Harry L Knutson
Project #697628

Issuer Name:
Bolcar Énergie Inc.
Principal Regulator - Quebec
Type and Date:
Final Prospectus dated November 24, 2004
Mutual Reliance Review System Receipt dated November 26, 2004
Offering Price and Description:
Maximum Offering: $5,000,320.00; Minimum Offering: $1,700,830.00 - Price per A Unit: $3,005; Price per B Unit: $35,000; Price per C Unit: $30,000 Minimum Subscription: One A Unit ($3,005), One B Unit ($35,000) or One C Unit ($30,000)
Underwriter(s) or Distributor(s):
Investpro Securities Inc.
Promoter(s):
-
Project #702740

Issuer Name:
CI American Managers Sector Fund
CI American Managers RSP Fund
CI Canadian Bond Fund
CI Canadian Bond Sector Fund
CI Canadian Investment Fund
CI Canadian Investment Sector Fund
Harbour Fund
Harbour Sector Fund
Signature High Income Fund
Signature High Income Sector Fund
Signature Select Canadian Fund
Signature Select Canadian Sector Fund
Synergy American Momentum Fund (formerly called Landmark American Fund)
Synergy American Momentum RSP Fund (formerly called Landmark American RSP Fund)
Synergy American Momentum Sector Fund (formerly called Landmark American Sector Fund)
Synergy Canadian Momentum Class
Synergy Canadian Momentum Sector Fund (formerly called Landmark Canadian Sector Fund)
Synergy Canadian Style Management Class
Synergy Canadian Value Class
Synergy Extreme Canadian Equity Fund
Synergy Extreme Global Equity Fund
Synergy Extreme Global Equity RSP Fund
Synergy Global Style Management Sector Fund
Synergy Global Style Management RSP Fund
Synergy Global Momentum Sector Fund
Synergy Global Momentum RSP Fund
Synergy Tactical Asset Allocation Fund
Principal Regulator - Ontario
Type and Date:
Amendment #3 dated November 16, 2004 to Final Simplified Prospectuses and Annual Information Forms dated July 23, 2004
Mutual Reliance Review System Receipt dated November 30, 2004
Offering Price and Description:
Mutual Fund at Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
CI Mutual Funds Inc.
Project #665295

Issuer Name:
Burgundy American Equity Fund
Burgundy Balanced Income Fund
Burgundy Bond Fund
Burgundy Canadian Equity Fund
Burgundy European Equity Fund
Burgundy European Foundation Fund
Burgundy Focus Canadian Equity Fund
Burgundy Focus Equity RSP Fund
Burgundy Focus Japan Fund
Burgundy Foundation Trust Fund
Burgundy Money Market Fund
Burgundy Partners Equity RSP Fund
Burgundy Partners' Fund
Burgundy Partners' RSP Fund
Burgundy T-Bill Fund
Burgundy U.S. Money Market Fund
Burgundy U.S. T-Bill Fund
Type and Date:
Receipt for (Final) Simplified Prospectuses dated November 22nd, 2004 relating to the
securities of Burgundy Focus Equity RSP Fund and Burgundy Focus Japan Fund.
And

Receipt for an Amended and Restated Simplified Prospectuses dated November 22, 2004,
amending and restating the Amended and Restated Simplified Prospectuses dated October 6, 2004, amending and restating Simplified Prospectuses dated July 16, 2004 and for an Amended and Restated Annual Information Forms dated November 22, 2002, amending and restating the
Annual Information Forms dated July 16, 2004 relating to the securities of Burgundy American
Equity Fund, Burgundy Balanced Income Fund, Burgundy Bond Fund, Burgundy Canadian
Equity Fund, Burgundy European Equity Fund, Burgundy European Foundation Fund,
Burgundy Focus Canadian Equity Fund, Burgundy Foundation Trust Fund, Burgundy
Money Market Fund, Burgundy Partners Equity RSP Fund, Burgundy Partners' Fund,
Burgundy Partners' RSP Fund, Burgundy T-Bill Fund, Burgundy U.S. Money Market Fund
and Burgundy U.S. T-Bill Fund
Receipted on November 25, 2004
Offering Price and Description:
Mutual Fund Units @ Net Asset Value
Underwriter(s) or Distributor(s):
Burgundy Asset Management Ltd.
Burgundy Asset Management Ltd.
Promoter(s):
Burgundy Asset Management Ltd.
Project #702665

Issuer Name:
Canadian Medical Discoveries Fund II Inc.
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated November 23, 2004
Mutual Reliance Review System Receipt dated November 25, 2004
Offering Price and Description:
Class A Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #697015

