

The Ontario Securities Commission

# OSC Bulletin

December 10, 2004

Volume 27, Issue 50

(2004), 27 OSCB

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

**The Ontario Securities Commission**

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Published under the authority of the Commission by:

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Toronto, Ontario  
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The OSC Bulletin is published weekly by Carswell, under the authority of the Ontario Securities Commission.

Subscriptions are available from Carswell at the price of \$549 per year.

Subscription prices include first class postage to Canadian addresses. Outside Canada, these airmail postage charges apply on a current subscription:

U.S.	\$175
Outside North America	\$400

Single issues of the printed Bulletin are available at \$20 per copy as long as supplies are available.

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## Chapter 1

# Notices / News Releases

### 1.1 Notices

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

DECEMBER 10, 2004

#### CURRENT PROCEEDINGS

#### BEFORE

#### ONTARIO SECURITIES COMMISSION

-----

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

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

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Robert L. Shirriff, Q.C.	—	RLS
Suresh Thakrar, FIBC	—	ST
Wendell S. Wigle, Q.C.	—	WSW

### SCHEDULED OSC HEARINGS

TBA	<b>Yama Abdullah Yaqeen</b> s. 8(2) J. Superina in attendance for Staff Panel: RLS/ST/DLK
December 14, 2004 2:00 p.m.	<b>Mark E. Valentine</b> 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.	<b>Philip Services Corp. et al</b> 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.	<b>Cornwall et al</b> 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 10:00 a.m.	<b>ATI Technologies Inc., Kwok Yuen Ho, Betty Ho, JoAnne Chang, David Stone, Mary de La Torre, Alan Rae and Sally Daub</b> s. 127 M. Britton in attendance for Staff Panel: SWJ/HLM/MTM

May 30, June 1, 2, **Buckingham Securities Corporation, David Bromberg\*, Norman Frydrych, Lloyd Bruce\* and Miller Bernstein & Partners LLP (formerly known as Miller Bernstein & Partners)**  
3, 6, 7, 8, 9 and  
10, 2005  
10:00 a.m.

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 CSA Staff Notice 13-313, Securities Regulatory Authority Closed Dates 2004 - Revised**

**CANADIAN SECURITIES ADMINISTRATORS' STAFF NOTICE 13-313**

**SECURITIES REGULATORY AUTHORITY CLOSED DATES 2004 - REVISED**

**This schedule has been revised from that originally published on February 20, 2004. The revisions reflect that the Saskatchewan Financial Services Commission will be closed December 31, 2004 and open January 3, 2005.**

We have a mutual reliance review system (MRRS) for prospectuses (including long form, short form and mutual fund prospectuses), prospectus amendments, waiver applications, pre-filings, and initial and renewal annual information forms. It is described in National Policy 43-201 Mutual Reliance Review System for Prospectuses and Annual Information Forms.

The principal regulator will only issue a MRRS decision document evidencing the receipt of non-principal regulators that are open on the date of the MRRS decision document. The principal regulator will issue a MRRS decision document evidencing the receipt of the remaining non-principal regulators on the next day that they are open. These procedures are described in section 7.8 of the Policy.

A dealer may only solicit expressions of interest in a non-principal jurisdiction after a receipt has been issued by that jurisdiction. In addition, an issuer may only distribute its securities in the non-principal jurisdiction at that time.

The following is a list of the closed dates of the securities regulatory authorities for 2004. These dates should be noted by issuers in structuring their affairs.

**Securities Regulatory Authority Closed Dates 2004\***

- |   |  |
|---|--|
| 1. Saturdays and Sundays (all)                        | 17. Friday August 6 (Nfld)                           |
| 2. Thursday January 1, 2004 (all)                     | 18. Monday August 16 (YK)                            |
| 3. Friday January 2 (Que)                             | 19. Friday August 20 (PEI)                           |
| 4. Friday February 27 (YK)                            | 20. Monday September 6 (all)                         |
| 5. Monday March 15 (Nfld)                             | 21. Monday October 11 (all)                          |
| 6. Friday April 9 (all)                               | 22. Thursday November 11 (all except Alta, Ont, Que) |
| 7. Monday April 12 (all except Alta, Sask, Ont, Nfld) | 23. Friday December 24 (Que, Sask)                   |
| 8. Monday April 26 (Nfld)                             | 24. Friday December 24 after 12:00pm (Man, NS, PEI)  |
| 9. Monday May 24 (all)                                | 25. Monday December 27 (all)                         |
| 10. Monday June 21 (Nfld, NWT)                        | 26. Tuesday December 28 (all except Sask)            |
| 11. Thursday June 24 (Que)                            | 27. Friday December 31 (Que, Sask)                   |
| 12. Thursday July 1 (all)                             | 28. Monday January 3, <b>2005</b> (all except Sask)  |
| 13. Friday July 2 (Sask)                              | 29. Tuesday January 4 (Que)                          |
| 14. Friday July 9 (Nun)                               |  |
| 15. Monday July 12 (Nfld)                             |  |
| 16. Monday August 2 (all except Que, Nfld, PEI, YK)   |  |

\*Bracketed information indicates those jurisdictions that are closed on the particular date.

December 10, 2004

**1.3 News Releases**

**1.3.1 Court Sets Schedule for OSC's S. 128 Hearing**

**FOR IMMEDIATE RELEASE  
December 7, 2004**

**COURT SETS SCHEDULE FOR OSC'S S. 128 HEARING**

**TORONTO** – At an appointment before a Justice on the Commercial List in the Superior Court of Ontario, the Court approved a schedule of proceedings for the OSC's S. 128 Application against Emilia von Anhalt and Jurgen von Anhalt.

The first return date is December 17, 2004 for the hearing of motions brought by the Respondents.

**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 Decisions on Motions Brought by K.Y. Ho and Betty Ho**

**FOR IMMEDIATE RELEASE  
December 7, 2004**

**DECISIONS ON MOTIONS BROUGHT BY K.Y. HO AND BETTY HO**

**TORONTO** – On December 2, 2004, the Ontario Securities Commission released three Decisions on two motions brought by K.Y. Ho and one motion brought by Betty Ho. The motions were argued before a hearing panel of the Commission on October 18 and October 19, 2004.

The first Decision dismissed the motion of K.Y. Ho for Staff to produce the investigation report of the investigator to K.Y. Ho. In the second Decision, the Commission held that it did not have jurisdiction to rehear the motion of K.Y. Ho to strike portions of Staff's Statement of Allegations.

In the third Decision, the Commission denied a motion by Betty Ho for the Commission to make an order that it could not make an order under s. 127(1) unless Staff proved its allegation of insider trading against Betty Ho.

The contested hearing involving K.Y. Ho and Betty Ho, along with other respondents, is scheduled to proceed from March 29, 2005 to June 3, 2005. Copies of the Decisions, Notice of Hearing and Statement of Allegations are available on the OSC's web site ([www.osc.gov.on.ca](http://www.osc.gov.on.ca)).

**For Media Inquiries:** Eric Pelletier  
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**For Investor Inquiries:** OSC Contact Centre  
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## Chapter 2

# Decisions, Orders and Rulings

### 2.1.1 Energy Plus Income Trust - MRRS Decision

#### Headnote

MRRS – Income trust exempt from prospectus and registration requirements in connection with issuance of units to existing unitholders under a distribution reinvestment plan where distributions of income are reinvested in additional units of the trust, subject to certain conditions. First trade in additional units deemed a distribution unless made in compliance with MI 45-102.

November 23, 2004

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

**AND**

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

**AND**

**IN THE MATTER OF  
ENERGY PLUS INCOME TRUST (THE FILER)**

**MRRS DECISION DOCUMENT**

#### Background

1. The local securities regulatory authority or regulator (the Decision Maker) in the Jurisdictions has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) that the dealer registration requirement contained in the Legislation and the prospectus requirement contained in the Legislation shall not apply to the distribution of trust units of the Filer (Trust Units) to DRIP Participants (as defined below) under a distribution reinvestment plan (the DRIP)(the Requested Relief).
2. Under the Mutual Reliance Review System for Exemptive Relief Applications (the MRRS):
  - 2.1 the Alberta Securities Commission is the principal regulator for this application; and

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

#### Interpretation

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

#### Representations

4. This Decision is based on the following facts represented by the Filer:
  - 4.1 The Filer is a closed-end investment trust established under the laws of Alberta under a declaration of trust dated September 23, 2004 (the Declaration of Trust).
  - 4.2 The Filer's head office is located in Calgary, Alberta.
  - 4.3 The Filer became a reporting issuer in each of the Jurisdictions on October 27, 2004 when it obtained a Final Decision Document for its prospectus dated October 27, 2004. As of the date hereof, the Filer is not in default of any requirements under the Legislation.
  - 4.4 Computershare Trust Company of Canada is the trustee of the Filer (in such capacity, the Trustee).
  - 4.5 Under the Declaration of Trust, the Filer is authorized to issue an unlimited number of transferable, redeemable (once annually) Trust Units, of which there will be a minimum of 7,500,000 and a maximum of 25,000,000 Trust Units issued and outstanding on or about November 16, 2004 (the anticipated closing-date of the initial offering of the Filer).
  - 4.6 The Filer is not a "mutual fund" as defined in the Legislation because the holders of Trust Units (Unitholders) are not entitled to receive on demand an amount computed by reference to the value of a proportionate interest in the whole or in part of the net assets of the Filer as contemplated in the definition of

- “mutual fund” contained in the Legislation.
- 4.7 The assets of the Filer consist of a portfolio of securities including units of oil and gas trusts and other resource securities, and instalment receipts in respect thereof, or other rights to acquire such securities (Portfolio Securities) in respect thereof, as well as cash and cash equivalents (collectively, the Portfolio).
- 4.8 The investment objectives of the Filer are to provide Unitholders with monthly cash distributions and to achieve total return on the portfolio over the term of the Trust that is greater than the total return provided by the S&P/TSX Capped Energy Trust Index over the same period.
- 4.9 Each Trust Unit represents an equal, fractional undivided beneficial interest in the net assets of the Filer, and entitles its holder to one vote at meetings of Unitholders and to participate equally with respect to any and all distributions made by the Filer, including distributions of net income and net realized capital gains, if any.
- 4.10 The Trust Units are listed on the Toronto Stock Exchange (the TSX) under the symbol “EPF.UN”.
- 4.11 The Trust Units are available only in book-entry form whereby CDS & Co., a nominee of The Canadian Depository for Securities Limited, is the only registered holder of Trust Units.
- 4.12 Commencing on December 15, 2004, the Filer will distribute to Unitholders of record on November 30, 2004, the distributable income generated by the Portfolio during the previous month. The level of distributions paid by the Filer to the Unitholders will depend upon the distributions received from the Portfolio Securities included in the Portfolio, and as such is expected to fluctuate each month.
- 4.13 The Filer has established the DRIP to permit Unitholders, at their discretion, to automatically reinvest the distributable income paid on their Trust Units in additional Trust Units as an alternative to receiving cash distributions. In addition the DRIP will permit participants in the DRIP (DRIP Participants) to make additional optional cash payments (Optional Cash Payments) to acquire additional Trust Units, subject to a minimum of \$1,000 per optional cash payment and to a maximum of \$100,000 per year per DRIP Participant. (The Trust Units so acquired either by reinvestment or Optional Cash Payment are referred to as DRIP Units.)
- 4.14 Distributions due to DRIP Participants will be paid to Computershare Trust Company of Canada in its capacity as agent under the DRIP (in such capacity, the DRIP Agent) and applied to the purchase of DRIP Units.
- 4.15 The DRIP Agent’s charges for administering the DRIP and all commissions, service charges, or brokerage fees in connection with the purchases in the market pursuant to the DRIP will be payable by the Filer. No commissions, service charges or brokerage fees will be payable by DRIP Participants in connection with the DRIP.
- 4.16 The DRIP Agent will purchase DRIP Units from the Filer at the arithmetic average of the daily volume weighted trading prices of the Trust Units on the TSX for the five consecutive business day period ending on the business day immediately preceding the applicable distribution date.
- 4.17 DRIP Participants may terminate their participation in the DRIP by providing 10 days’ written notice to the DRIP Agent prior to the applicable record date.
- 4.18 The distribution of the DRIP Units by the Filer pursuant to the DRIP can be made in reliance on registration and prospectus exemptions contained in the Legislation of Alberta and Saskatchewan but not in reliance on registration and prospectus exemptions contained in the Legislation of the other Jurisdictions because the DRIP involves the reinvestment of distributable income and not the reinvestment of dividends, interest earnings or surplus of the Filer.
- 4.19 The distribution of the DRIP Units by the Filer pursuant to the DRIP cannot be made in reliance on registration and prospectus exemptions contained in the Legislation for distribution reinvestment plans for mutual funds, as the Filer is not considered to be a “mutual fund” as defined in the Legislation.

**Decision**

5. Each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Makers with the jurisdiction to make the Decision has been met.

6. The Decision of the Decision Makers under the Legislation is that:

6.1 except in Alberta and Saskatchewan, the Requested Relief is granted provided that:

6.1.1 at the time of the trade or distribution the Filer is a reporting issuer or the equivalent under the Legislation and is not in default of any requirements of the Legislation,

6.1.2 no sales charge is payable in respect of the trade,

6.1.3 the Filer has caused to be sent to the person or company to whom the DRIP Units are traded, not more than 12 months before the trade, a copy of the DRIP which contains a statement describing:

6.1.3.1 their right to withdraw from the DRIP and to make an election to receive cash instead of DRIP Units on the making of a distribution of income by the Filer (the Withdrawal Right), and

6.1.3.2 instructions on how to exercise the Withdrawal Right, and

6.1.4 the aggregate number of DRIP Units issued pursuant to the Optional Cash Payments in any financial year shall not exceed 2% of the aggregate number of Trust Units outstanding at the start of that financial year; and

6.2 the first trade of the DRIP Units shall be deemed to be a distribution or a primary distribution to the public in the Jurisdictions unless:

6.2.1 except in Quebec, the conditions in paragraphs 2 through 5 of subsection 2.6(3) of Multilateral Instrument 45-102

*Resale of Securities* are satisfied, and

6.2.2 in Quebec:

6.2.2.1 at the time of the first trade the Filer is a reporting issuer in Quebec and is not in default of any of the requirements of the Legislation in Quebec,

6.2.2.2 no unusual effort is made to prepare the market or to create a demand for the DRIP Units,

6.2.2.3 no extraordinary commission or consideration is paid to a person or company other than the vendor of the DRIP Units in respect of the trade, and

6.2.2.4 the vendor of the DRIP Units, if in a special relationship with the Filer, has no reasonable grounds to believe that the Filer is in default of any requirement of the Legislation.

“Glenda A. Campbell, Q.C.”  
Vice-Chair  
Alberta Securities Commission

“Stephen R. Murison”  
Vice-Chair  
Alberta Securities Commission

**2.1.2 CIBC Investor Services Inc. and CIBC Financial Planning Inc. - MRRS Decision**

**Headnote**

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

**Applicable Rule**

MI 33-109 – Registration Information.

**November 25, 2004**

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

**AND**

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

**AND**

**IN THE MATTER OF  
CIBC INVESTOR SERVICES INC. (CISI)**

**AND**

**CIBC FINANCIAL PLANNING INC. (CFPI, AND  
TOGETHER WITH CISI, 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 from the Filers for a decision pursuant to Part 7 of Multilateral Instrument 33-109 *Registration Information* (the Legislation) exempting the Filers from certain requirements of the Legislation so as to permit CFPI to bulk transfer to CISI the registered and non-registered individuals that are associated on the National Registration Database (NRD) with the branch office locations involved in the wind-up of CFPI into CISI (the Requested Relief).