Issuer Name:
Connor, Clark & Lunn Conservative Income Fund
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated November 29, 2004
Mutual Reliance Review System Receipt dated November 30, 2004
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
CIBC World Markets Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
TD Securities Inc.
Desjardins Securities Inc.
HSBC Securities (Canada) Inc.
Canaccord Capital Corporation
First Associates Investments Inc.
Raymond James Ltd.
Richardson Partners Financial Limited
Wellington West Capital Inc.
Promoter(s):
Connor, Clark & Lunn Capital Markets Inc.
Project #702683

Issuer Name:
Destiny Resource Services Corp.
Principal Regulator - Alberta
Type and Date:
Final Prospectus dated November 29, 2004
Mutual Reliance Review System Receipt dated November 30, 2004
Offering Price and Description:
$7,379,583.26 - 52,711,309 rights to purchase 52,711,309 Common Shares at a purchase price of $0.14 per share
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #703556

Issuer Name:
diversiTrust Energy Income Fund
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated November 29, 2004
Mutual Reliance Review System Receipt dated November 30, 2004
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
CIBC World Markets Inc
Dundee Securities Corporation
Scotia Capital Inc
TD Securities Inc
BMO Nesbitt Burns Inc
National Bank Financial Inc
Canaccord Capital Corporation
HSBC Securities (Canada) Inc
Berkshire Securities Inc
First Associates Investments Inc
Raymond James Ltd
Promoter(s):
Goodman & Company, Investment Counsel Ltd.
Project #703458

Issuer Name:
DOFASCO INC.
Principal Regulator - Ontario
Type and Date:
Final Short Form Shelf Prospectus dated November 24, 2004
Mutual Reliance Review System Receipt dated November 25, 2004
Offering Price and Description:
$300,000,000.00 - Medium Term Notes (unsecured)
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
Scotia Capital Inc.
TD Securities Inc.
Promoter(s):
-
Project #701759

Issuer Name:
Energy Split Corp. II Inc.
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated November 29, 2004
Mutual Reliance Review System Receipt dated November 30, 2004
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
Promoter(s):
Scotia Capital Inc.
Project #694540

Issuer Name:
Explorer II Resource Limited Partnership
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated November 25, 2004
Mutual Reliance Review System Receipt dated November 25, 2004
Offering Price and Description:
$30,000,000 maximum (maximum - 1,200,000 Units)
$10,000,000 minimum (minimum - 400,000 Units)
Underwriter(s) or Distributor(s):
CIBC World Markets Inc
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc
Scotia Capital Inc.
TD Securities Inc
National Bank Financial Inc
Berkshire Securities Inc
Canaccord Capital Corporation
Dundee Securities Corporation
First Associates Investments Inc
HSBC Securities (Canada) Inc
Raymond James Ltd
Wellington West Capital Inc.
Desjardins Securities Inc
GMP Securities Ltd
Middlefield Capital Corporation
Research Capital Corporation
Promoter(s):
Explorer II Resource Management Limited
Project #704004

Issuer Name:
Flaherty & Crumrine Investment Grade Fixed Income Fund
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated November 25, 2004
Mutual Reliance Review System Receipt dated November 26, 2004
Offering Price and Description:
Maximum 18,000,000 Units @ $25 = $450,000,000
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
CIBC World Markets Inc.
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
TD Securities Inc.
HSBC Securities (Canada) Inc.
Canaccord Capital Corporation
Desjardins Securities Inc.
First Associates Investments Inc.
Raymond James Ltd.
Dundee Securities Corporation
Acadian Securities Incorporated
IPC Securities Corporation
Newport Securities Inc.
Research Capital Corporation
Wellington West Capital Inc.
Promoter(s):
Brompton FFI Management Limited
Project #699953

Issuer Name:
Glacier Credit Card Trust
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated November 23, 2004
Mutual Reliance Review System Receipt dated November 24, 2004
Offering Price and Description:
(1) $590,625,000.00 - 4.274% Asset-Backed Senior Notes, Series 2004-1 Expected Repayment Date November 20, 2009;
(2) $34,375,000.00 - 4.674% Asset-Backed Subordinated Notes, Series 2004-1 Expected Repayment Date ovember 20, 2009
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
Scotia Capital Inc.
National Bank Financial Inc.
TD Securities Inc.
Promoter(s):
-
Project #709174

Issuer Name:
Glencairn Gold Corporation
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated November 29, 2004
Mutual Reliance Review System Receipt dated November 30, 2004
Offering Price and Description:
Cdn$10,001,000.00 - 13,700,000 Units Price: Cdn$0.73 per Unit
Underwriter(s) or Distributor(s):
Orion Securities Inc.
McFarlane Gordon Inc.
RBC Dominion Securities Inc.
Desjardins Securities Inc.
Promoter(s):
-
Project #712001

Issuer Name:
Grove Energy Limited
Principal Regulator - British Columbia
Type and Date:
Final Prospectus dated November 26, 2004
Mutual Reliance Review System Receipt dated November 26, 2004
Offering Price and Description:
$21,904,762.00 - 47,619,047 COMMON SHARES at $0.46 per share
Underwriter(s) or Distributor(s):
Canaccord Capital Corporation
Promoter(s):
-
Project #700083

Issuer Name:
GrowthWorks WV Canadian Fund Inc.
Principal Regulator - Ontario
Type and Date:
Amendment #2 dated November 19, 2004 to Final Prospectus dated November 27, 2003
Mutual Reliance Review System Receipt dated November 26, 2004
Offering Price and Description:
Class A Shares in Series
Offering Price: Net Asset Value per Series Share
Underwriter(s) or Distributor(s):
GrowthWorks Capital Ltd.
Promoter(s):
-
Project #587888

Issuer Name:
Harmony Americas Small Cap Equity Pool
Harmony Canadian Equity Pool
Harmony Canadian Fixed Income Pool
Harmony Money Market Pool
Harmony Overseas Equity Pool
Harmony RSP Americas Small Cap Equity Pool
Harmony RSP Overseas Equity Pool
Harmony RSP U.S. Equity Pool
Harmony U.S. Equity Pool
Harmony Conservative Portfolio
Harmony Balanced Portfolio
Harmony RSP Balanced Portfolio
Harmony Growth Portfolio
Harmony RSP Growth Portfolio
Harmony Aggressive Growth Portfolio
Harmony RSP Aggressive Growth Portfolio
Harmony Maximum Growth Portfolio
Harmony RSP Maximum Growth Portfolio
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated November 19, 2004 to Final Simplified Prospectuses and Annual Information Forms dated January 5, 2004
Mutual Reliance Review System Receipt dated November 24, 2004
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
AGF Fund Inc.
AGF Funds Inc.
Promoter(s):
AGF Funds Inc.
Project #590973

Issuer Name:
KeySpan Facilities Income Fund
Principal Regulator – Alberta
Type and Date:
Final Short Form Prospectus dated November 25, 2004
Mutual Reliance Review System Receipt dated November 25, 2004
Offering Price and Description:
$151,125,429.00 - 10,872,333 Units Price: $13.90 per Unit
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
Scotia Capital Inc.
National Bank Financial Inc.
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
TD Securities Inc.
Clarus Securities Inc.
First Associates Investments Inc.
FirstEnergy Capital Corp.
Peters & Co. Limited
Promoter(s):
Keyspan Corporation
Project #711287

Issuer Name:
Lawrence Payout Ratio Trust
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated November 29, 2004
Mutual Reliance Review System Receipt dated November 30, 2004
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
RBC Dominion Securities Inc.
TD Securities Inc.
HSBC Securities (Canada) Inc.
Canaccord Capital Corporation
Desjardins Securities Inc.
Dundee Securities Corporation
First Associates Investments Inc.
Raymond James Ltd.
Promoter(s):
Lawrence Asset Management Inc.
Project #701439

Issuer Name:
MCM Split Share Corp.
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated November 23, 2004
Mutual Reliance Review System Receipt dated November 24, 2004
Offering Price and Description:
Maximum of $47,244,000
1,860,000 Preferred Shares @ $15.65 per Share = $29,109,000 and 1,860,000 Class A Shares @ $9.75 per Share = $18,135,000
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
CIBC World Market Inc.
Scotia Capital Inc.
TD Securities Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
HSBC Securities (Canada) Inc.
Canaccord Capital Corporation
Desjardins Securities Inc.
Dundee Securities Corporation
Raymond James Ltd.
First Associates Investments Inc.
Promoter(s):
Mulvihill Capital Management Inc.
Project #697705

Issuer Name:
MSP Maxxum Trust
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated November 29, 2004
Mutual Reliance Review System Receipt dated November 30, 2004
Offering Price and Description:
Maximum $140,000,000 (14,000,000 Trust Units @ $10 per Unit)
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
Scotia Capital Inc.
TD Securities Inc.
HSBC Securities (Canada) Inc.
Canaccord Capital Corporation
Desjardins Securities Inc.
Dundee Securities Corporation
Raymond James Ltd.
First Associates Investments Inc.
Richardson Partners Financial Limited
Wellington West Capital Inc.
Promoter(s):
Mackenzie Financial Corporation
Project #701883

Issuer Name:
Montrusco Bolton Income & Growth Fund
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated November 29, 2004
Mutual Reliance Review System Receipt dated November 30, 2004
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
National Bank Financial Inc.
CIBC World Markets Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
Desjardins Securities Inc.
Scotia Capital Inc.
TD Securities Inc.
HSBC Securities (Canada) Inc.
Dundee Securities Corporation
First Associates Investments Inc.
Promoter(s):
Montrusco Bolton Investments Inc.
Project #701698

Issuer Name:
Nordea International Equity Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated November 23, 2004
Mutual Reliance Review System Receipt dated November 24, 2004
Offering Price and Description:
Class O Units, Class I Units and Class P Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
SEI Investments Canada Company
Project #696303