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* 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 Filers:

1. CISI is currently an investment dealer or equivalent in all provinces and territories of Canada and a member of the Investment Dealers Association of Canada (the IDA). CISI is a corporation incorporated under the *Canada Business Corporations Act* (the CBCA) and its head office is located in Toronto, Ontario.
2. CFPI is currently an investment dealer or equivalent in all provinces and territories of Canada, except Nunavut and a member of the IDA. CFPI is a corporation incorporated under the CBCA and its head office is located in Toronto, Ontario.
3. Both CFPI and CISI provide full-service brokerage services. CISI also provides discount brokerage services through its Investors Edge division.
4. The details of the proposed wind-up of CFPI into CISI (the Reorganization) are as follows:
  - *Current Structure:* CIBC directly holds 100% of the shares of CFPI and CISI;
  - *Step 1 of the Reorganization:* CIBC and CISI will enter into a share purchase agreement whereby CISI will purchase all of the outstanding shares of CFPI from CIBC in exchange for common shares of CISI of equivalent value; and
  - *Step 2 of the Reorganization:* CFPI will be voluntarily wound up by its sole shareholder, CISI.
5. The Reorganization is to be effective on or about December 31, 2004.
6. Given the approximately 126 business locations and approximately 130 representatives of CFPI, it would be very difficult and time-consuming to transfer each individual to CISI, as per the requirements set out in the Legislation.
7. To the best of the Filer's knowledge, neither CFPI nor CISI are in default of any of the requirements of the securities legislation of the Jurisdictions.

8. Section 3.1 of Companion Policy 33-109CP to the Legislation (the Companion Policy) provides that if a registered firm is acquiring a large number of business locations (for example, as a result of an amalgamation or asset purchase) from one or more other registered firms that are located in the same jurisdictions and registered in the same categories as the acquiring firm, and if a significant number of individuals are associated on NRD with the locations, the securities regulatory authority or regulator will consider exempting the firms and individuals involved in the transaction from certain filing requirements.
9. As the result of NRD systems constraints and the significant number of branch office locations and individuals to be transferred between the Filers pursuant to the Reorganization, it would be unnecessarily difficult, costly and time consuming to conduct the transfer as a separate and distinct transfer of each branch office location and each registered and non-registered individual while ensuring that all such transfers occur at the same time in order to preclude any disruption of individual registrations or CFPI and CISI business activities.
10. Within two months of the date of the Restructuring, the Filers will arrange for the bulk transfer of all affected individuals and locations as contemplated by the Companion Policy.
- (e) the requirement under section 3.1 of the Legislation to notify the regulator of a change to the business location information in Form 33-109F3.
- “David M. Gilkes”

**Decision**

Each of the Decision Makers is satisfied that the test contained in MI 33-109 that provides the Decision Maker with the jurisdiction to make the decision has been met.

The decision of the Decision Makers pursuant to the Legislation is that the Requested Relief is granted and that the following requirements of the Legislation shall not apply to the Filers in respect of the registered and non-registered individuals that will be transferred from CFPI to CISI:

- (a) the requirement to submit a notice regarding the termination of each employment, partner or agency relationship under section 4.3 of the Legislation;
- (b) the requirement to submit a notice regarding each individual who ceases to be a non-registered individual under section 5.2 of the Legislation;
- (c) the requirement to submit a registration application for each individual applying to become a registered individual under section 2.2 of the Legislation;
- (d) the requirement to submit a Form 33-109F4 for each non-registered individual under section 3.3 of the Legislation; and

**2.1.3 RBC Dominion Securities Inc. et al.  
- MRRS Decision**

**Headnote**

Mutual Reliance Review System for Exemptive Relief Applications – offering of corporate strip securities; exemption granted from the eligibility requirements of National Instrument 44-102 Shelf Distributions and National Instrument 44-101 Short Form Prospectus Distributions to permit the filing of a shelf prospectus and prospectus supplements qualifying for distribution strip residuals, strip coupons and strip packages to be derived from debt obligations of Canadian corporations and trusts; exemption also granted from the requirements that the prospectus contain a certificate of the issuer and that it incorporate by reference documents of the underlying issuer.

**Applicable Ontario Statutory Provisions**

Securities Act, R.S.O. 1990, c. S.5, as am., subsection 58(1).

**Applicable National Instruments**

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

**November 19, 2004**

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

**AND**

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

**AND**

**IN THE MATTER OF  
RBC DOMINION SECURITIES INC.,  
BMO NESBITT BURNS INC.,  
CIBC WORLD MARKETS INC.,  
NATIONAL BANK FINANCIAL INC.,  
SCOTIA CAPITAL INC. AND  
TD SECURITIES INC. (THE FILERS)**

**AND**

**IN THE MATTER OF  
THE CARS AND PARS PROGRAMME™  
OF 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 from the Filers for a decision under the securities legislation of the Jurisdictions (the Legislation) for:

1. an exemption from Section 2.1 of National Instrument 44-102 *Shelf Distributions* and Section 2.1 of National Instrument 44-101 *Short Form Prospectus Distributions* so that a Prospectus can be filed by the Filers to renew the CARS and PARS Programme and offer Strip Securities in the Jurisdictions; and
2. a decision under the Legislation that the following requirements shall not apply in respect of any Underlying Issuer whose Underlying Obligations are purchased by any one or more of the Filers on the secondary market, and Strip Securities derived therefrom and sold under the CARS and PARS Programme:
  - (a) the requirements of the Legislation that the Prospectus contain a certificate of the issuer; and
  - (b) the requirements of the Legislation that the Prospectus incorporate by reference documents of an Underlying Issuer

(collectively, the Requested Relief).

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* have the same meaning in this decision unless they are defined in this decision. In this decision:

CARS™ means strips coupons and strips residuals.

CARS and PARS Programme™ means the strip bond product programme of the Filers to be offered by Prospectus.

CDS means The Canadian Depository for Securities Limited.

NI 44-101 means National Instrument 44-101 *Short Form Prospectus Distributions*.

NI 44-102 means National Instrument 44-102 *Shelf Distributions*.

Offering Date means the time of the closing of the discrete offering in respect of the related Strip Securities.

PARS <sup>TM</sup> means par adjusted rate strips, comprising an entitlement to receive the principal amount of, and a portion, equal to a market rate (at the time of issuance of thereof), of the interest payable under the Underlying Obligations.

Participants means participants in the depository system of CDS.

Prospectus means a short form prospectus which is a base shelf prospectus together with the appropriate prospectus supplements.

SEDAR means the System for Electronic Document Analysis and Retrieval.

Strip Coupons mean separate components of interest derived from an Underlying Obligation.

Strip Packages means packages of Strip Securities, including packages of Strip Coupons and packages of PARS.

Strip Residuals means separate components of principal derived from an Underlying Obligation.

Strip Securities means separate components of interest, principal or combined principal and interest components derived from

Underlying Obligations and sold under the CARS and PARS Programme, including Strip Residuals, Strip Coupons and Strip Packages.

Underlying Issuers mean Canadian corporate, trust and/or partnership issuers.

Underlying Obligations mean publicly-issued debt obligations of Underlying Issuers, which obligations will carry an "approved rating" as such term is defined in NI 44-101 at the Offering Date.

Underlying Obligations Prospectus means a prospectus for which a receipt was issued by the securities regulatory authorities in British Columbia, Alberta, Ontario and Quebec.

**Representations**

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

1. The Filers propose to continue to operate the CARS and PARS Programme;
2. The CARS and PARS Programme will continue to be operated by purchasing, on the secondary market, Underlying Obligations of Underlying Issuers, and deriving separate components

therefrom, being Strip Residuals, Strip Coupons, and/or Strip Packages;

3. The relevant Underlying Issuer will, to the best of the knowledge of each Filer participating in the relevant offering under the CARS and PARS Programme, be eligible to file a short form prospectus under NI 44-101 (whether such eligibility results from the specific qualification criteria of NI 44-101 or from the granting of an exemption from those criteria) at the Offering Date;
4. The Underlying Obligations will have been distributed under a prospectus for which a receipt was granted by the regulator in British Columbia, Alberta, Ontario, and Quebec;
5. A single short form base shelf prospectus will be established for the renewed CARS and PARS Programme as a whole, with a separate series of Strip Securities being offered under a discrete prospectus supplement for each distinct series or class of Underlying Obligations;
6. It is expected that the Strip Securities will continue to be predominantly sold to retail customers;
7. It is expected that the Filers, or certain of them, will continue to periodically identify, as demand indicates, series of outstanding debt obligations of Canadian corporations or trusts and will purchase and "repackage" individual series of these for sale under the CARS and PARS Programme as discrete series of Strip Securities. In purchasing the Underlying Obligations and creating the Strip Securities, the Filers will not enter into any agreement or other arrangements with the Underlying Issuers;
8. The Prospectus will refer purchasers of the Strip Securities to the SEDAR website maintained by CDS (currently located at [www.sedar.com](http://www.sedar.com)) where they can obtain the continuous disclosure materials of the Underlying Issuer;
9. The Filers, or certain of them, may, from time to time, form and manage a selling group consisting of other registered securities dealers to solicit purchases of, and sell to the public, the Strip Securities;
10. The Strip Securities will be sold in series, each such series relating to separate Underlying Obligations of an Underlying Issuer. The base shelf prospectus for use with the CARS and PARS Programme will describe the CARS and PARS Programme in detail. The shelf prospectus supplement for any series of Strip Securities that are offered will describe the specific terms of the Strip Securities;

11. Each offering of Strip Securities will be derived from one or more Underlying Obligations of a single class or series of an Underlying Issuer. The Filer(s) participating in each offering under the CARS and PARS Programme intend to separate the Underlying Obligations for such series into separate principal and interest components, or strip bonds. These components will, in connection with each series, be re-packaged if and as necessary to create the Strip Securities;
12. The Strip Residuals of a particular series, if any, will consist of the entitlement to receive payments of a portion of the principal amounts payable under the Underlying Obligations, if, as and when paid by the Underlying Issuer on the Underlying Obligations, in accordance with their respective terms;
13. The Strip Coupons of a particular series will consist of the entitlement to receive a payment of a portion of the interest payable under the Underlying Obligations, if, as and when paid by the Underlying Issuer on the Underlying Obligations, in accordance with their respective terms;
14. The Strip Packages will consist of the entitlement to receive (a) in the case of PARS, both payments of a portion of the principal amounts payable and periodic payments of a portion equal to a market rate (at the time of issuance of the PARS) of the interest payable under the Underlying Obligations, and/or (b) in the case of packages consisting of Strip Coupons, periodic payments of portions of the interest payable, or the principal amounts payable, under the Underlying Obligations, in each case, if, as and when paid by the Underlying Issuer on the Underlying Obligations, in accordance with their respective terms;
15. Holders of a series of Strip Securities will be entitled to payments from cash flows from the related Underlying Obligations if, as and when made by the respective Underlying Issuer. The Strip Securities of one series will not be entitled to receive any payments from the cash flows of Underlying Obligations related to any other series. As the Underlying Issuers will be the sole obligors under the respective Underlying Obligations, holders of Strip Securities will be entirely dependent upon the Underlying Issuers' ability to perform their respective obligations under their respective Underlying Obligations;
16. The Strip Securities will be sold at prices determined by the Filers from time to time and, as such, these may vary as between purchasers of the same series and during the offering period of Strip Securities of the same series. In quoting a price for the Strip Securities, the Filers will advise the purchaser of the annual yield to maturity thereof based on such price;
17. The Underlying Issuers will not receive any proceeds, and the Filers will not be entitled to be paid any fee or commission by the Underlying Issuers, in respect of the sale by the Filers or the members of any selling group of the Strip Securities. Each Filer's overall compensation will be increased or decreased by the amount by which the aggregate price paid for a series of the Strip Securities by purchasers exceeds or is less than the aggregate price paid by such Filer for the related Underlying Obligations;
18. The maturity dates of any particular series of Strip Coupons and the interest component of Strip Packages will be coincident with the interest payment dates for the Underlying Obligations for the Series, with terms of up to 30 years or longer. The maturity date of a particular series of Strip Residuals and the principal component of Strip Packages, if any, will be the maturity date of the Underlying Obligations for the series;
19. The Strip Securities will be issuable in Canadian and U.S. dollars and in such minimum denomination(s) and with such maturities as may be described in the applicable shelf prospectus supplement;
20. The Underlying Issuers will be Canadian corporations, trusts or partnerships. The Underlying Obligations are securities of the Underlying Issuers. The Strip Securities will be derived without regard, except as to ratings and eligibility to file a short form prospectus under NI 44-101, for the value, price, performance, volatility, investment merit or creditworthiness of the Underlying Issuers historically or prospectively;
21. To be eligible for inclusion in the CARS and PARS Programme, the Underlying Obligations must have been qualified for distribution under a prospectus for which a receipt was issued by the regulators in British Columbia, Alberta, Ontario and Quebec, at least four months must have passed from the date of closing of the original issue of the relevant class or series of Underlying Obligations and the distribution of the Underlying Obligations must be complete;
22. The Filers will cause all Underlying Obligations from which the Strip Securities will be derived and which are not already in the CDS system to be delivered to CDS and registered in the name of CDS. The Underlying Obligations from which the Strip Securities will be derived will, except in very limited circumstances, be held by CDS until their maturity and will not otherwise be released or removed from the segregated account used by CDS to maintain the Underlying Obligations. A separate security identification number or ISIN will be assigned by CDS to each series of Strip Securities;



23. Pursuant to the operating rules and procedures of its Debt Clearing Service, or any successor operating rules and procedures, CDS will maintain book based records of ownership for the Strip Securities, entering in such records only the names of Participants. No purchaser of Strip Securities will be entitled to any certificate or other instrument from the Underlying Issuer, the Filers or CDS evidencing the Strip Securities or the ownership thereof, and no purchaser of Strip Securities will be shown on the records maintained by CDS except through the book entry account of a Participant. Upon the purchase of Strip Securities, the purchaser will receive only the customary confirmation slip that will be sent to such purchaser by one of the Filers or another Participant;
24. Transfers of beneficial ownership in Strip Securities will be effected through records maintained for Strip Securities by CDS or its nominee (with respect to interests of Participants) and on the records of Participants (with respect to interests of persons other than Participants). Beneficial holders who are not Participants, but who desire to purchase, sell or otherwise transfer beneficial ownership of, or any other interest in, such Strip Securities of a series, may do so only through Participants;
25. Payments in respect of a principal component (if any), interest component(s) (if any), or other amounts (if any) owing under a series of Strip Securities will be made from payments received by CDS in respect of the related Underlying Obligations from the relevant Underlying Issuer. Amounts payable on the maturity of the Strip Securities will be payable by the Underlying Issuer to CDS as the registered holder of the Underlying Obligations. Following receipt thereof, CDS will pay to each of its Participants shown on its records as holding matured Strip Securities the amount to which such Participant is entitled. The Filers will, and the Filers understand that each other Participant, who holds such Strip Securities on behalf of a purchaser thereof will, pay or otherwise account to such purchaser for the amounts received by it in accordance with the instructions of the purchaser to such Participant. Holders of a series of Strip Securities will not have any entitlement to receive payments under any Underlying Obligations acquired in connection with the issue of any other series of Strip Securities;
26. As the registered holder of the Underlying Securities, CDS will receive any voting rights in respect of the Underlying Obligations for the Strip Securities. CDS will allocate these rights to the holders of the Strip Securities in accordance with the operating rules and procedures of its Debt Clearing Service, or any successor operating rules and procedures, in effect at the time. These

procedures currently provide for the distribution of the voting rights based on the "proportionate economic interest", determined as described in the base shelf prospectus for use with the CARS and PARS Programme. Such voting rights will be vested on a series by series basis. In order for a holder of Strip Securities to have a legal right to attend a meeting of holders of Underlying Obligations, or to vote in person, such holder of Strip Securities must be appointed as proxyholder for the purposes of the meeting by the CDS Participant through whom he or she holds Strip Securities;

27. In the event that an Underlying Issuer repays a callable Underlying Obligation prior to maturity in accordance with its terms, CDS will allocate the amount of proceeds it receives as the registered holder of the Underlying Obligations to the holders of the Strip Securities in accordance with the operating rules and procedures of its Debt Clearing Service, or any successor operating rules and procedures, in effect at the time. These procedures currently provide for the distribution of proceeds on the repayment of a callable Underlying Obligation based on the "proportionate economic interest"; and
28. Any other entitlements received by CDS with respect to the Underlying Obligations upon the occurrence of an event other than in respect of maturity, including entitlements on the insolvency or winding-up of an Underlying Issuer, the non-payment of interest or principal when due, or a default of the Underlying Issuer under any trust indenture or other agreement governing the Underlying Obligations, will be processed by CDS in accordance with the operating rules and procedures of its Debt Clearing Service, or any successor operating rules and procedures, in effect at the time. These procedures also currently provide for CDS to distribute the resulting cash and/or securities to the holders of the Strip Securities based on "proportionate economic interest". In addition, if the Underlying Issuer offers an option to CDS as the registered holder of the Underlying Obligations in connection with the event, the Filers understand that CDS will attempt to offer the same option to the holders of the Strip Securities, where feasible.