Issuer Name:
PEYTO Energy Trust
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated November 26, 2004
Mutual Reliance Review System Receipt dated November 26, 2004
Offering Price and Description:
$85,300,000.00 - 2,000,000 Units Price: $42.65 per Unit
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
FirstEnergy Capital Corp.
CIBC World Markets Inc.
RBC Dominion Securities Inc.
Haywood Securities Inc.
National Bank Financial Inc.
Raymond James Ltd.
Peters & Company Limited
Promoter(s):
-
Project #711140

Issuer Name:
Primerica Canadian Aggressive Growth Portfolio Fund
Primerica Canadian Balanced Portfolio Fund
Primerica Canadian Conservative Portfolio Fund
Primerica Canadian Growth Portfolio Fund
Primerica Canadian High Growth Portfolio Fund
Primerica Canadian Income Portfolio Fund
Primerica Canadian Money Market Portfolio Fund
Primerica International Aggressive Growth Portfolio Fund
Primerica International Growth Portfolio Fund
Primerica International High Growth Portfolio Fund
Primerica International RSP Aggressive Growth Portfolio Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated November 23, 2004
Mutual Reliance Review System Receipt dated November 24, 2004
Offering Price and Description:
Mutual Fund Units at Net Asset Value
Underwriter(s) or Distributor(s):
PFSL Investments Canada Ltd.
PFSL Investments Canada Ltd.
Promoter(s):
PFSL Investments Canada Ltd.
Project #700308

Issuer Name:
Saxon Money Market Fund
Saxon Bond Fund
Saxon High Income Fund
Saxon Balanced Fund
Saxon Stock Fund
Saxon Small Cap
Saxon World Growth
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated November 22, 2004
Mutual Reliance Review System Receipt dated November 25, 2004
Offering Price and Description:
Class A Units and Class B Units @ Net Asset Value per Unit
Underwriter(s) or Distributor(s):
MD Management Limited
Howson Tattersall Investment Counsel Limited
Saxon Mutual Funds Limited
Promoter(s):
Saxon Funds Management Limited
Project #698617

Issuer Name:
SemBioSys Genetics Inc.
Principal Regulator - Alberta
Type and Date:
Final Prospectus dated November 24, 2004
Mutual Reliance Review System Receipt dated November 25, 2004
Offering Price and Description:
$17,500,000.00 - 3,500,000 Units Price: $5.00 per Unit
Underwriter(s) or Distributor(s):
Orion Securities Inc.
Dlouhy Merchant Group Inc.
First Associates Investments Inc.
Raymond James Ltd.
Promoter(s):
-
Project #663153

Issuer Name:
Symmetry Canadian Stock Capital Class
Symmetry US Stock Capital Class
Symmetry EAFE Stock Capital Class
Symmetry Specialty Stock Capital Class
Symmetry Managed Return Capital Class
Mackenzie Financial Capital Corporation
Symmetry Registered Fixed Income Pool
Principal Regulator - Ontario
Type and Date:
Amended and Restated Simplified Prospectuses and Annual Information Forms dated November 19th, 2004, amending and restating the Simplified Prospectuses and Annual Information Forms dated February 2nd, 2004.
Mutual Reliance Review System Receipt dated November 25, 2004
Offering Price and Description:
Series A, F, I and W Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
Mackenzie Financial Corporation
Project #601377

Issuer Name:
The VenGrowth II Investment Fund Inc.
Principal Regulator - Ontario
Type and Date:
Amendment #2 dated November 19, 2004 to Final Prospectus dated January 14, 2004
Mutual Reliance Review System Receipt dated November 24, 2004
Offering Price and Description:
Class A Shares
Offering Price: Net Asset Value per Class A Shae
Underwriter(s) or Distributor(s):
-
Promoter(s):
ACFO/ACAF Sponsor Corp.
Project #600456

Issuer Name:
TELUS Corporation
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated November 30, 2004
Mutual Reliance Review System Receipt dated November 30, 2004
Offering Price and Description:
C$ * - 48,551,972 Common Shares and 24,942,368 Non-Voting Shares Price: C$ * per Common Share and C$ * per Non-Voting Share
Underwriter(s) or Distributor(s):
Merrill Lynch Canada Inc.
Morgan Stanley Canada Limited
RBC Dominion Securities Inc.
Promoter(s):
-
Project #717780

ISSUER:
Arapahoe Energy Corporation
Principal Jurisdiction - Alberta
DATES:
Preliminary Prospectus dated November 29th, 2004
Mutual Reliance Review System Receipt dated November 30th, 2004
Offering Price and Description:
UP TO UNITS @ $ EACH (Maximum: $1,000,000) and UP TO FLOW-THROUGH COMMON SHARES AT $ * EACH (Aggregate Maximum: $3,500,000)
UNDERWRITER(S):
Woodstone Capital Inc.
PROMOTER(S):
H. Barry Hemsworth

PROJECT NUMBER:
716266

ISSUER:
Real Resources Inc.
Principal Jurisdiction - Alberta
DATES:
Preliminary Short Form Prospectus dated November 30th, 2004
Mutual Reliance Review System Receipt dated November 30th, 2004
Offering Price and Description:
$20,000,012.00 - 1,269,842 FLOW-THROUGH COMMON SHARES PRICE: $15.75 PER FLOW-THROUGH COMMON SHARE
UNDERWRITER(S):
GMP Securities Ltd.
CIBC World Markets Inc.
Raymond James Ltd.
Orion Securities Inc.
Peters & Co. Limited
Maison Placements Canada Inc.

PROMOTER(S):

PROJECT NUMBER:
717837

Issuer Name:
Emera Incorporated
Principal Regulator – Nova Scotia
Type and Date:
Preliminary Short Form Shelf Prospectus dated July 15, 2004
Withdrawn on November 29, 2004
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #667370

Issuer Name:
Nova Scotia Power Incorporated
Principal Regulator – Nova Scotia
Type and Date:
Preliminary Short Form Shelf Prospectus dated July 15, 2004
Withdrawn on November 29, 2004
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):

Project #667352

Issuer Name:
NDi Media Inc.
Principal Regulator - Quebec
Type and Date:
Preliminary Prospectus dated May 10, 2004
Closed on November 26, 2004
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):

Project #641331

Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
New Registration	Keel Capital Management Inc.	Investment Counsel & Portfolio Manager and Commodity Trading Counsel & Commodity Trading Manager	November 25, 2004
Change of Name	From: Watson Investment Counsel Ltd. To: Watson Di Primio Steel (WDS) Investment Management Ltd.	Investment Counsel & Portfolio Manager	November 23, 2004
New Registration	I. H. Rotenberg Investment Counsel Inc.	Limited Market Dealer & Investment Counsel & Portfolio Manager	November 29, 2004
Change of Name	From: SG Yamaichi Asset Management Co., Ltd. To: Societe Generale Asset Management (Japan) Co., Ltd.	International Adviser (Investment Counsel & Portfolio Manager)	August 2, 2004
New Registration	J. Russell Capital Management Inc.	Commodity Trading Manager	November 30, 2004
Change of Name	From: IFPT Management Inc. To: Cordiant Capital Inc.	Extra Provincial Limited Market Dealer & Investment Counsel & Portfolio Manager	June 17, 2004

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Chapter 13

SRO Notices and Disciplinary Proceedings

13.1.1 CNQ Request for Comments – Entry of Off-Market Orders by Non-Market Makers

CNQ Notice 2004-009
December 3, 2004

REQUEST FOR COMMENTS — ENTRY OF OFF-MARKET ORDERS BY NON MARKET MAKERS

On November 9, 2004, the Board of Directors of CNQ approved a rule amendment that would allow CNQ Dealers that are not market makers to enter certain orders directly for stocks that have market makers. The proposed amendments are attached to this notice as Appendix "A."

The Board has determined that the proposed amendments are in the public interest and have authorized them to be published for public notice and comments. Comments should be made no later than 30 days from the date of publication of this notice and should be addressed to:

Canadian Trading and Quotation System Inc.
BCE Place, 161 Bay Street
Suite 3850, P.O. Box 207
Toronto ON
M5J 2S1

Attention: Mark Faulkner, Director, Listings and Regulation

Fax: 416.572.4160
E-mail: Mark.Faulkner@cnq.ca

A copy should be provided to the Ontario Securities Commission at the following address:

Capital Markets Branch
Ontario Securities Commission
Suite 1903, Box 55
20 Queen Street West
Toronto ON
M5H 3S8

Attention: Cindy Petlock, Manager, Market Regulation

Fax: 416.595.8940
E-mail: cpetlock@osc.gov.on.ca

Background

Currently, CNQ Dealers that are not a market maker in a market maker security are restricted to entering client orders to trade with the bid or offer ("client matching orders") and crosses between the bid and offer. All other orders must be given to a market maker for entry.

Given the increase in order flow through CNQ Market Makers, the proposed rule change would allow Non-Market Maker CNQ Dealers to enter additional order types on Market Maker securities. The purpose of the rule change is to improve the efficiency of the trading model by reducing the obligation of the Market Makers and increasing the ability of CNQ Dealers to manage their own order flow.

Rationale

As order flow increases, there is an unreasonable burden placed on Market Makers that receive non-tradable orders outside the best bid/ask, and the subsequent changes to and cancellations of those orders. There is little or no benefit to participants in having the Market Maker enter "outside" orders, especially when there is a high level of order activity with little or no chance of the Market Maker providing fills for those orders. Allowing direct order entry will remove the obligation of the Market Maker to handle such orders and facilitate more timely entry, CFOs and cancellations by the originating CNQ Dealer, making the process more efficient.