**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 Underlying Obligations were qualified for distribution under the Underlying Obligations

Prospectus, at least four months have passed from the date of closing of the original issue of the relevant class or series of Underlying Obligations and the distribution of the Underlying Obligations is complete;

"Erez Blumberger"  
Assistant Manager, Corporate Finance  
Ontario Securities Commission

2. If the Underlying Obligations Prospectus is not available through the SEDAR website, the prospectus supplement for the series of Strip Securities derived from the Underlying Obligations for which the prospectus is not available states that a copy of the Underlying Obligations Prospectus may be obtained, upon request, without charge, from each Filer who is participating in the offering of the series of Strip Securities derived from these Underlying Obligations;
3. To the best of the knowledge of the Filer(s) participating in a relevant offering under the CARS and PARS Programme, the relevant Underlying Issuer is eligible to file a short form prospectus under NI 44-101 (whether such eligibility results from the specific qualification criteria of NI 44-101 or from the granting of an exemption from those criteria) at the Offering Date;
4. A receipt issued for the Prospectus issued in reliance on this Decision Document is not effective after January 19, 2007;
5. The offering and sale of the Strip Securities complies with all the requirements of NI 44-102 and NI 44-101 as varied by NI 44-102, other than those from which an exemption is granted by this Decision Document or from which an exemption is granted in accordance with Part 11 of NI 44-102 by the securities regulatory authority or regulator in each of the Jurisdictions as evidenced by a receipt for the Prospectus;
6. The Filers issue a press release and file a material change report in respect of:
  - (a) a material change to the CARS and PARS Programme which affects any of the Strip Securities other than a change which is a material change to an Underlying Issuer; and
  - (b) a change in the operating rules and procedures of the Debt Clearing Service of CDS, or any successor operating rules and procedures in effect at the time, which may have a significant effect on a holder of Strip Securities; and
7. The Filers file the Prospectus, the material change reports referred to above, and all documents related thereto on SEDAR under a SEDAR profile for the Strip Securities and pay all filing fees applicable to such filings.

**2.1.4 Starpoint Energy Ltd. - MRRS Decision**

**Headnote**

Mutual Reliance Review System for Exemptive Relief Applications – Relief from the requirements to provide in an information circular (a) three years of audited financial statements in respect of a significant acquisition and a restructuring transaction, and (b) reserves data and other oil and gas information as of the date of the most recent audited balance sheet – Inclusion of acceptable alternative disclosure in information circular.

**Rules, Instruments and Notices Cited**

Ontario Securities Commission Rule 41-501, General Prospectus Requirements, ss. 6.4 and 6.6, and Form 41-501F1, Information Required in a Prospectus, item 6.5.1(a)(ii).  
Canadian Securities Administrators Notice 42-303, Prospectus Requirements.  
National Instrument 51-101, Standards of Disclosure for Oil and Gas Activities and Form 51-101F1, Statement of Reserves and Other Oil and Gas Information.  
National Instrument 51-102, Continuous Disclosure Obligations, Part 9 and ss. 8.3, 8.4, 8.5, 8.10 and 13.1, and Form 51-102F5, Information Circular, item 14.2.

**November 23, 2004**

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

**AND**

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

**AND**

**IN THE MATTER OF  
STARPOINT ENERGY LTD.**

**MRRS DECISION DOCUMENT**

**Background**

1. The local securities regulatory authority or regulator (the “Decision Maker”) in each of Alberta, British Columbia, Saskatchewan, Ontario, Quebec, Nova Scotia and Newfoundland and Labrador (the “Jurisdictions”) has received an application from StarPoint Energy Ltd. (the “Filer”) for a decision under the securities legislation of the Jurisdictions (the “Legislation”) that the Filer be exempt from the requirements contained in the Legislation which (i) requires the Filer to include three years of audited financial statements in an information circular in respect of a significant

acquisition; (ii) requires the Filer to include three years of audited financial statements in an information circular in respect of a business for which securities are being distributed in connection with a restructuring transaction; and (iii) requires the Filer to include reserves data and other oil and gas information in an information circular as at the date of the most recent audited balance sheet included in the information circular.

2. Under the Mutual Reliance Review System for Exemptive Relief Applications (the “System”):
  - 2.1 the Alberta Securities Commission is the principal regulator for this application; and
  - 2.2 this MRRS decision document evidences the decision of each Decision Maker.

**Interpretation**

3. Unless otherwise defined, the terms herein have the meaning set out in National Instrument 14-101 Definitions or in Quebec Commission Notice 14-101;

**Representations**

4. The Filer has represented to the Decision Makers that:
  - 4.1 The Filer was incorporated under the laws of the Province of Alberta and the Filer’s head office is located in Calgary, Alberta;
  - 4.2 The common shares of the Filer are listed and posted for trading on the Toronto Stock Exchange under the trading symbol “SPN”;
  - 4.3 the Filer is a reporting issuer in the provinces of Alberta, British Columbia, Saskatchewan, Ontario, Quebec, Nova Scotia and Newfoundland and Labrador;
  - 4.4 To its knowledge, the Filer is not in default of any of the requirements of the applicable securities legislation in any of the provinces in which it is a reporting issuer;
  - 4.5 E3 Energy Inc. (“E3”) was formed by amalgamation under the laws of Canada on July 6, 1987 and its head office is located in Calgary, Alberta;
  - 4.6 E3 is a reporting issuer in Alberta, British Columbia, Saskatchewan, Ontario, Quebec, Nova Scotia and Newfoundland and Labrador and its shares are listed for

- trading on the Toronto Stock Exchange under the trading symbol "ETE";
- 4.7 The Filer and E3 are entering into a plan of arrangement (the "Arrangement") whereby they will be reorganizing the business of the Filer and E3 as an income trust (the "Trust") and transferring certain assets (the "Assets") into a separate public company ("ExploreCo");
- 4.8 The acquisition of the Assets by ExploreCo (the "Acquisition") constitutes a "significant acquisition" under the Legislation;
- 4.9 The Filer is preparing an information circular (the "Information Circular") in connection with a meeting of its securityholders which is expected to be held on December 22, 2004. At the shareholders' meeting, the Filer's securityholders will be given the opportunity to vote on the Arrangement which includes the Acquisition;
- 4.10 Pursuant to Section 14.2 of National Instrument 51-102F5, because the Acquisition is a "significant acquisition", the Filer is required to include certain annual and interim financial statement disclosure in the Information Circular in respect of the Arrangement, including annual financial statements for each of the three most recently completed financial years of the Assets (the "Annual Disclosure Requirements");
- 4.11 Pursuant to Canadian Securities Administrators ("CSA") Staff Notice 42-303 (the "Staff Notice"), the Filer may submit an application to the provincial and territorial securities regulatory authorities requesting relief from certain requirements of the prospectus rules that are not consistent with National Instrument 51-102 ("NI 51-102").
- 4.12 Pursuant to the Staff Notice, the CSA have indicated that they are prepared to recommend that the relief be granted on the condition that the issuer provides the financial statements specified in Item 8.5 of NI 51-102.
- 4.13 Pursuant to Item 8.10 in NI 51-102 an issuer is exempt from certain of the financial statement disclosure requirements in Item 8.4 of NI 51-102. Item 8.4 is incorporated by reference within Item 8.5 of NI 51-102. Item 8.4 of NI 51-102 is therefore applicable to an issuer who is complying with the condition contained within the Staff Notice by disclosing financial statements in accordance with Item 8.5 of NI 51-102. The issuer who is relying on the Staff Notice can therefore rely on the exemptions contained within Item 8.10 of NI 51-102.
- 4.14 Pursuant to Item 8.10 of NI 51-102, a reporting issuer is exempt from the Annual Disclosure Requirements if the criteria specified in Item 8.10 of NI 51-102 are met.
- 4.15 The Assets are interests in oil and gas properties, financial statements do not exist or cannot be accessed for the Assets, the Acquisition does not constitute a reverse take-over, the Assets did not constitute a "reportable segment" of the vendor immediately prior to the completion of the Acquisition.
- 4.16 The Filer proposes to include in the Information Circular certain annual financial information, including: (1) for the properties to be acquired by ExploreCo which are referred to as Cantel, Whitebear and Radville, audited operating statements for the two years ended December 31, 2003 and 2002, and the nine months ended September 30, 2004 in accordance with Sections 8.5 and 8.10 of National Instrument 51-102 in respect of the Acquisition; and (2) for the property to be acquired by ExploreCo which is referred to as Hastings, audited operating statements for the three months ended December 31, 2002, the year ended December 31, 2003, and the nine months ended September 30, 2004, in accordance with Section 3.20(6)(a) of Companion Policy 41-501CP to Ontario Securities Commission Rule 41-501 (the "Alternative Annual Financial Disclosure");
- 4.17 Pursuant to Section 14.2 of National Instrument 51-102F5, because the Arrangement is a restructuring transaction under which securities of ExploreCo are being distributed, the Filer is required to include audited statements of income, retained earnings and cash flows for a three year period in respect of ExploreCo (the "ExploreCo Disclosure Requirements");
- 4.18 The Filer proposes to include in the Information Circular on behalf of ExploreCo the Alternative Annual Financial Disclosure in accordance with Section 8.10 of National Instrument 51-

- 102 (the "Alternative ExploreCo Financial Disclosure");
- 4.19 Pursuant to Section 14.2 of National Instrument 51-102F5, because the Arrangement is a restructuring transaction under which securities of the Trust are being distributed and the Acquisition is a significant acquisition for ExploreCo, pursuant to Section 6.5.1(a)(ii) of Form 41-501F1 and Section 6.4.5 of Policy Statement Q-28 Schedule 1 in Quebec, the Filer is required to provide reserves data and other oil and gas information prescribed by Form 51-101F1 and by National Policy Statement 2-B in Quebec for each of the ExploreCo and the Trust as at the most recent date for which an audited balance sheet is included in the Information Circular (the "Oil and Gas Disclosure Requirements");
- 4.20 As ExploreCo has not yet been incorporated, the date of the audited balance sheet is not a practical date for the preparation of the reserves data and other oil and gas information to be included in the Information Circular;
- 4.21 As the Trust has not yet been formed, the date of the audited balance sheet is not a practical date for the preparation of the reserves data and other oil and gas information to be included in the Information Circular;
- 4.22 The Filer proposes to include in the Information Circular the Oil and Gas Disclosure Requirements as at October 1, 2004, being the date when the report required under National Instrument 51-101 in Form 51-101F1 and National Policy Statement 2-B in Quebec was prepared (collectively, the "Alternative Oil and Gas Disclosure");
- 4.23 The Alternative Annual Financial Disclosure will comply with National Instrument 52-107 – *Acceptable Accounting Principles, Auditing Standards and Reporting Currency*;
- 4.24 The Alternative ExploreCo Financial Disclosure will comply with National Instrument 52-107 – *Acceptable Accounting Principles, Auditing Standards and Reporting Currency*;
- 4.25 The Alternative Oil and Gas Disclosure will comply with National Instrument 51-101 – *Standards of Disclosure for Oil and Gas Activities*; and

4.26 Under the System, this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the "Decision").

**Decision**

5. 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.
6. The Decision of the Decision Makers under the Legislation for the purposes of the Information Circular is that (i) the Annual Disclosure Requirements shall not apply to the Filer, provided that the Filer includes the Alternative Annual Financial Disclosure, (ii) the ExploreCo Disclosure Requirements shall not apply to the Filer, provided that the Filer includes the Alternative ExploreCo Financial Disclosure, and (iii) with respect to ExploreCo and the Trust, the Oil and Gas Disclosure Requirements shall not apply to the Filer, provided that the Filer includes the Alternative Oil and Gas Disclosure in the Information Circular.

"Mavis Legg, C.A."  
 Manager, Securities Analysis

**2.1.5 FuelCell Energy, Ltd. - MRRS Decision**

**Headnote**

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

**Ontario Statutes**

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

**Citation: FuelCell Energy, Ltd., 2004 ABASC 1134**

**November 30, 2004**

File No.: B30195

Stikeman Elliott  
5300 Commerce Court West, 199 Bay Street  
Toronto, Ontario M5L 1B9

Attention: Amanda Linett

Dear Ms. Linett:

**Re: FuelCell Energy, Ltd. (the “Applicant”) -  
Application to Cease to be a Reporting Issuer  
under the securities legislation of Alberta,  
Saskatchewan, 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 Decision Makers that:

1. 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;
2. no securities of the Applicant are traded on a marketplace as defined in National Instrument 21-101 Marketplace Operation;
3. 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
4. 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 in the Jurisdictions.

“Patricia M. Johnston, Q.C.”  
Director, Legal Services & Policy Development  
Alberta Securities Commission

**2.2 Orders**

**2.2.1 Electronic Arts Inc. and Electronic Arts Holding AB - cl. 104(2)(c) of the Act**

**Headnote**

Take-over bid made in Ontario - Bid made in accordance with the rules concerning tender offers in Sweden - De minimis exemption unavailable because Sweden is not a jurisdiction recognized for the purposes of clause 93(1)(e) of the Securities Act (Ontario). Bid exempted from the requirements of Part XX, subject to certain conditions.

**Statutes Cited**

Securities Act, R.S.O. 1990, c. S.5, as amended, ss. 93(1)(e), 95-100 and 104(2)(c).

**Recognition Orders Cited**

In the Matter of the Recognition of Certain Jurisdictions Recognition Order (Clauses 93(1)(e) and 93(3)(h) of Act) (1997), 20 OSCB 1035.

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

**AND**

**IN THE MATTER OF  
ELECTRONIC ARTS INC. AND  
ELECTRONIC ARTS HOLDING AB**

**ORDER  
(Clause 104(2)(c))**

**UPON** the application of Electronic Arts Inc. ("EA") and its indirectly wholly owned subsidiary, Electronic Arts Holding AB ("EAAB" and, together with EA, the "Applicants"), to the Ontario Securities Commission (the "Commission") for an order pursuant to clause 104(2)(c) of the Act exempting the Applicants from the requirements of sections 95 through 100 of the Act and the related provisions set out in the Regulations to the Act (the "Take-Over Bid Requirements") in connection with an offer (the "Offer") made by EAAB to acquire all of the Class A shares (the "DICE Shares") of Digital Illusions CE AB (publ) ("DICE") to the holders of DICE Shares (the "DICE Shareholders") resident in Ontario (the "Ontario Shareholders");

**AND UPON** considering the application and the recommendation of the Staff of the Commission;

**AND UPON** the Applicants having represented to the Commission that:

1. EA is a corporation originally incorporated under the laws of California in 1982. EA was reincorporated under the laws of Delaware. EA's

principal executive offices are located in Redwood City, California.

2. EA is not a reporting issuer in Ontario, nor is it a reporting issuer or the equivalent in any other jurisdiction in Canada.

3. EA's authorized capital consists of 1,000,000,000 shares of common stock (the "Common Stock") and 10,000,000 shares of preferred stock of which, as of November 1, 2004 there were 305,332,110 shares of Common Stock outstanding.

4. Shares of the Common Stock are listed for trading on the Nasdaq National Market under the symbol "ERTS".

5. EA is subject to the reporting requirements of the federal securities legislation of the United States.

6. EAAB is a corporation formed under the laws of Sweden on June 22, 2004, and is an indirectly wholly-owned subsidiary of EA. EAAB is subject to the Swedish Companies Act.

7. EAAB's registered office is located in Sweden. The principal activity for which EAAB has been established is that of investment holding.

8. EAAB is not a reporting issuer in Ontario, nor is it a reporting issuer or the equivalent in any other jurisdiction in Canada.

9. DICE is a corporation formed under the laws of Sweden and its principal office is located in Sweden. DICE is subject to the Swedish Companies Act.

10. The DICE Shares are listed for trading on the Nya Marknaden of the Stockholm Stock Exchange (which is neither a Swedish stock exchange nor an authorized marketplace but rather an unofficial marketplace where smaller companies' shares can be traded in the Stockholm Stock Exchange's trading system, SAXESS) under the symbol "DICE A" and are not currently listed on any stock exchange outside of Sweden.

11. DICE is not a reporting issuer in Ontario, nor is it a reporting issuer or the equivalent in any other jurisdiction in Canada.

12. The Offer is an all-cash offer to acquire all of the issued and to be issued DICE Shares not already directly or indirectly owned by the Applicants for 61 SEK (Swedish kronor) per share.

13. As at October 29, 2004, the list of registered shareholders obtained from DICE, indicates that one DICE Shareholder holding 1,800 DICE Shares representing 0.02% of the issued and outstanding DICE Shares is a resident of Ontario.

However EAAB has since been informed that such shareholder now resides in Sweden.

14. EA and EAAB believe that the beneficial holder of 10,000 DICE Shares representing 0.12% of the issued and outstanding DICE Shares, registered in the name of an insurance company whose last address as shown on the books of DICE is outside of Canada, resides in Ontario.
15. Based on the list of holders of options ("Options") and warrants ("Warrants") exercisable into DICE Shares obtained from DICE, as at October 29, 2004, there is one security holder in Ontario (the "Ontario Warrantholder") holding a total of 1,500 Warrants representing the right to purchase an equal number of DICE Shares. If exercised, the Ontario Warrantholder will hold DICE Shares constituting 0.01% of the outstanding DICE Shares. There are no other holders of Warrants or holders of Options whose last address as shown on the books of DICE is in Canada or who, to the best of the Applicants' knowledge, is in Canada.
16. The Offer is being made, and the offer document (the "Offer Document") reflecting the terms of the Offer has been prepared, in accordance with the corporate and securities laws of Sweden and in accordance with the rules applicable to tender offers in Sweden issued by the Swedish Industry and Commerce Stock Exchange Committee.
17. The Offer Document was mailed to DICE Shareholders (other than DICE Shareholders in Canada, Japan and Australia) on November 25, 2004 and the Offer is open for acceptance by DICE Shareholders until December 16, 2004. Upon receipt of this Order, the Offer Document will be mailed to Ontario Shareholders.
18. The Offer will be made on the same terms and conditions to Ontario Shareholders as to all other DICE Shareholders, including offering identical consideration.
19. Except for the fact that Sweden is not a recognized jurisdiction for the purposes of clause 93(1)(e) of the Act, the Applicants are entitled to rely on the exemption from the Take-Over Bid Requirements contained in clause 93(1)(e) of the Act in connection with the Offer.

prepared, in accordance with the corporate and securities laws of Sweden and in accordance with the rules applicable to tender offers in Sweden issued by the Swedish Industry and Commerce Stock Exchange Committee; and

- (b) All material related to the Offer (other than the Offer Document), including any amendments thereto and to the Offer Document, that will be sent by EAAB to DICE Shareholders residing outside of Canada shall concurrently be sent to the Ontario Shareholders and filed with the Commission.

November 30, 2004.

"Paul M. Moore"

"Theresa McLeod"

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

**IT IS ORDERED** pursuant to clause 104(2)(c) of the Act that the Take-Over Bid Requirements shall not apply to Offer, provided that:

- (a) The Offer (and all amendments to the Offer) is made, and the Offer Document (and all amendments thereto) is



**2.2.2 AMI Partners Inc. - ss. 74.1 of the Act and s. 233 of Reg. 1015**

**Headnote**

Registered portfolio manager exempted (subject to conditions) from the dealer registration requirement, in clause 25(1)(a) of the Act, for trades in shares or units of mutual funds, where: the mutual fund is managed by the registrant (or an affiliate of the registrant), the registrant is the portfolio adviser to the fund, and the trade is made to an account that is fully managed by the registrant – Registrant also exempted (subject to conditions) from the dealer registration requirement, in clause 25(1)(a) of the Act, for trades that consist of any act, advertisement or solicitation, directly or indirectly, in furtherance of another trade in shares or units of such mutual funds, where the other trade is a purchase or sale that is made by or through another dealer that is registered under the Act in the appropriate category of registration.

Registrant exempted (subject to conditions) from sections 223, 226(1) and 227(1) of the Regulation which would otherwise apply as result of registrant trading securities of mutual funds, managed by the registrant or an affiliate of the registrant, to managed accounts of the registrant – Each mutual fund will have a name that will include a part of the registrant's name – Before registrant purchases or sells securities of the mutual funds for the managed accounts, or otherwise acts as portfolio manager for the account in respect of such securities, the registrant will have provided the portfolio managed client with a concise statement of its relationship with the fund, and secured the specific and informed written consent of the client to the purchase, sale or exercise of such discretionary authority – Decision permits registrant to acquire securities of such funds on behalf of portfolio managed accounts without providing the portfolio managed client with a statement of policies or obtaining, on an annual basis, the subsequent specific and informed written consent of the client, following an initial specific and informed consent.

**Statutes Cited**

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

**Regulation Cited**

Regulation made under the Securities Act, R.R.O. 1990, Reg. 1015, as am., ss. 223, 226(1), 227(1).

**Rules Cited**

National Instrument 14-101 Definitions.  
National Instrument 81-102 Mutual Funds.  
Ontario Securities Commission Rule 31-506 SRO  
Membership - Mutual Fund Dealers.

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

**AND**

**IN THE MATTER OF  
REGULATION 1015  
R.R.O. 1990, AS AMENDED (the "Regulation"),  
MADE UNDER THE ACT**

**AND**

**IN THE MATTER OF  
AMI PARTNERS INC.**

**RULINGS AND ORDER  
(Subsection 74(1) of the Act and section 233 of Reg.  
1015)**

**UPON** the application (the "Application") of AMI Partners Inc. ("AMI") to the Ontario Securities Commission (the "Commission") for:

- (a) a ruling, under subsection 74(1) of the Act, that the dealer registration requirement (the "Dealer Registration Requirement"), as defined in National Instrument 14-101 *Definition* and contained in clause 25(1)(a) of the Act, shall not apply to AMI, or to any officers or employees (each, an "AMI Representative") of AMI, acting on its behalf, in respect of any trades in shares or units of a mutual fund (an "AMI Portfolio Managed Fund") that is managed by AMI, or an affiliate of AMI, and, in respect of which, AMI is the "portfolio adviser" (within the meaning ascribed to such term in National Instrument 81-102 *Mutual Fund* ("NI 81-102"), where:
  - (i) the trade is made by AMI to an AMI Portfolio Managed Account (as defined below) for an AMI Portfolio Managed Client (as defined below); or
  - (ii) the trade consists of Marketing or Wholesaling Activities (as defined below);
- (b) an order, under section 233 of the Regulation, to exempt AMI from the following provisions of the Regulation that would otherwise apply in connection with AMI, through its Representatives, trading shares or units of AMI Portfolio Managed Funds to AMI Portfolio Managed Accounts:

- (i) the requirements of section 223 (the "Statement of Policies Requirements"); and
- (ii) the requirements of section 226(1) of the Regulation (the "Trade Confirmation Disclosure Requirement"); and
- (c) an order, under section 233 of the Regulation, that the restriction (the "Discretionary Management Disclosure Requirement"), in section 227 of the Regulation, against a registrant acting as an adviser in respect of securities of a related issuer of the registrant or, in the course of a distribution, in respect of securities of a connected issuer of the registrant, unless certain conditions are satisfied, shall not apply to AMI, in respect of shares or units of AMI Portfolio Managed Funds, in connection with it acting as a portfolio manager to AMI Portfolio Managed Clients through their AMI Portfolio Managed Accounts;

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

**AND UPON** AMI having represented to the Commission that:

1. AMI is a corporation amalgamated under the laws of Canada.
2. AMI is registered under the Act: (i) as an adviser in the categories of "investment counsel" and "portfolio manager", and (ii) as a dealer, in the category of "limited market dealer".
3. AMI carries on business primarily as an investment counsel and portfolio manager
4. As part of its business, AMI offers individualized portfolio management services to persons and companies (each, an "AMI Portfolio Managed Client") through investment portfolio accounts (each, an "AMI Portfolio Managed Account") under which AMI, pursuant to a written agreement made between AMI and the AMI Portfolio Managed Client, makes investment decisions for the AMI Portfolio Managed Account and has full discretionary authority to trade in securities for the account without obtaining the specific consent of the AMI Portfolio Managed Client.
5. As part of its business, AMI acts, or may act, as manager and/or portfolio adviser to mutual funds that are sold pursuant to a prospectus or may be sold pursuant to exemptions from the prospectus requirement in section 53 of the Act.
6. Incidental to its business of portfolio management, AMI proposes to distribute shares or units of AMI Portfolio Managed Funds to AMI Portfolio Managed Accounts.
7. Incidental to its business of portfolio management, AMI also proposes to engage in Marketing and Wholesaling Activities in respect of AMI Portfolio Managed Funds. "Marketing and Wholesaling Activities" means, for AMI, a trade by AMI that consists of any act, advertisement or solicitation, directly or indirectly, in furtherance of another trade in shares or units of an AMI Portfolio Managed Fund, where the other trade consists of a purchase or sale of shares or units of the AMI Managed Fund, where the purchase or sale is, in each case, made by or through another dealer that is registered under the Act in a category that permits that other dealer to act as a dealer for such trade.
8. Each of the AMI Portfolio Managed Funds will include "AMI" as part of its name.
9. Before AMI purchases or sells securities of an AMI Portfolio Managed Mutual Fund for an AMI Portfolio Managed Account, or otherwise exercises any discretionary authority in respect of such securities, by acting as a portfolio manager to the AMI Portfolio Managed Client, AMI will provide the Portfolio Managed Client with a clear and concise statement of the relationship or connection between AMI and the AMI Portfolio Managed Fund and have secured the specific written and informed consent of the AMI Portfolio Managed Client to such purchase, sale or exercise of such discretionary authority in respect of the securities.
10. AMI does not and will not act as an adviser, dealer or underwriter in respect of securities of AMI or of a related issuer of AMI, or, in the course of a distribution, in respect of any securities of a connected issuer of AMI, other than as described herein.
11. None of the AMI Portfolio Managed Funds holds, or will hold, any securities of AMI or of any related issuer of AMI, or in the course of a distribution, any securities of a connected issuer of AMI, other than, perhaps, the securities of another AMI Portfolio Managed Fund.
12. All trades in any shares or units of an AMI Portfolio Managed Mutual Fund that are made by AMI to AMI Portfolio Managed Clients, through AMI Portfolio Managed Accounts, will be incidental to AMI's principal business of portfolio management.
13. Except for trades that consist of Marketing or Wholesaling Activities, AMI will only trade securities of an AMI Portfolio Managed Fund to an

AMI Portfolio Managed Client, through their AMI Portfolio Managed Account.

14. In the absence of these rulings, AMI would require registration under the Act as an investment dealer or mutual fund dealer, in order to carry out the trading activities permitted by these rulings.
15. In order to obtain registration as a mutual fund dealer, AMI would be subject to Ontario Securities Commission Rule 31-506 *SRO Membership -- Mutual Fund Dealers*, which requires mutual fund dealers to apply for and maintain membership in the Mutual Fund Dealers Association of Canada (the "MFDA").
16. The MFDA has rules which govern its membership which would preclude AMI from being a member of the MFDA if it continues to conduct its principal business of acting as an investment counsel and accepting discretionary portfolio management mandates.

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

**IT IS RULED**, pursuant to section 74(1) of the Act, that the Dealer Registration Requirement shall not apply to any trades, in shares or units of an AMI Portfolio Managed Mutual Fund, made through an AMI Representative to an AMI Portfolio Managed Account,

**PROVIDED THAT:**

- A. AMI is, at the time of the trade, registered under the Act as an adviser in the category of "portfolio manager" and, as a dealer, in the category of "limited market dealer";
- B. the trade is made on behalf of AMI by a Registered Representative who is, at the time of the trade, either (i) registered under the Act to act on behalf of AMI as an adviser in the categories of "investment counsel" and "portfolio manager" or (ii) acting under the direction of such a person and is himself or herself registered under the Act to trade on behalf of AMI pursuant to its limited market dealer registration; and
- C. this ruling shall terminate one year after the coming into force, subsequent to the date of this ruling, of a rule or other regulation under the Act that relates, in whole or part, to any trading by persons or companies that are registered under the Act as portfolio managers (or the equivalent), in securities of a mutual fund, to an account of a client, in respect of which the person or company has full discretionary authority to trade in

securities for the account, without obtaining the specific consent of the client to the trade, but does not include any rule or regulation that is specifically identified by the Commission as not applicable for these purposes;

**AND, IT IS RULED**, pursuant to section 74(1) of the Act, that the Dealer Registration Requirement shall not apply to trades made by AMI through an AMI Representative, in shares or units of an AMI Portfolio Managed Fund, where the trade consists of Marketing or Wholesaling Activities,

**PROVIDED THAT:**

- D. in the case of each such trade, AMI is, at the time of the trade, registered under the Act as a dealer in the category of "limited market dealer" and the AMI Representative is registered under the Act to trade on behalf AMI pursuant to registration as a "limited market dealer";

**AND, IT IS ORDERED**, pursuant to section 233 of the Regulation, that AMI is exempt from:

- (i) the Statement of Policies Requirements;
- (ii) the Trade Disclosure Confirmation Requirement in connection with the purchase or sale of shares or units of an AMI Portfolio Managed Fund on behalf of an AMI Portfolio Managed Client through their AMI Portfolio Managed Account; and
- (iii) the Discretionary Management Disclosure Requirement, where AMI purchases or sells any securities of an AMI Portfolio Managed Fund (or otherwise exercises any discretionary authority in respect of such securities by acting as a portfolio manager) on behalf of an AMI Portfolio Managed Client, through an AMI Portfolio Managed Account;

**PROVIDED THAT:**

- E. in the case of each AMI Portfolio Managed Client, before AMI purchases or sells securities of an AMI Portfolio Managed Mutual Fund for their AMI Portfolio Managed Account, or otherwise exercises any discretionary authority in respect of such securities, by acting as a

portfolio manager to the AMI Portfolio Managed Client, AMI has previously:

- (a) provided the AMI Portfolio Managed Client with a concise statement of the relationship or connection between AMI and the AMI Portfolio Managed Fund, and
- (b) secured the specific and informed written consent of the AMI Portfolio Managed Client to the purchase, sale or exercise of such discretionary authority in respect of the securities.

October 22, 2004.

“Suresh Thakrar”

“Harold P. Hands”

**2.2.3 Scotial Capital (USA) Inc. - s. 218 of Reg. 1015**

**Headnote**

Application to the Commission for an order, pursuant to section 218 of Regulation 1015 of the *Securities Act* (Ontario), that the requirement in section 213 of the Regulation, which provides that a registered dealer that is not an individual must be a company incorporated, or a person formed or created, under the laws of Canada or a province or territory of Canada, shall not apply to Scotia Capital (USA), Inc. The order sets out the terms and conditions applicable to a non-resident limited market dealer.

**Applicable Statutes**

Ontario Regulation 1015, R.R.O. 1990, s. 213, 218.

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

**AND**

**IN THE MATTER OF  
R.R.O. 1990, REGULATION 1015  
AS AMENDED (THE REGULATION)**

**AND**

**IN THE MATTER OF  
SCOTIA CAPITAL (USA) INC.**

**ORDER  
(SECTION 218 OF THE REGULATION)**

**UPON** the application (the **Application**) of Scotia Capital (USA) Inc. (the **Applicant**) to the Ontario Securities Commission (the **Commission**) for an order, pursuant to section 218 of the Regulation, exempting the Applicant from the requirement in section 213 of the Regulation that the Applicant be incorporated, or otherwise formed or created, under the laws of Canada or a province or territory of Canada, in order for the Applicant to be registered under the Act as a dealer in the category of limited market dealer;

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

**AND UPON** the Applicant having represented to the Commission that:

1. The Applicant is a corporation formed under the laws of the State of New York, and is a wholly-owned subsidiary of Scotia Capital Inc. and indirect wholly-owned subsidiary of The Bank of Nova Scotia. The head office of the Applicant is located in New York, New York.
2. The Applicant is currently registered as a broker-dealer with the United States Securities and Exchange Commission.