Description of Rule Change

The change to the order entry rule, which restricts order entry to Market Makers, would allow approved traders at all CNQ Dealers to enter:

(i) Buy orders at prices equal to or less than the existing bid price, and

(ii) Sell orders at prices equal to or higher than the existing offer price

of a Market Maker security, including orders for client and non-client accounts.

The Rule change would still require that orders to improve the market are directed to Market Makers pursuant to existing Rule 4-107(5) & (6).

Impact

The proposed change will not require any technological changes or development by CNQ Dealers. The rule will not require CNQ Dealers to enter orders directly, it simply provides that option. The order flow through Market Makers will be reduced, and orders for CNQ Dealers will be more easily identified in the CNQ system, allowing CNQ Dealers to more effectively manage their orders. There will be no direct costs associated with compliance.

In market data displays orders will be clearly identified by the clearing number of the originating CNQ Dealer,

improving transparency and providing more accurate information to market participants and investors.

Consultation

The proposed rule change was approved by CNQ's Dealer Advisory Group, comprised of traders from market-making and non-market-making firms.

Alternatives Considered

CNQ considered allowing any CNQ Dealer to enter any type of orders for a market maker stock without restriction. It was determined that such a change would conflict with the Market Maker system rather than enhance it, making it unattractive for a firm to commit to providing liquidity.

Comparable Rules

No other Canadian stock exchange requires orders to be given to market makers. CNQ requires certain orders to be given to market makers as it provides the possibility of price improvement and better execution.

APPENDIX "A"

BE IT RESOLVED THAT:

1. Rule 4-107(2) is hereby amended by deleting the word "or" after "Client Matching Order" and by deleting the phrase "after the opening of trading."

2. Rule 4-107(2) is further amended by adding the following clauses:

   "(c) a client or non-client buy order with a limit price equal to or lower than the bid at the time of order entry; and

   (d) a client or non-client sell order with a limit price equal to or higher than the ask at the time of order entry."

PASSED this 9th day of November, 2004, to be effective upon Ontario Securities Commission approval following public notice and comment.

"Ian Bandeen" Chairman

"Timothy Baikie" Secretary

APPENDIX B

BLACKLINED AGAINST CURRENT RULE

Rule 4-107 Entry of Orders for Market Maker Securities.

(1) Subject to Rule 4-107(2), only a Designated Market Maker may enter

(a) orders and

(b) crosses at any price between the bid and offer

into the CNQ System for a Market Maker security.

(2) A CNQ Dealer other than a Designated Market Maker may enter into the CNQ System

(a) a Client Matching Order; ~~or~~

(b) a cross at any price between the bid and ask;

(c) a client or non-client buy order with a limit price equal to or lower than the bid at the time of order entry; and

(d) a client or non-client sell order with a limit price equal to or higher than the ask at the time of order entry

for such securities ~~after the opening of trading~~.

(3) & (4) - *(not applicable, both relate to partially disclosed orders)*

(5) CNQ Dealers other than a Designated Market Maker shall, subject to Rules 4-107(2) and (6), direct orders to one or more Designated Market Makers.

(6) A CNQ Dealer may direct part or all of a Client Matching Order to a Market Maker for execution or entry into the CNQ System, including any unfilled portion of the order previously directly entered into the CNQ System by the CNQ Dealer pursuant to Rule 4-107(2).

13.1.2 CNQ Request for Comments – Issuers with a Substantial Connection to Alberta

CNQ Notice 2004-010
December 3, 2004

REQUEST FOR COMMENTS — ISSUERS WITH A SUBSTANTIAL CONNECTION TO ALBERTA

On November 9, 2004, the Board of Directors of CNQ approved a rule amendment that would require CNQ Issuers that are not reporting issuers in Alberta to assess whether they have a substantial connection to the province and, if so, to make application to the Alberta Securities Commission to become a reporting issuer. The proposed amendments are attached to this notice as Appendix "A."

The Board has determined that the proposed amendments are in the public interest and have authorized them to be published for public notice and comments. Comments should be made no later than 30 days from the date of publication of this notice and should be addressed to:

Canadian Trading and Quotation System Inc.
BCE Place, 161 Bay Street
Suite 3850, P.O. Box 207
Toronto ON
M5J 2S1

Attention: Timothy Baikie, General Counsel & Corporate Secretary

Fax: 416.572.4160
E-mail: Timothy.Baikie@cnq.ca

A copy should be provided to the Ontario Securities Commission at the following address:

Capital Markets Branch
Ontario Securities Commission
Suite 1903, Box 55
20 Queen Street West
Toronto ON
M5H 3S8

Attention: Cindy Petlock, Manager, Market Regulation

Fax: 416.595.8940
E-mail: cpetlock@osc.gov.on.ca

Background

CNQ has applied to the Alberta Securities Commission (ASC) for exemption from recognition as a stock exchange. Staff of the ASC have indicated they will recommend that the exemption be granted on condition that the proposed amendments are adopted. The proposed rule would prevent issuers that have a substantial connection to Alberta (as defined below) from avoiding the jurisdiction of the ASC.

Proposal

The proposed amendments will require a company to become an Alberta reporting issuer if it has a substantial connection to Alberta, which it will have if

(a) registered and beneficial securityholders (which for this purpose includes both Non-Objecting Beneficial Owners as defined in National Instrument 54-101 or any successor instrument and any shareholders appearing on the Demographic Summary Report prepared by International Investors Communications Corporation) resident in Alberta who beneficially own more than 20% of the equity securities of the Issuer; or

(b) the majority of the board of directors or the President or the Chief Executive Officer are residents of Alberta and registered and beneficial securityholders resident in Alberta who beneficially own more than 10% of the equity securities of the Issuer.

Listed companies would be required to assess on an annual basis whether they have a substantial connection to Alberta.

If an issuer is subject to the new requirement, it must make a *bona fide* application to the ASC and become a reporting issuer within six months. Failure to do so may result in suspension or delisting.

As in Ontario, the ASC permits out-of-province reporting issuers in good standing to apply to become an Alberta reporting issuer without having to clear a prospectus. Please refer to ASC Policy 12-601, Applications to the ASC, Appendix 2 for further information.

Consultation

No formal consultations were undertaken with respect to the proposed rule.

Alternatives Considered

No alternatives were considered.

Rules of Other Jurisdictions

The TSX Venture Exchange has a rule requiring issuers to assess whether they have a substantial connection to Ontario and, if so, to apply to the Ontario Securities Commission to become a reporting issuer. The rule is the same as the proposed rule other than the jurisdiction that is the focus of the assessment.

APPENDIX "A"

BE IT RESOLVED that:

1. Section 3.2 of Policy 1 is amended by adding the following definitions:

"**beneficial holders**" means those security holders of an issuer that are included in either:

(a) a Demographic Summary Report available from the International Investors Communications Corporation; or

(b) a non-objecting beneficial owner list for the issuer under National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer*;

"**registered holders**" means the registered security holders of an issuer that are beneficial owners of the equity securities of that issuer. For the purposes of this definition, where the beneficial owner controls or is an affiliate of the registered security holder, the registered security holder shall be deemed to be the beneficial owner;

"**significant connection to Alberta**" means, with respect to a CNQ Issuer or an issuer applying to become listed CNQ, that the issuer has:

(a) registered holders and beneficial holders resident in Alberta who beneficially own more than 20% of the total number of equity securities beneficially owned by the registered holders and beneficial holders of the issuer; or

(b) mind and management principally located in Alberta and has registered holders and beneficial holders resident in Alberta who beneficially own more than 10% of the total number of equity securities beneficially owned by the registered holders and beneficial holders of the issuer.

For the purposes of item (b), the residence of the majority of the directors in Alberta or the residence of the president or chief executive officer in Alberta may be considered determinative in assessing whether the mind and management of the issuer is principally located in Alberta.

2. Sections 3.2 to 3.6 of Policy 2 are enacted as follows:

3.2 All CNQ Issuers and applicants for listing that are not reporting issuers in Alberta must immediately assess whether they have a significant connection to Alberta.

3.3 Where it appears to CNQ that an issuer making an initial application for listing on CNQ has a significant connection to Alberta, CNQ will, as a condition of its acceptance or approval of the listing application, require the issuer to provide to CNQ evidence that it has made a *bona fide* application to the Alberta Securities Commission to become a reporting issuer in Alberta.

3.4 Where a CNQ Issuer that is not a reporting issuer in Alberta becomes aware that it has a significant connection to Alberta as a result of complying with section 3.2 above or otherwise, the CNQ Issuer must immediately notify CNQ and promptly make a *bona fide* application to the Alberta Securities Commission to be deemed to be a reporting issuer in Alberta. The CNQ Issuer must become a reporting issuer in Alberta within six months of becoming aware that it has a significant connection to Alberta.

3.5 All CNQ Issuers that are not reporting issuers in Alberta must assess, on an annual basis, in connection with the delivery of their annual financial statements to securityholders, whether they have a significant connection to Alberta. All CNQ Issuers that are not reporting issuers in Alberta must obtain and maintain for a period of three years after each annual review referenced in this section, evidence of residency of their registered holders and beneficial holders.

3.6 If requested, CNQ Issuers must provide to CNQ evidence of the residency of their non-objecting beneficial owners (as defined in National Policy 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer* or its successor instruments).