3. The Applicant was formed under the laws of New York in November, 1939.
  4. The Applicant's primary business activities are trading in securities and brokerage activities with a diverse group of corporations, governments and other institutional investors.
  5. The Applicant is in the process of applying to the Commission for registration under the Act as a dealer in the category of limited market dealer.
  6. Section 213 of the Regulation provides that a registered dealer that is not an individual must be a company incorporated, or a person formed or created, under the laws of Canada or a province or territory of Canada.
  7. The Applicant does not require a separate Canadian company in order to carry out its proposed limited market dealer activities in Ontario. It is more efficient and cost-effective to carry out those activities through the existing company.
  8. In the absence of this order, the Applicant would not meet the requirements of the Regulation for registration as a dealer in the category of limited market dealer as it is not a company incorporated, or a person formed or created, under the laws of Canada or a province or territory of Canada.
- AND UPON** being satisfied that to do so would not be prejudicial to the public interest;
- IT IS ORDERED**, pursuant to section 218 of the Regulation, that, in connection with the registration of the Applicant as a dealer under the Act in the category of limited market dealer, the Applicant is exempt from the provisions of section 213 of the Regulation requiring that the Applicant be a company incorporated, or a person formed or created, under the laws of Canada or a province or territory of Canada, for a period of three years, provided that:
1. The Applicant appoints an agent for service of process in Ontario.
  2. The Applicant shall provide to each client resident in Ontario a statement in writing disclosing the non-resident status of the Applicant, the Applicant's jurisdiction of residence, the name and address of the agent for service of process of the Applicant in Ontario, and the nature of risks to clients that legal rights may not be enforceable.
  3. The Applicant will not change its agent for service of process in Ontario without giving the Commission 30 days' prior notice of such change by filing a new Submission to Jurisdiction and Appointment of Agent for Service of Process.
4. The Applicant and each of its registered directors or officers irrevocably and unconditionally submits to the non-exclusive jurisdiction of the judicial, quasi-judicial, and administrative tribunals of Ontario and any administrative proceedings in Ontario, in any proceedings arising out of or related to or concerning its registration under the Act or its activities in Ontario as a registrant.
  5. The Applicant will not have custody of, or maintain customer accounts in relation to, securities, funds, and other assets of clients resident in Ontario.
  6. The Applicant will inform the Director immediately upon the Applicant becoming aware:
    - (a) of it ceasing to be registered as a broker-dealer with the United States Securities and Exchange Commission;
    - (b) of its registration in any other jurisdiction not being renewed or being suspended or revoked;
    - (c) that it is the subject of an investigation or disciplinary action by any financial services or securities regulatory authority or self-regulatory authority;
    - (d) that the registration of its salespersons, officers, directors, or partners who are registered in Ontario have not been renewed or has been suspended or revoked in any Canadian or foreign jurisdiction; or
    - (e) that any of its salespersons, officers, directors, or partners who are registered in Ontario are the subject of an investigation or disciplinary action by any financial services or securities regulatory authority or self-regulatory authority in any Canadian or foreign jurisdiction.
  7. The Applicant will pay the increased compliance and case assessment costs of the Commission due to the Applicant's location outside Ontario, including the cost of hiring a third party to perform a compliance review on behalf of the Commission.
  8. The Applicant will make its books and records outside Ontario, including electronic records, readily accessible in Ontario, and will produce physical records for the Commission within a reasonable time if requested.
  9. If the laws of the jurisdiction in which the Applicant's books and records are located prohibit production of the books and records in Ontario without the consent of the relevant client the Applicant shall, upon a request by the Commission:

- (a) so advise the Commission; and
  - (b) use its best efforts to obtain the client's consent to the production of books and records.
10. The Applicant will, upon the Commission's request, provide a representative to assist the Commission in compliance and enforcement matters.
11. The Applicant and each of its registered directors, officers or partners will comply, at the Applicant's expense, with requests under the Commission's investigation powers and orders under the Act in relation to the Applicant's dealings with Ontario clients, including producing documents and witnesses in Ontario, submitting to audit or search and seizure process or consenting to an asset freeze, to the extent such powers would be enforceable against the Applicant if the Applicant were resident in Ontario.
12. If the laws of the Applicant's jurisdiction of residence that are otherwise applicable to the giving of evidence or production of documents prohibit the Applicant or the witnesses from giving the evidence without the consent or leave of the relevant client or any third party, including a court of competent jurisdiction, the Applicant shall:
- (a) so advise the Commission; and
  - (b) use its best efforts to obtain the client's consent to the giving of the evidence.
13. The Applicant will maintain appropriate registration and SRO membership, in the jurisdiction of its principal operations and if required, in its jurisdiction of residence.

December 3, 2004.

"Paul M. Moore"

"Robert W. Davis"

**2.2.4 Barep Asset Management S.A.  
- s. 80 of the CFA**

**Headnote**

Subsection 80 of the Commodity Futures Act (Ontario) – relief from the requirements of subsection 22(1)(b) of the CFA in respect of advising certain non-Canadian mutual funds or non-redeemable investment funds related to commodity futures contracts traded on commodity futures exchanges outside Canada and cleared through clearing corporations outside Canada subject to certain terms and conditions.

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

**AND**

**IN THE MATTER OF  
BAREP ASSET MANAGEMENT S.A.**

**ORDER  
(Section 80 of the CFA)**

**UPON** the application of Barep Asset Management S.A. (**Barep**) to the Ontario Securities Commission (the **Commission**) for an order pursuant to section 80 of the Act that Barep and its directors, officers and employees acting on its behalf as advisers (collectively the **Representatives**) are exempt for a period of three years from the requirements of paragraph 22(1)(b) of the Act in respect of advising certain mutual funds or non-redeemable investment funds (the **Funds**) in respect of trades in commodity futures contracts traded on commodity futures exchanges outside Canada and cleared through clearing corporations outside Canada (the **Proposed Advisory Business**);

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

**AND UPON** Barep having represented to the Commission that:

1. Barep is a corporation formed under the laws of France and is an indirect wholly-owned subsidiary of Société Générale S.A., a French commercial, retail and investment banking institution.
2. Barep is registered with the French Commission des Operations de Bourse. Barep is also registered as a commodity trading adviser with the United States Commodities Futures Trading Commission (the **CFTC**) and is a member of the United States National Futures Association (the **NFA**). Barep is not registered in any capacity under the Act or the Ontario *Securities Act* (**OSA**).
3. Barep is the investment advisor for the Funds which have been or will be established from time to time.

4. The Funds may invest in futures and options contracts traded on organized exchanges located outside of Canada and cleared through clearing corporations located outside of Canada, in other derivative instruments traded over the counter outside of Canada, and in securities.
5. As would be required under section 7.10 (Privately Placed Funds Offered Primarily Abroad) of Rule 35-502 of the OSA, securities of the Funds will be:
- (i) primarily offered outside of Canada;
  - (ii) only distributed in Ontario through one or more registrants under the OSA; and
  - (iii) distributed in Ontario in reliance upon an exemption from the prospectus requirements of the OSA.
6. Prospective investors who are Ontario residents will receive disclosure that includes (i) a statement that there may be difficulty in enforcing legal rights against the Funds and or the Applicant which advises the relevant Funds, because such entities are resident outside of Canada and as all or substantially all of their assets are situated outside of Canada; and (ii) a statement that the Applicant advising the applicable Funds is not registered with or licensed by any securities regulatory authority in Canada and, accordingly, the protections available to clients of a registered adviser will not be available to purchasers of securities of the Funds.

requirements of the OSA and upon an exemption from the adviser registration requirements of the Securities Act (Ontario) under section 7.10 of Rule 35-502; and

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

November 26, 2004.

“David L. Knight”

“H. Lorne Morphy”

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

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

- (a) Barep is registered with CFTC as a commodity trading adviser and is a member of the NFA;
- (b) the Funds invest in futures and options contracts traded on organized exchanges located outside of Canada and cleared through clearing corporations located outside of Canada, in other derivative instruments traded over the counter outside of Canada, and in securities;
- (c) securities of the Funds are offered primarily outside of Canada and are only distributed in Ontario through Ontario-registered dealers, in reliance on an exemption from the prospectus

**2.2.5 Baring Asset Management Limited  
- s. 80 of the CFA**

**Headnote**

Subsection 80 of the Commodity Futures Act (Ontario) – relief from the requirements of subsection 22(1)(b) of the CFA in respect of advising certain non-Canadian mutual funds related to commodity futures contracts and options traded on commodity futures exchanges outside Canada and cleared through clearing corporations outside Canada subject to certain terms and conditions.

**IN THE MATTER OF  
THE COMMODITY FUTURES ACT,  
R.S.O. 1990, CHAPTER S.20, AS AMENDED  
(THE CFA)**

**AND**

**IN THE MATTER OF  
BARING ASSET MANAGEMENT LIMITED**

**ORDER  
(Section 80 of the CFA)**

**UPON** the application (the **Application**) of Baring Asset Management Limited (the **Applicant**) to the Ontario Securities Commission (the **Commission**) for an order pursuant to section 80 of the CFA that the Applicant and its directors, officers, partners, members and employees acting on its behalf as an adviser (collectively, the **Representatives**), be exempt, for a period of three years, from the registration requirements of clause 22(1)(b) of the CFA in respect of advising certain mutual funds, non-redeemable investment funds and similar investment vehicles (individually, a **Fund** and collectively, the **Funds**) established outside of Canada in respect of investments in investment vehicles that may invest in, commodity futures contracts and commodity futures options principally traded on commodity futures exchanges outside of Canada and cleared through clearing corporations outside of Canada, and, in certain cases, direct investments by the Funds in commodity futures contracts and commodity futures options principally traded on exchanges outside of Canada and cleared through clearing corporations outside of Canada, subject to certain terms and conditions;

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

**AND UPON** the Applicant having represented to the Commission that:

1. The Applicant is a company incorporated under the laws of England and authorized by and regulated in the conduct of its business in the United Kingdom by the Financial Services Authority of the United Kingdom. The Applicant may also include affiliates of, or entities organized by, the Applicant, which may provide advice to the Funds with respect to investments in commodity futures contracts and commodity futures options,

who may subsequently execute and submit to the Commission a verification certificate confirming the truth and accuracy of the information set out in this Order with respect to that particular Applicant.

2. The Applicant is, or in the future may be, the investment manager and/or the investment advisor for the Funds. As the investment manager and/or the investment advisor for the Funds, the Applicant will be responsible for the day-to-day investment management of the Funds and/or the investment advice provided to the Funds.
3. The Funds advised by the Applicant are or will be established outside of Canada. Securities of the Funds are or will be primarily offered outside of Canada to institutional investors and high net worth investors. The Funds are or will be offered only to Ontario residents who qualify as an "accredited investor" under OSC Rule 45-501 *Exempt Distributions* or will be offered and distributed in Ontario only in reliance upon an exemption from the prospectus requirements of the *Securities Act* (Ontario) (the **OSA**) and an exemption from the adviser registration requirement of the OSA under section 7.10 of OSC Rule 35-502 *Non-Resident Advisers* (**Rule 35-502**).
4. The Funds as part of their investment mandate may invest in other offshore investment funds that are also established outside of Canada (individually, an **Underlying Fund** and collectively, the **Underlying Funds**).
5. Certain of the Underlying Funds may invest in commodity futures contracts and commodity futures options that are principally traded on exchanges outside of Canada and cleared through clearing corporations outside of Canada.
6. Certain of the Funds advised by the Applicant may also invest in commodity futures contracts and commodity futures options that are principally traded on exchanges outside of Canada and cleared through clearing corporations outside of Canada.
7. The Underlying Funds in which the Funds may from time to time invest are, or will be, managed by certain third party managers outside of Canada (the **Managers**) that are investing, or will invest, in investments selected by the Managers that may include commodity futures contracts and commodity futures options.
8. The Applicant has selected, or will select, the Underlying Funds in which the Funds have invested, or will invest, based on the investment strategies implemented by the Manager of the relevant Underlying Fund and the respective investment objectives and policies of the Fund that has invested, or will invest, in the Underlying



Fund. The investment strategies implemented by the Managers may include investing in commodity futures contracts and commodity futures options.

9. By selecting an Underlying Fund based upon the Underlying Fund's investment strategy, where such strategy specifically involves investing in commodity futures contracts and commodity futures options, and by advising the Funds directly on investing in commodity futures contracts and commodity futures options, the Applicant currently provides, or will in the future provide, advice with respect to commodity futures contracts and commodity futures options to the Funds.

10. The Applicant and the Managers, where required, are or will be registered or licensed or are or will be entitled to rely on appropriate exemptions from such registrations or licences to provide advice to the Funds and the Underlying Funds, respectively, pursuant to the applicable legislation of its principal jurisdiction. In particular:

- a. the Applicant is not registered in any capacity under the CFA or the OSA;
- b. the Funds and the Underlying Funds currently, or in the future will, issue securities that are offered primarily outside of Canada. None of the Funds or the Underlying Funds is or has any current intention of becoming a reporting issuer in Ontario or in any other Canadian jurisdiction; and
- c. the Funds and the Underlying Funds may, as part of their investment program invest in futures and options contracts principally traded on exchanges outside of Canada and cleared through clearing corporations located outside of Canada.

11. Prospective investors who are Ontario residents will receive disclosure that includes (i) a statement that there may be difficulty in enforcing legal rights against the Funds (or any of the Underlying Funds) and or the Applicant advising the relevant Funds (or the Manager advising the relevant Underlying Funds), because such entities are resident outside of Canada and as all or substantially all of their assets are situated outside of Canada; and (ii) a statement that the Applicant advising the applicable Funds (or the Manager advising the applicable Underlying Funds) is not registered with or licensed by any securities regulatory authority in Canada and, accordingly, the protections available to clients of a registered adviser will not be available to purchasers of securities of the Funds.

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

the exemption requested on the basis of the terms and conditions proposed;

**IT IS ORDERED** pursuant to section 80 of the CFA that the Applicant and its Representatives are not subject to the requirements of clause 22(1)(b) of the CFA in respect of their advisory activities in connection with the Funds, for a period of three years, provided that:

- (a) any such Applicant, where required, is or will be registered or licensed or is or will be entitled to rely on appropriate exemptions from such registrations or licences to provide advice to the Funds pursuant to the applicable legislation of its principal jurisdiction;
- (b) the Funds and the Underlying Funds invest, or may in the future invest, in commodity futures and options contracts principally traded on organized exchanges outside of Canada and cleared through clearing corporations located outside of Canada;
- (c) securities of the Funds and the Underlying Funds are and will be offered primarily outside of Canada and securities of the Funds will only be distributed in Ontario through one or more registrants under the OSA in reliance on an exemption from the prospectus requirements of the OSA and upon an exemption from the adviser registration requirement of the OSA under section 7.10 of Rule 35-502;
- (d) prospective investors who are Ontario residents will receive disclosure that includes (i) a statement that there may be difficulty enforcing legal rights against the applicable Funds (or any of the Underlying Funds) or the Applicant advising the relevant Funds (or the Manager advising the relevant Underlying Funds), because they are resident outside of Canada and as all or substantially all of their assets are situated outside of Canada; and (ii) a statement that the Applicant advising the applicable Funds (or the Manager advising the applicable Underlying Fund) is not registered with or licensed by any securities regulatory authority in Canada and, accordingly, the protections available to clients of a registered adviser will not be available to purchasers of securities of a Fund; and
- (e) any Applicant whose name does not specifically appear in this Order and who proposes to rely on the exemption granted under this Order, shall as a

condition to relying upon such exemption, have executed and filed with the Commission a verification certificate referencing this Order and confirming the truth and accuracy of the Application with respect to that particular Applicant.

November 26, 2004.

“David L. Knight”

“H. Lorne Morphy”

## 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	03 Dec 04	
DXStorm.com Inc.	24 Nov 04	06 Dec 04		08 Dec 04
Tengtu International Corp.	23 Nov 04	03 Dec 04	03 Dec 04	
Terra Industries Inc.	23 Nov 04	03 Dec 04		07 Dec 04
Bakbone Software Incorporated	08 Dec 04	20 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	02 Dec 04		
Straight Forward Marketing Corporation	18 Nov 04	01 Dec 04	01 Dec 04		
Star Navigation Systems Group Ltd.	18 Nov 04	01 Dec 04	01 Dec 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		

### 4.3.1 Issuer CTO's Revoked

Company Name	Date of Revocation
RTICA Corporation	03 Dec 04
AFM Hospitality Corporation	07 Dec 04

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## Chapter 7

# Insider Reporting

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

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

To obtain Insider Reporting information, please visit the SEDI website ([www.sedi.ca](http://www.sedi.ca)).