3. Section 3.4 of Policy 4 is enacted as follows:

3.4 Where a CNQ Issuer has a significant connection to Alberta, CNQ may refuse to accept any director, officer or insider, or revoke, amend or impose conditions in connection with CNQ acceptance of any such application until such time as the CNQ Issuer has complied with a direction from CNQ or CNQ requirement to make application to the Alberta Securities Commission and to become a reporting issuer in Alberta.

PASSED this 9th day of November, 2004, to be effective upon Ontario Securities Commission approval following public notice and comment.

"Ian Bandeen"	"Timothy Baikie"
Chairman	Secretary

13.1.3 CNQ Policy Amendment – Generic Share Certificates

CNQ Notice 2004-008
December 3, 2004

POLICY AMENDMENT — GENERIC SHARE CERTIFICATES

On November 9, 2004, the Board of Directors of CNQ approved a policy amendment attached as Appendix "A" that allows CNQ Issuers to use generic share certificates that conform to the standards established by the Security Transfer Association of Canada ("STAC"). Issuers now have a lower-cost alternative to engraved certificates that does not compromise security.

Because the policy amendment removes a cost burden from issuers, does not impose any new requirements and conforms CNQ's policy to industry standards (all other North American markets allow issuers to use generic certificates), the Board has determined this to be a "housekeeping" amendment to be effective immediately.

Background

Currently, section 5.2 of Policy 4 requires CNQ-listed issuers to have share certificates printed by a recognized bank note company or related security printer unless the issue is totally non-certificated. This leads to considerable expense which may not be warranted as the use of certificates has declined greatly with settlement though a book-based system at the Canadian Depository for Securities.

Recognizing this, the STAC developed standards for generic share certificates, which are printed as needed by the transfer agent. The name of the issuer, the registered holder and the denomination are printed on the certificate using TELP (Tamper Evident Laser Printing) software, which makes any changes to the data evident to a viewer because of the number of times and locations that the data elements would have to be changed.

Policy Amendment

The amendment to section 5.2 of CNQ's Policy 4 allows issuers to use generic share certificates, provided the issuer's transfer agent confirms to CNQ in writing that the certificates conform to the STAC standards.

Please direct any questions concerning this notice to Mark Faulkner, Director, Listings & Regulation at 416.572.2000 x2305 (Mark.Faulkner@cnq.ca) or Timothy Baikie, General Counsel & Corporate Secretary at 416.572.2000 x2282 (Timothy.Baikie@cnq.ca).

APPENDIX "A"

BE IT RESOLVED THAT:

5.2 of Policy 4 is hereby amended by adding "(i)" after the words "certificates must" and adding the following after the second reference to "recognized bank note company":

> "; or
>
> (ii) be generic certificates that conform to the requirements established by the Security Transfer Association of Canada ("STAC").
>
> If a CNQ Issuer uses generic certificates, it must provide CNQ with a letter from its transfer agent confirming that the certificates fully comply with the STAC requirements."

PASSED AND ENACTED this 9th day of November, 2004, to be effective immediately.

"Ian Bandeen" Chairman

"Timothy Baikie" Secretary

APPENDIX "B"

SECTION 5.2 OF POLICY 4 BLACKLINED AGAINST PREVIOUS VERSION

5.2 All certificates must conform with the requirements of the corporate and securities legislation applicable to the CNQ Issuer. All certificates must

(i) be printed by a recognized bank note company or its affiliate or other security printer which has a contractual affiliation with a recognized bank note company; or

(ii) be generic certificates that conform to the requirements established by the Security Transfer Association of Canada ("STAC").

If a CNQ Issuer uses generic certificates, it must provide CNQ with a letter from its transfer agent confirming that the certificates fully comply with the STAC requirements.

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Chapter 25

Other Information

25.1 Approvals

25.1.1 Criterion Investments Limited - cl. 213(3)(b) of the LTCA

Headnote

Clause 213(3)(b) of the Loan and Trust Corporations Act – application by manager for approval to act as trustee of a mutual fund trust and other pooled funds to be established and managed by the applicant, and offered pursuant to a prospectus exemption.

Statutes Cited

Loan and Trust Corporations Act, R.S.O. 1990, c. L.25, as am., clause 213(3)(b).

November 23, 2004

Blake Cassels
Box 25, Commerce Court West
199 Bay Street
Toronto, Ontario
Canada M5L 1A9

Attention: Mr. Jeff Glass

Dear Sirs/Mesdames:

Re: Criterion Investments Limited (the "Applicant") Application pursuant to clause 213(3)(b) of the *Loan and Trust Corporations Act* (Ontario) Application No. 969/04

Further to your application dated November 15, 2004 (the "Application") filed on behalf of the Applicant, and based on the facts set out in the Application, pursuant to authority conferred on the Ontario Securities Commission (the "Commission") in clause 213(3)(b) of the Loan and Trust Corporations Act, 1987 (Ontario), the Commission approves the proposal that the Applicant act as trustee of the CIL Business Trust Fund.

"Paul Moore" "D. Knight"

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