## Chapter 8

# Notice of Exempt Financings

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### REPORTS OF TRADES SUBMITTED ON FORM 45-501F1

<u>Transaction Date</u>	<u>Purchaser</u>	<u>Security</u>	<u>Total Purchase Price (\$)</u>	<u>Number of Securities</u>
18-Nov-2004	Fidelity Investments Canada Ltd Signature Omnibus	3815668 Canada Inc. - Subordinated Note	2,335,594.56	1,860,000.00
17-Nov-2004	Dorothy Brown	Acuity Pooled Conservative Asset Allocation - Trust Units	175,000.00	11,135.00
17-Nov-2004 to 19-Nov-2004	3 Purchasers	Acuity Pooled Growth and Income Fund - Trust Units	541,201.58	48,978.00
17-Nov-2004 to 22-Nov-2004	28 Purchasers	Acuity Pooled High Income Fund - Trust Units	9,435,554.58	491,435.00
11-Nov-2004 to 16-Nov-2004	15 Purchasers	Acuity Pooled High Income Fund - Trust Units	1,884,840.65	98,271.00
18-Nov-2004 to 23-Nov-2004	8 Purchasers	Acuity Pooled Income Trust Fund - Trust Units	713,000.00	40,729.00
07-Dec-2004	8 Purchasers	ADB Systems International Ltd. - Units	657,500.00	3,287,500.00
18-Nov-2004	Sprott Asset Management Inc AGF Precious Metals Funds	Afcan Mining Corporation - Units	1,300,000.00	5,200,000.00
08-Nov-2004	Front Street Investment Manage Mary Sinclair	Ausam Energy Corporation - Units	900,000.00	1,200,000.00
17-Nov-2004	5 Purchasers	Bishop Gold Inc. - Units	525,000.00	1,944,444.00
24-Nov-2004	Robert Duess	Canadian Royalties Inc. - Common Shares	1.00	50,000.00
16-Nov-2004	8 Purchasers	CareVest Blended Mortgage Investment Corporation - Preferred Shares	402,696.00	402,696.00
16-Nov-2004	5 Purchasers	CareVest First Mortgage Investment Corporation - Preferred Shares	413,228.00	413,228.00
16-Nov-2004	Keith Cowan Wendell S. Wigle	CareVest Second Mortgage Investment Corporation - Preferred Shares	30,000.00	30,000.00
18-Nov-2004	42 Purchasers	Chamaelo Energy Inc. - Common Shares	14,263,200.00	2,571,800.00

**Notice of Exempt Financings**

24-Nov-2004	Strategic Advisors Corp.	Cline Mining Corporation - Subscription Receipts	577,500.00	210,000.00
17-Nov-2004	Ontario Teachers' Pension Plan Board	Convedia Corporation - Preferred Shares	357,900.18	666,667.00
17-Nov-2004	12 Purchasers	DK Energy Fund II - Trust Units	3,000,000.00	6,000.00
25-Nov-2004	13 Purchasers	Eastshore Energy Ltd. - Shares	4,812,500.00	1,750,000.00
03-Nov-2004 to 10-Nov-2004	6 Purchasers	Ecu Silver Mining Inc. - Units	249,999.60	833,332.00
07-Oct-2004	Regent Mercantile Bancorp Inc	Energem Resources Inc. - Warrants	0.00	358,167.00
17-Nov-2004	3 Purchasers	Exceed Energy Inc. - Common Shares	347,000.00	605,000.00
23-Nov-2004	14 Purchasers	Galleon Energy Inc. - Common Share Purchase Warrant	12,142,500.00	809,500.00
22-Nov-2004	6 Purchasers	Geocan Energy Inc. - Flow-Through Shares	3,418,174.70	1,847,662.00
22-Nov-2004	14 Purchasers	Geocan Energy Inc. - Units	2,165,380.00	1,546,700.00
16-Nov-2004	Lois M. Belluk Novaden Capital GP Ltd.	Golden Arrow Resources Corporation - Units	29,925.00	47,500.00
31-Oct-2004	24 Purchasers	Goldman Sachs Mutual Funds - Units	34,317,000.00	3,057,920.00
23-Nov-2004	Commonwealth Managed Invest Statutory Fixed Income Fund	Hornbeck Offshore Services, Inc. - Notes	310,000.00	310,000.00
24-Nov-2004	4 Purchasers	Hudson Resources Inc. - Units	44,000.00	80,000.00
17-Nov-2004	CBC Pension Fund	Inpex Corporation - Common Shares	3,687,450.00	50.00
17-Nov-2004	CBC Pension Fund	Inpex Corporation - Shares	266,170.50	50.00
18-Nov-2004	27 Purchasers	Ivernia Inc. - Units	5,334,000.00	4,445,000.00
12-Nov-2004	9 Purchasers	Jilbey Gold Exploration Ltd. - Units	2,943,750.00	5,887,500.00
26-Nov-2004	Dolly Varden Resources Inc.	Jumbo Development Corporation - Common Shares	15,000.00	75,000.00
19-Nov-2004	3 Purchasers	Kalahari Resources Inc. - Units	100,000.00	1,000,000.00
01-Nov-2004	CPP Investment Board Private Holdings Inc	KKR Millennium Fund LP - Limited Partnership Interest	345,497,500.00	1.00
19-Nov-2004	5 Purchasers	Market Guidance Systems, Inc - Shares	175,000.00	17,500.00
19-Nov-2004	5 Purchasers	Market Guidance Systems, Inc - Warrants	175,000.00	8,750.00

**Notice of Exempt Financings**

30-Nov-2003 to 30-Sep-2004	10 Purchasers	Marquest Balanced Fund #750 - Units	370,480.82	33,105.00
31-Oct-2003 to 30-Sep-2004	44 Purchasers	Marquest Canadian Equity Fund #650 - Units	5,517,014.23	491,907.00
31-Oct-2003 to 30-Sep-2004	21 Purchasers	Marquest Canadian Equity Growth Fund #501 - Units	1,317,117.55	102,396.00
30-Nov-2003 to 30-Sep-2004	11 Purchasers	Marquest Canadian Equity Large Cap Fund #701 - Units	1,228,806.34	101,886.00
31-Dec-2003 to 30-Sep-2004	15 Purchasers	Marquest Dividend Income Fund #850 - Units	1,443,347.72	114,588.00
31-Oct-2003 to 30-Sep-2004	30 Purchasers	Marquest Resource Fund #201 - Units	2,726,684.59	212,165.00
31-Oct-2003	Derryn Gill Nadine Carson	Marquest US Equity Growth Fund #301US - Units	302,606.18	26,881.00
01-Nov-2004	DBRN Securities Inc.	MCAN Performance Strategies - Limited Partnership Units	990,215.88	9,265.00
16-Nov-2004	5 Purchasers	Moto Goldmines Limited - Subscription Receipts	2,581,320.00	9,840,000.00
16-Nov-2004	5 Purchasers	Moto Goldmines Limited - Units	2,581,320.00	6,560,000.00
18-Nov-2004	MFC Global Credit Risk Advisors	Neenah Paper Inc. - Notes	605,000.00	500.00
18-Nov-2004	Royal Bank of Canada Mackenzie Financial Corp.	PortalPlayer, Inc - Stock Option	61,490.70	3,617.00
17-Nov-2004	Blair Franklin	PRA International - Stock Option	11,339.20	500.00
26-Nov-2004	Nursing Homes and Related Industries Pension Plan	Real Assets US Social Equity Index Fund - Units	18,439.98	2,712.00
26-Nov-2004	3 Purchasers	Regional Power Inc. - Shares	773,249.99	773,250.00
19-Nov-2004	8 Purchasers	Richview Resources Inc. - Common Shares	1,999,999.84	4,349,680.00
09-Nov-2004	Scotia Capital Inc.	Rocket Trust - Notes	5,000,000.00	500,000.00
09-Nov-2004	ING Bank of Canada	Rocket Trust - Notes	18,000,000.00	18,000,000.00
09-Nov-2004	Scotia Capital Inc.	Rocket Trust - Notes	25,000,000.00	25,000,000.00
12-Nov-2004	Royal Capital Management Corp.	Rumble Automation Inc. - Debentures	1,600,000.00	1.00
18-Nov-2004	Blair Franklin	Rush Enterprises - Stock Option	15,975.53	1,000.00



**Notice of Exempt Financings**

22-Nov-2004	Interquest Incorporated	Sabina Resources Limited - Common Shares	199,999.74	188,679.00
23-Nov-2004	Charles Murray Workman	San Gold Resources Corporation - Debentures	100,000.00	100,000.00
01-Nov-2004 to 11-Nov-2004	421 Purchasers	Second World Trader Inc. - Units	3,741,114.00	13,683.00
15-Nov-2004	Podivinsky;Ed	Seeker Petroleum Ltd. - Common Shares	48,000.00	40,000.00
16-Nov-2004	The Bank of Nova Scotia	Senior Floating Rate Income Trust - Trust Units	70,712,325.00	7,500,000.00
18-Nov-2004	26 Purchasers	Spectral Diagnostics Inc. - Units	3,009,681.60	2,229,394.00
16-Nov-2004	Newmont Mining Corporation of Canada Limited	StrataGold Corporation - Subscription Receipts	3,250,000.00	6,500,000.00
05-Nov-2004	Credit Risk Advisors LP	STATS ChipPAC Ltd. - Notes	1,193,400.00	1,000.00
06-Apr-2004	Integrated Partners Limited Partnership One	Systech Retail Systems Corp. - Preferred Shares	500,000.00	1,428,572.00
17-Nov-2004	Integrated Partners LP One Park Avenue Equity Partners LP	Systech Retail Systems Corp. - Preferred Shares	199,999.80	571,428.00
17-Nov-2004	Integrated Partners LP One Park Avenue Equity Partners LP	Systech Retail Systems Corp. - Warrants	1,029,454.30	2,941,298.00
06-Apr-2004	Integrated Partners Limited Partnership One	Systech Retail Systems Corp. - Warrants	500,000.00	14,285,720.00
17-Nov-2004	Integrated Partners LP One Park Avenue Equity Partners LP	Systech Retail Systems Corp. - Warrants	199,999.80	5,714,280.00
22-Nov-2004	12 Purchasers	Technicoil Corporation - Common Shares	1,999,000.00	1,070,000.00
18-Nov-2004	5 Purchasers	Toyota Credit Canada Inc. (TCCI) - Notes	369,500,000.00	369,500,000.00
18-Nov-2004	5 Purchasers	Toyota Credit Canada Inc. (TCCI) - Notes	369,500,000.00	369,500,000.00
17-Nov-2004	6 Purchasers	TriOil Ltd. - Common Shares	2,214,225.00	3,406,500.00
23-Nov-2004	Valoree Jack Ron Jack	Union Summit Minerals Corporation - Units	20,000.00	80,000.00
24-Nov-2004	Caldwell Financial Ltd.	Urbana Corporation - Common Shares	366,668.00	366,668.00
23-Nov-2004	8 Purchasers	Vast Exploration Inc - Units	183,099.98	3,571,429.00
19-Nov-2004	AIM Trimark Investments Inc.	Videotron Ltee - Notes	6,255,958.06	5,000.00

**Notice of Exempt Financings**

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23-Nov-2004	Mavrix Resource Fund 2004 LP NCE Diversified Flow-Through (04) Limited Partnership	Virginia Gold Mines Inc. - Flow-Through Shares	1,501,248.75	400,333.00
25-Nov-2004	14 Purchasers	Zaruma Resources Inc. - Units	359,100.00	2,992,500.00

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## Chapter 11

# IPOs, New Issues and Secondary Financings

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**Issuer Name:**

Baytex Energy Trust  
Principal Regulator - Alberta

**Type and Date:**

Preliminary Short Form Prospectus dated December 6, 2004  
Mutual Reliance Review System Receipt dated December 6, 2004

**Offering Price and Description:**

\$42,240,000 - 3,300,000 Trust Units Price: \$12.80 per Trust Unit

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

TD Securities Inc.  
RBC Dominion Securities Inc.  
Raymond James Ltd.  
Canaccord Capital Corporation  
National Bank Financial Inc.  
Peters & Co. Limited

**Promoter(s):**

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**Project #719712**

**Issuer Name:**

Benton Resources Corp.  
Principal Regulator - British Columbia

**Type and Date:**

Preliminary Prospectus dated November 29, 2004  
Mutual Reliance Review System Receipt dated December 1, 2004

**Offering Price and Description:**

\$1,000,000.00 to \$1,200,000.00 - Minimum 3,333,333 Units Maximum 4,000,000 Units 2,000,000 Flow-Through Units and 2,000,000 Non-Flow-Through Units Price: \$0.30 per Unit

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

Canaccord Capital Corporation

**Promoter(s):**

Stephen Stares

**Project #718102**

**Issuer Name:**

BFI Canada Income Fund  
Principal Regulator - Ontario

**Type and Date:**

Amended and Restated Preliminary Short Form Prospectus December 1, 2004  
Mutual Reliance Review System Receipt dated December 3, 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.  
National Bank Financial Inc.  
TD Securities Inc.  
Scotia Capital Inc.  
Sprott Securities Inc.  
First Associates Investments Inc.

**Promoter(s):**

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**Project #715715**

**Issuer Name:**

Bolivar Gold Corp.  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Short Form Prospectus dated December 6, 2004  
Mutual Reliance Review System Receipt dated December 6, 2004

**Offering Price and Description:**

\$20,000,002.00 - 9,090,910 Units Price: \$2.20 per Unit

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

GMP Securities Ltd.  
Sprott Securities Inc.  
Haywood Securities Inc.  
Paradigm Securities Inc.  
Canaccord Capital Corporation

**Promoter(s):**

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**Project #719598**

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**Issuer Name:**

Borealis Retail Real Estate Investment Trust  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Short Form Prospectus dated December 1, 2004

Mutual Reliance Review System Receipt dated December 1, 2004

**Offering Price and Description:**

\$40,565,000.00 - 3,050,000 Units Price: \$13.30 per Unit

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

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

**Promoter(s):**

Borealis Real Estate Management Inc.  
**Project #718327**

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**Issuer Name:**

Builders Energy Services Trust  
Principal Regulator - Alberta

**Type and Date:**

Preliminary Prospectus dated November 29, 2004

Mutual Reliance Review System Receipt dated December 1, 2004

**Offering Price and Description:**

\$ \* - \* Trust Units Price: \$ \* per Trust Unit

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

J. F. Mackie & Company Ltd.  
Canaccord Capital Corporation

**Promoter(s):**

Garnet K. Amundson  
Earl B. Lewis  
John C. Eadie  
Terry Winnitoy  
**Project #718563**

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**Issuer Name:**

CARS and PARS Programme  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Short Form Shelf Prospectus dated December 3, 2004

Mutual Reliance Review System Receipt dated December 3, 2004

**Offering Price and Description:**

Coupons And Residuals ("CARS") and Par Adjusted Rate Securities ("PARS") Programme ("CARS and PARS Programme") Strip Coupons, Strip Residuals and Strip Packages (including packages of Strip Coupons and PARS) derived by RBC Dominion Securities Inc., BMO Nesbitt Burns Inc., CIBC World Markets Inc., National Bank Financial Inc., Scotia Capital Inc. and TD Securities Inc. from up to Cdn \$5,000,000,000 of Debt Obligations of Various Canadian Corporations, Trusts and Partnerships  
Price: Rates on Application

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

BMO Nesbitt Burns Inc.  
CIBC World Markets Inc.  
National Bank Financial Inc.  
Scotia Capital Inc.  
TD Securities Inc.

**Promoter(s):**

BMO Nesbitt Burns Inc.  
CIBC World Markets Inc.  
National Bank Financial Inc.  
Scotia Capital Inc.  
TD Securities Inc.  
**Project #719243**

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**Issuer Name:**

Creststreet Power & Income Fund LP  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Prospectus dated December 3, 2004

Mutual Reliance Review System Receipt dated December 7, 2004

**Offering Price and Description:**

\$ \* - \* % Convertible Unsecured Subordinated Debentures due March 15, 2010  
Price: 100% plus accrued interest, if any

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

Scotia Capital Inc.  
BMO Nesbitt Burns Inc.  
RBC Dominion Securities Inc.  
National Bank Financial Inc.  
TD Securities Inc.  
Canaccord Capital Corporation

**Promoter(s):**

Creststreet Asset Management Limited  
**Project #719759**

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**Issuer Name:**

Cutwater Capital Corporation  
Principal Regulator - Ontario

**Type and Date:**

Second Amended and Restated Preliminary CPC  
Prospectus dated December 1, 2004  
Mutual Reliance Review System Receipt dated December  
3, 2004

**Offering Price and Description:**

\$630,000.00 - 4,200,000 Common Shares Price: \$0.15 per  
Common Share

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

Canaccord Capital Corporation

**Promoter(s):**

Richard D. McGraw

**Project #704702**

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**Issuer Name:**

Fortune Minerals Limited.  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Short Form Prospectus dated December 1,  
2004  
Mutual Reliance Review System Receipt dated December  
1, 2004

**Offering Price and Description:**

\$ \* - \* Units Price: \$ \* per Unit

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

Desjardins Securities Inc.  
RBC Dominion Securities Inc.  
Sprott Securities Inc.  
Octagon Capital Corporation

**Promoter(s):**

-

**Project #718278**

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**Issuer Name:**

Harmony Balanced & Income Portfolio  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Simplified Prospectus dated December 6, 2004  
Mutual Reliance Review System Receipt dated December  
7, 2004

**Offering Price and Description:**

Wrap and Embedded Series Units

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

AGF Fund Inc.

**Promoter(s):**

AGF Funds Inc.

**Project #719645**

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**Issuer Name:**

Jaguar Mining Inc.  
Principal Regulator - Ontario

**Type and Date:**

Amended and Restated Preliminary Prospectus dated  
December 3, 2004  
Mutual Reliance Review System Receipt dated December  
3, 2004

**Offering Price and Description:**

\$ \* - \* Units Price: \$ \* per Unit

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

BMO Nesbitt Burns Inc.  
GMP Securities Ltd.  
Haywood Securities Inc.  
First Associates Investments Inc.

**Promoter(s):**

-

**Project #712390**

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**Issuer Name:**

Maple Leaf Foods Inc.  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Short Form Prospectus dated December 7,  
2004  
Mutual Reliance Review System Receipt dated December  
7, 2004

**Offering Price and Description:**

\$164,997,000 - 11,340,000 Common Shares Price: \$14.55  
per Common Share

**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 #719923**

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**Issuer Name:**

MCL Capital Inc.  
Principal Regulator - Ontario

**Type and Date:**

Second Amended and Restated Preliminary CPC  
Prospectus dated December 1, 2004  
Mutual Reliance Review System Receipt dated December  
3, 2004

**Offering Price and Description:**

\$630,000.00 - 4,200,000 Common Shares Price: \$0.15 per  
Common Share

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

Canaccord Capital Corporation

**Promoter(s):**

Richard D. McGraw

**Project #704693**

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**Issuer Name:**

NAV Energy Trust  
Principal Regulator - Alberta

**Type and Date:**

Preliminary Short Form Prospectus dated December 2, 2004  
Mutual Reliance Review System Receipt dated December 2, 2004

**Offering Price and Description:**

\$75,245,000.00 - 7,450,000 Subscription Receipts, each representing the right to receive one Trust Unit

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

National Bank Financial Inc.  
TD Securities Inc.  
RBC Dominion Securities Inc.  
CIBC World Markets Inc.  
Canaccord Capital Corporation  
FirstEnergy Capital Corp.

**Promoter(s):**

-

**Project #718917**

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**Issuer Name:**

Patheon Inc.  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Short Form Prospectus dated December 6, 2004  
Mutual Reliance Review System Receipt dated December 7, 2004

**Offering Price and Description:**

\$ \* - \* Subscription Receipts, each representing the right to receive one Common Share Price: \$ \* per Subscription Receipt

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

RBC Dominion Securities Inc.

**Promoter(s):**

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**Project #719818**

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**Issuer Name:**

QFM Fixed Income Fund  
QFM Global Equity Fund  
QFM Global Sector Target Fund  
QFM Money Market Fund  
QFM Structured Yield Fund  
QFM World Balanced Fund  
Principal Regulator - British Columbia

**Type and Date:**

Preliminary Simplified Prospectuses dated November 30, 2004  
Mutual Reliance Review System Receipt dated December 2, 2004

**Offering Price and Description:**

Offering A, B and F Series Units

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

-

**Promoter(s):**

QFM Funds  
**Project #718869**

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**Issuer Name:**

Railpower Technologies Corp.  
Principal Regulator - British Columbia

**Type and Date:**

Preliminary Short Form Prospectus dated December 6, 2004  
Mutual Reliance Review System Receipt dated December 6, 2004

**Offering Price and Description:**

\$31,200,000 - 6,000,000 Common Shares Price: \$5.20 per Common Share

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

National Bank Financial Inc.  
Paradigm Capital Inc.

**Promoter(s):**

-

**Project #719632**

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**Issuer Name:**

Saxon International Equity Fund  
Saxon U.S. Equity Fund  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Simplified Prospectuses dated November 30, 2004  
Mutual Reliance Review System Receipt dated December 3, 2004

**Offering Price and Description:**

Class A and B Units

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

MD Management Limited  
MD Management Limited

**Promoter(s):**

Saxon Funds Management Limited

**Project #717759**

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**Issuer Name:**

Stem Cell Therapeutics Corp.  
Principal Regulator - Alberta

**Type and Date:**

Preliminary Prospectus dated November 30, 2004  
Mutual Reliance Review System Receipt dated December 1, 2004

**Offering Price and Description:**

Minimum Offering: \$7,500,000 or • Common Shares;  
Maximum Offering: \$8,500,000 or • Common Shares Price: \$ \* per Common Share

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

Dloughy Merchant Group Inc.  
First Associates Investments Inc.

**Promoter(s):**

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**Project #718053**

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**Issuer Name:**

TerraVest Income Fund  
Principal Regulator - Alberta

**Type and Date:**

Amended and Restated Preliminary Prospectus dated  
December 6, 2004  
Mutual Reliance Review System Receipt dated December  
6, 2004

**Offering Price and Description:**

\$ \* - \* Units Price: \$ \* per Unit

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

RBC Dominion Securities Inc.  
BMO Nesbitt Burns Inc.  
Raymond James Ltd.  
Canaccord Capital Corporation  
Clarus Securities Inc.  
First Associates Investments Inc.  
Harris Partners Limited

**Promoter(s):**

-

**Project #711172**

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**Issuer Name:**

Yield Advantage Income Trust  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Prospectus dated December 6, 2004  
Mutual Reliance Review System Receipt dated December  
7, 2004

**Offering Price and Description:**

\$300,000,000 (Maximum) - 30,000,000 Units Price: \$10.00  
per Unit Minimum Purchase: 100 Units

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

-

**Promoter(s):**

Skylon Advisors Inc.

**Project #719707**

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**Issuer Name:**

Addenda Capital Inc.  
Principal Regulator - Quebec

**Type and Date:**

Final Prospectus dated December 3, 2004  
Mutual Reliance Review System Receipt dated December  
6, 2004

**Offering Price and Description:**

\$104,022,235.00 - 6,118,955 Common Shares Price:  
\$17.00 per Common Share

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

CIBC World Markets Inc.  
National Bank Financial Inc.  
Desjardins Securities Inc.  
Dundee Securities Corporation  
First Association Investment Inc.  
GMP Securities Ltd.

**Promoter(s):**

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**Project #704410**

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**Issuer Name:**

CryoCath Technologies Inc.  
Principal Regulator - Quebec

**Type and Date:**

Final Short Form Prospectus dated December 2, 2004  
Mutual Reliance Review System Receipt dated December  
2, 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**

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**Issuer Name:**

DirectCash Income Fund  
Principal Regulator - Alberta

**Type and Date:**

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

**Offering Price and Description:**

\$50,000,000.00 - 5,000,000 UNITS Price: \$10.00 per Unit

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

BMO Nesbitt Burns Inc.  
National Bank Financial Inc.  
RBC Dominion Securities Inc.  
Scotia Capital Inc.  
First Associates Investments Inc.

**Promoter(s):**

Teal Financial (2003) Corp.

**Project #703804**

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**Issuer Name:**

Enbridge Income Fund  
Principal Regulator - Alberta

**Type and Date:**

Final Short Form Shelf Prospectus dated November 29,  
2004  
Mutual Reliance Review System Receipt dated December  
1, 2004

**Offering Price and Description:**

\$900,000,000.00 - Ordinary Units Debt Securities Medium  
Term Notes

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

ScotiaCapital Inc.

**Promoter(s):**

-

**Project #710651**

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**Issuer Name:**

Frontera Copper Corporation  
Principal Regulator - Ontario

**Type and Date:**

Final Prospectus dated December 1, 2004  
Mutual Reliance Review System Receipt dated December 2, 2004

**Offering Price and Description:**

\$60,000,000.00 - 30,000,000 Units \$2.00 per Unit

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

RBC Dominion Securities Inc.  
BMO Nesbitt Burns Inc.  
Haywood Securities Inc.  
National Bank Financial Inc.

**Promoter(s):**

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**Project #698792**

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**Issuer Name:**

Limerick Mines Limited  
Principal Regulator - Ontario

**Type and Date:**

Final Prospectus dated November 29, 2004  
Mutual Reliance Review System Receipt dated December 3, 2004

**Offering Price and Description:**

\$950,000.00 - 2,375,000 Units

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

Haywood Securities Inc.

**Promoter(s):**

John P. Steele

**Project #701552**

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**Issuer Name:**

Northwater Five-Year Market-Neutral Trust  
Principal Regulator - Ontario

**Type and Date:**

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

**Offering Price and Description:**

Maximum 700,000 Trust Units @ \$26 per Unit =  
\$18,200,000

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

RBC Dominion Securities Inc.  
CIBC World Markets Inc.  
National Bank Financial Inc.  
BMO Nesbitt Burns 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):**

Northwater Fund Management Inc.

**Project #706769**

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**Issuer Name:**

NSC Canadian Balanced Income Fund  
NSC Canadian Equity Fund  
NSC Global Balanced Fund

**Type and Date:**

Final Simplified Prospectuses dated November 30, 2004  
Received on December 6, 2004

**Offering Price and Description:**

Class A and Class I units @ Net Asset Value

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

-

**Promoter(s):**

-

**Project #699317**

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**Issuer Name:**

PEAK ENERGY SERVICES TRUST  
Principal Regulator - Alberta

**Type and Date:**

Final Short Form Prospectus dated December 2, 2004  
Mutual Reliance Review System Receipt dated December 2, 2004

**Offering Price and Description:**

\$30,000,400.00 - 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):**

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**Project #713118**

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**Issuer Name:**

Puma Exploration Inc.  
Principal Regulator - Quebec

**Type and Date:**

Final Prospectus dated December 2, 2004  
Mutual Reliance Review System Receipt dated December 3, 2004

**Offering Price and Description:**

Minimum : \$320,000.00; Maximum : \$1,600,000.00 - Price :  
\$1,000 per "A" or "B" Units Minimum subscription : three  
(3) "A" Units or three (3) "B" Units or any combination  
thereof for the sum of \$3,000

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

Canaccord Capital Corporation

**Promoter(s):**

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**Project #704777**

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**Issuer Name:**

RBC DS North American Focus Fund (formerly RBC Investments North American Focus Fund)  
RBC DS Canadian Focus Fund (formerly RBC Investments North American-Canadian Focus Fund)  
Principal Regulator - Ontario

**Type and Date:**

Final Simplified Prospectuses dated December 3, 2004  
Mutual Reliance Review System Receipt dated December 6, 2004

**Offering Price and Description:**

Mutual Fund Units at Net Asset Value

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

RBC Dominion Securities Inc.

**Promoter(s):**

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**Project #700317**

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**Issuer Name:**

Real Resources Inc.  
Principal Regulator - Alberta

**Type and Date:**

Final Short Form Prospectus dated December 6, 2004  
Mutual Reliance Review System Receipt dated December 6, 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) or Distributor(s):**

GMP Securities Ltd.  
CIBC World Markets Inc.  
Raymond James Ltd.  
Orion Securities Inc.  
Peters & Co. Limited  
Maison Placements Canada Inc.

**Promoter(s):**

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**Project #717837**

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**Issuer Name:**

Renaissance Canadian Money Market Fund  
Renaissance Canadian T-Bill Fund  
Renaissance U.S. Money Market Fund  
Renaissance Canadian Bond Fund  
Renaissance Canadian Real Return Bond Fund  
Renaissance Canadian Dividend Income Fund  
Renaissance Canadian High Yield Bond Fund  
Renaissance Canadian Income Trust Fund  
Renaissance Canadian Income Trust Fund II  
Renaissance Canadian Balanced Fund  
Renaissance Canadian Balanced Value Fund  
Renaissance Canadian Core Value Fund  
Renaissance Canadian Growth Fund  
Renaissance Canadian Small Cap Fund  
Renaissance U.S. Basic Value Fund  
Renaissance U.S. Fundamental Growth Fund  
Renaissance U.S. RSP Index Fund  
Renaissance Developing Capital Markets Fund  
Renaissance Euro Fund  
Renaissance International Growth Fund  
Renaissance International Growth RSP Fund  
Renaissance International RSP Index Fund  
Renaissance Tactical Allocation Fund  
Renaissance Tactical Allocation RSP Fund  
Renaissance Global Growth Fund  
Renaissance Global Growth RSP Fund  
Renaissance Global Opportunities Fund  
Renaissance Global Opportunities RSP Fund  
Renaissance Global Sectors Fund  
Renaissance Global Sectors RSP Fund  
Renaissance Global Technology Fund  
Renaissance Global Technology RSP Fund  
Principal Regulator - Ontario

**Type and Date:**

Final Simplified Prospectuses dated November 24, 2004  
Mutual Reliance Review System Receipt dated December 3, 2004

**Offering Price and Description:**

Class A and Class F Units @ Net Asset Value

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

-

**Promoter(s):**

CIBC Asset Management Inc.

**Project #697495**

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**Issuer Name:**

TELUS Corporation  
Principal Regulator - British Columbia

**Type and Date:**

Final Short Form Prospectus dated December 6, 2004  
Mutual Reliance Review System Receipt dated December 6, 2004

**Offering Price and Description:**

C\$2,243,129,146.00 - 48,551,972 Common Shares and  
24,942,368 Non-Voting Shares Price: C\$31.02 per  
Common Share and C\$29.55 per Non-Voting Share

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

Merrill Lynch Canada Inc.  
Morgan Stanley Canada Limited  
RBC Dominion Securities Inc.  
CIBC WORLD MARKETS INC.  
SCOTIA CAPITAL INC.  
CITIGROUP GLOBAL  
TD SECURITIES INC.  
J.P. MORGAN SECURITIES CANADA INC.  
HSBC SECURITIES (CANADA) INC.

**Promoter(s):**

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**Project #717780**

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**Issuer Name:**

Vaquero Energy Ltd.  
Principal Regulator - Alberta

**Type and Date:**

Final Short Form Prospectus dated December 3, 2004  
Mutual Reliance Review System Receipt dated December 3, 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):**

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**Project #713043**

## Chapter 12

# Registrations

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### 12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
New Registration	Fortress Capital Corp.	Limited Market Dealer	December 2, 2004
Change of Name	From: Delaware International Advisers Limited To: Mondrian Investment Partners Limited	International Adviser	September 27, 2004

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## Chapter 13

# SRO Notices and Disciplinary Proceedings

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**13.1.1 IDA Settlement Hearing - BMO Nesbitt Burns Inc.**

Jeff Kehoe  
Director, Enforcement Litigation  
416.943.6998, jkehoe@ida.ca

**NEWS RELEASE**  
*For immediate release*

### **NOTICE TO PUBLIC: SETTLEMENT HEARING**

#### **IN THE MATTER OF BMO NESBITT BURNS INC.**

**December 6, 2004** (Toronto, ON) - The Investment Dealers Association of Canada ("IDA") announced today that a hearing will be held before a Hearing Panel appointed pursuant to IDA By-law 20 for the presentation, review and consideration of a Settlement Agreement.

The Settlement Agreement is between Staff of the IDA and BMO Nesbitt Burns Inc., ("the Respondent") which was at all material times a Member of the IDA, and relates to matters for which it may be disciplined. The conduct which is the subject of the hearing occurred during the time period from January, 2002 to December, 2003.

The subject matter of the Settlement Agreement is an allegation that the Respondent failed to implement supervisory systems to detect and prevent potentially harmful Market Timing activities and thereby was in violation of Association Regulations 1300.2 and 1300.1(o) and Policy 2.

The hearing is scheduled to commence at 11:00 a.m. on December 16, 2004 at the Mediation Place, located at 390 Bay Street, 3<sup>rd</sup> Floor – Room A, Toronto, Ontario. The hearing is not open to the public unless and until the Settlement Agreement has been accepted by the Hearing Panel. Copies of the decision of the Hearing Panel and the Settlement Agreement will be made available if and when the Settlement Agreement is accepted by the Hearing Panel.

The Investment Dealers Association is the national self-regulatory organization and representative of the securities industry. The IDA's mission is to protect investors and enhance the efficiency and competitiveness of the Canadian capital markets. The IDA enforces rules and regulations regarding the sales, business and financial practices of its Member firms and its approved persons. Investigating complaints and disciplining Members and approved persons is part of the IDA's regulatory role.

For further information, please contact:

Natalija Popovic  
Enforcement Counsel  
416.865.3039, npopovic@ida.ca

**13.1.2 IDA Settlement Hearing - TD Waterhouse  
(Canada) Inc.**

**NEWS RELEASE**  
*For immediate release*

**NOTICE TO PUBLIC: SETTLEMENT HEARING**

**IN THE MATTER OF TD WATERHOUSE (CANADA) INC.**

**December 6, 2004** (Toronto, ON) - The Investment Dealers Association of Canada ("IDA") announced today that a hearing will be held before a Hearing Panel appointed pursuant to IDA By-law 20 for the presentation, review and consideration of a Settlement Agreement.

The Settlement Agreement is between Staff of the IDA and TD Waterhouse (Canada) Inc., ("the Respondent") which was at all material times a Member of the IDA, and relates to matters for which it may be disciplined. The conduct which is the subject of the hearing occurred during the time period from January, 2002 to December, 2003.

The subject matter of the Settlement Agreement is an allegation that the Respondent failed to implement supervisory systems to detect and prevent potentially harmful Market Timing activities and thereby was in violation of Association Regulations 1300.2 and 1300.1(o) and Policy 2.

The hearing is scheduled to commence at 11:00 a.m. on December 16, 2004 at the Mediation Place, located at 390 Bay Street, 3<sup>rd</sup> Floor – Room A, Toronto, Ontario. The hearing is not open to the public unless and until the Settlement Agreement has been accepted by the Hearing Panel. Copies of the decision of the Hearing Panel and the Settlement Agreement will be made available if and when the Settlement Agreement is accepted by the Hearing Panel.

The Investment Dealers Association is the national self-regulatory organization and representative of the securities industry. The IDA's mission is to protect investors and enhance the efficiency and competitiveness of the Canadian capital markets. The IDA enforces rules and regulations regarding the sales, business and financial practices of its Member firms and its approved persons. Investigating complaints and disciplining Members and approved persons is part of the IDA's regulatory role.

For further information, please contact:

Belle Kaura  
Enforcement Counsel  
416.943-5878, bkaura@ida.ca

Jeff Kehoe  
Director, Enforcement Litigation  
416.943.6998, jkehoe@ida.ca

**13.1.3 IDA Settlement Hearing - RBC Dominion  
Securities Inc.**

**NEWS RELEASE**  
*For immediate release*

**NOTICE TO PUBLIC: SETTLEMENT HEARING**

**IN THE MATTER OF RBC DOMINION SECURITIES INC.**

**December 6, 2004** (Toronto, ON) - The Investment Dealers Association of Canada ("IDA") announced today that a hearing will be held before a Hearing Panel appointed pursuant to IDA By-law 20 for the presentation, review and consideration of a Settlement Agreement.

The Settlement Agreement is between Staff of the IDA and RBC Dominion Securities Inc., ("the Respondent") which was at all material times a Member of the IDA, and relates to matters for which it may be disciplined. The conduct which is the subject of the hearing occurred during the time period from January, 2002 to December, 2003.

The subject matter of the Settlement Agreement is an allegation that the Respondent failed to implement supervisory systems to detect and prevent potentially harmful Market Timing activities and thereby was in violation of Association Regulations 1300.2 and 1300.1(o) and Policy 2.

The hearing is scheduled to commence at 11:00 a.m. on December 16, 2004 at the Mediation Place, located at 390 Bay Street, 3<sup>rd</sup> Floor – Room A, Toronto, Ontario. The hearing is not open to the public unless and until the Settlement Agreement has been accepted by the Hearing Panel. Copies of the decision of the Hearing Panel and the Settlement Agreement will be made available if and when the Settlement Agreement is accepted by the Hearing Panel.

The Investment Dealers Association is the national self-regulatory organization and representative of the securities industry. The IDA's mission is to protect investors and enhance the efficiency and competitiveness of the Canadian capital markets. The IDA enforces rules and regulations regarding the sales, business and financial practices of its Member firms and its approved persons. Investigating complaints and disciplining Members and approved persons is part of the IDA's regulatory role.

For further information, please contact:

Natalija Popovic  
Enforcement Counsel  
416.865.3039, npopovic@ida.ca

Jeff Kehoe  
Director, Enforcement Litigation  
416.943.6998, jkehoe@ida.ca

### 13.1.4 RS Disciplinary Notice - Credit Suisse First Boston Canada Inc.

December 3, 2004

#### Participant Disciplined

On December 3, 2004, a Hearing Panel of the Hearing Committee of Market Regulation Services Inc. ("RS") approved a settlement agreement (the "Settlement Agreement") concerning Credit Suisse First Boston Canada Inc. ("CSFB"). The RS Notice of Hearing and Statement of Allegations dated September 24 and the Reply of CSFB dated October 14, 2003, were withdrawn.

#### Requirements Contravened

Under the terms of the Settlement Agreement CSFB admits that the following Requirements were contravened:

- (a) On April 16, 2003, Credit Suisse First Boston Canada Inc. ("CSFB") violated Section 6.4 of the Universal Market Integrity Rules ("UMIR") by conducting trades or participating in trades by means other than the entry of an order on a marketplace, where such trades did not fall within any of the enumerated exceptions or exemptions provided therein:
- (i) when it purchased as principal 9,047,092 shares of BCE Inc. ("BCE") at \$27.73 from Ameritech Canada Business Trust;
  - (ii) when it sold 7,701,000 BCE shares as principal to Canadian clients at \$27.90;
  - (iii) when it sold 100,000 shares of BCE to Client X and improperly processed the trade through a CSFB error account; and
  - (iv) when it sold 25,000 shares of BCE to Client Y and improperly processed the trade through a CSFB error account.
- Paragraphs (i) and (ii) will be collectively referred to as the "BCE transaction".
- (b) CSFB violated Section 10.11(1) of UMIR by failing to complete and time stamp trade tickets in relation to the BCE transaction thereby impairing the audit trail in relation thereto.

#### Sanctions Approved

Pursuant to the terms of the Settlement Agreement:

- (a) CSFB is required to pay to RS a fine of \$1,350,000; and,
- (b) CSFB is required to pay \$150,000 towards its costs to RS.

#### Summary of Facts

On April 15, 2003, CSFB won a bid to purchase as principal 9,047,092 BCE Inc. ("BCE") shares at \$27.73 per share from Ameritech Canada Business Trust ("Ameritech" or "SBC"), an entity related to SBC Communications Inc. Ameritech is a non-Canadian entity. CSFB's purchase as principal will be referred to as the take-on trade. The take-on trade was reported to the Financial Services Authority ("FSA") in London, England on April 17, 2003. The FSA does not publish any transaction reports. The take-on trade was not conducted in accordance with the exception in Section 6.4(e) of UMIR because:

- It was not reported to a marketplace, stock exchange or organized regulated market that publicly disseminates details of trades in the market.
- The take-on trade was not approved by CSFBEL Compliance and crossed through CSFBEL until at least 5:08 p.m. Toronto time, hours after the unwinding trade in the United States.

On April 16, 2003, CSFB sold as principal the 9,047,092 BCE shares at \$27.90 per share as follows: 7,701,000 BCE shares to Canadian accounts through CSFB; 1,286,092 shares to CSFB LLC and 60,000 shares to CSFBEL. CSFB LLC and CSFBEL bought the shares as principal for resale to their clients. The sale of the BCE shares will be referred to as the unwinding trade. The unwinding trade to Canadian clients did not print on a consolidated tape in Canada or in the United States. It was conducted on the OTC market in the United States, prior to the opening of the markets in Toronto and New York at 9:30 a.m. The unwinding trade to Canadian clients was not conducted in accordance with the exception set out in Section 6.4(d) of UMIR because:

- Conducting a trade to Canadian clients in the OTC market in the United States outside market hours and reporting the trade the following day to the NYSE and to the NASD does not constitute execution of a trade on another exchange or organized regulated market that publicly disseminates details of trades in that market.
- Neither the NASD nor the NYSE publicly disseminated details of the unwinding trade to Canadian clients in real time; i.e., the trade was not printed in a manner such as on a consolidated tape.

Section 6.4(d) of UMIR is designed to ensure that the trading in securities remains transparent and that there is a level playing field for market participants. These are the cornerstones to maintaining the integrity and fairness of the capital markets. CSFB executed the unwinding trade to Canadian clients before the opening of the market knowing that there would be no public dissemination of the trade in the form of reporting on a consolidated tape. This resulted in a transaction that completely lacked both transparency



and a level playing field, thereby harming the integrity and efficiency of the capital markets.

By depriving the public of timely information about the unwinding trade to Canadian clients, CSFB's actions also disregarded certain rights of other market participants. The fairness and integrity of the capital markets is dependent upon rules relating to pricing, execution and displacement of existing orders. Compliance with Section 6.4(d) of UMIR would have exposed CSFB to the risk that such rules might prevent it from completing the BCE transaction on the terms agreed to with its clients. By conducting the unwinding trades to Canadian clients before the opening of the market, thereby avoiding the prompt public dissemination of the details of the trades and possible regulatory interference, CSFB sought to insulate itself from such risk, to the detriment of the market at large.

In addition, CSFB conducted two other improper off-marketplace trades in BCE with two clients who were part of the larger allocation of shares. Lastly, there were numerous audit trail violations relating to this transaction.

#### **Further Information**

Participants who require additional information should direct questions to Maureen Jensen, Vice President, Market Regulation, Eastern Region, Market Regulation Services Inc. at 416-646-7216.

#### **About Market Regulation Services Inc.**

Market Regulation Services Inc. ("RS") is the independent regulation services provider for Canadian equity markets including the TSX, TSX Venture Exchange, Canadian Trading and Quotation System, Bloomberg Tradebook Canada Company and Liquidnet Canada Inc. RS has been recognized by the securities commissions of Ontario, British Columbia, Alberta, Manitoba and the "Autorité des marchés financiers" to regulate the trading of securities on these markets by participant firms and their trading and sales staff. RS is mandated to conduct its regulatory activities in a neutral, cost-effective, service-oriented and responsive manner.

## Chapter 25

# Other Information

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### 25.1 Approvals

#### 25.1.1 ESC II Holdings 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.

##### Statutes Cited

Loan and Trust Corporations Act, R.S.O. 1990, c. L.25, as am., clause 213(3)(b).

November 23, 2004

**Stikeman Elliot LLP**  
5300 Commerce Court West  
199 Bay Street, Toronto  
M5L 1B9

Attention: Adam Kline

Dear Sirs/Mesdames:

**Re: Application by ESC II Holdings Limited (the "Applicant") for approval to act as trustee of the Royalty Fund II and certain other funds to be established by the Applicant from time to time and offered pursuant to prospectus exemptions (the "Funds")  
Application No. 891/04**

Further to the application dated October 7, 2004 (the "Application") filed on behalf of the Applicant, and based on the facts set out in the Application, pursuant to the authority conferred on the Ontario Securities Commission (the "Commission") in clause 213(3)(b) of the *Loan and Trust Corporations Act* (Ontario), the Commission approves the proposal that the Applicant act as trustee of the Funds which it will manage.

"Paul Moore"

"David L. Knight"

### 25.2 Exemptions

#### 25.2.1 BMO Nesbitt Burns Inc. - s. 4.1 of OSC Rule 31-502

##### Headnote

Previously registered salespersons of the Applicant are exempt from the post registration proficiency requirements under paragraph 2.1(2) of Rule 31-502 Proficiency Requirements for Registrants, subject to conditions.

##### Rules Cited

Ontario Securities Commission Rule 31-502 Proficiency Requirements for Registrants, s. 2.1(2), and s. 4.1.

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

**AND**

**IN THE MATTER OF  
BMO NESBITT BURNS INC.**

**EXEMPTION ORDER  
(Rule 31-502)**

**WHEREAS** BMO Nesbitt Burns Inc. (the **Applicant**) has applied for an exemption pursuant to section 4.1 of Ontario Securities Commission Rule 31-502 – *Proficiency Requirements for Registrants* (the **Rule**) from the provisions of paragraph 2.1(2) of the OSC Proficiency Rule (the **OSC Requirement**).

**AND WHEREAS**, the OSC Requirement provides that the registration of a salesperson is suspended on the last day of the thirtieth month after the date registration as a salesperson was granted to that salesperson unless the salesperson has completed the Professional Financial Planning Course (the **PFP Course**) or the first course of the Canadian Investment Management Program (the **CIM Program**) and has delivered the prescribed notice to the Director of the Ontario Securities Commission;

**AND WHEREAS** unless otherwise defined or the context otherwise requires, terms used herein have the meaning set out in Ontario Securities Commission Rule 14-501 – *Definitions*;

**AND WHEREAS** the Director has considered the application and the recommendation of staff of the Ontario Securities Commission;

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

1. The Applicant is registered under the Act as a dealer in the category of investment dealer and is a member of the Investment Dealers Association of Canada (the **IDA**);
2. The requirement of the IDA that a registered representative (a **Salesperson**) of an investment dealer that is a member of the IDA (a **Dealer**) complete the first course of the CIM Program within thirty months of registration (the **IDA Requirement**) first became effective on January 1, 1994 (the **IDA Effective Date**);
3. Salespersons who were registered to trade on behalf of a Dealer in a jurisdiction immediately prior to the IDA Effective Date are exempt from the IDA Requirement;
4. The Rule, which became effective on August 17, 2000 (the **OSC Effective Date**), adopted and expanded the IDA Requirement but did not exempt Salespersons who were registered to trade on behalf of a Dealer in another jurisdiction prior to the IDA Effective Date from the OSC Requirement; and
5. Salespersons of the Applicant who have been registered to trade on behalf of a Dealer under the securities legislation of a jurisdiction other than Ontario immediately prior to the IDA Effective Date and who were first registered to trade on behalf of a Dealer under the Act after the OSC Effective Date are subject to the OSC Requirement;

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

**NOW THEREFORE**, pursuant to section 4.1 of the Rule, Salespersons of the Applicants are not subject to the OSC Requirement;

**PROVIDED THAT:**

- (A) immediately prior to the IDA Effective Date, the particular Salesperson was registered under the securities legislation of one or more jurisdictions other than Ontario as a salesperson of a Dealer that was then registered under such legislation as an investment dealer (or the equivalent) and the registration of the Salesperson was not specifically restricted to the sale of mutual funds or non-retail trades; and
- (B) after the IDA Effective Date, that Salesperson was either registered to trade on behalf of a Dealer continuously in one or more jurisdictions other than Ontario, or any period after the IDA

Effective Date in which the Salesperson's registration to trade on behalf of a Dealer was suspended or in which the Salesperson was not so registered does not exceed three years;

- (C) that Salesperson either is first registered under the Act to trade on behalf of a Dealer in Ontario after the date of this exemption order or was first so registered no more than 30 months prior to the date hereof.

November 23, 2004.

"David Gilkes"

**25.2.2 HSBC Securities (Canada) Inc. - s. 4.1 of OSC Rule 31-502**

**Headnote**

Previously registered salespersons of the Applicant are exempt from the post registration proficiency requirements under paragraph 2.1(2) of Rule 31-502 Proficiency Requirements for Registrants, subject to conditions.

**Rules Cited**

Ontario Securities Commission Rule 31-502 Proficiency Requirements for Registrants, s. 2.1(2), and s. 4.1.

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

**AND**

**IN THE MATTER OF  
HSBC SECURITIES (CANADA) INC.**

**EXEMPTION ORDER  
(Rule 31-502)**

**WHEREAS** HSBC Securities (Canada) Inc. (the **Applicant**) has applied for an exemption pursuant to section 4.1 of Ontario Securities Commission Rule 31-502 – *Proficiency Requirements for Registrants* (the **Rule**) from the provisions of paragraph 2.1(2) of the OSC Proficiency Rule (the **OSC Requirement**).

**AND WHEREAS**, the OSC Requirement provides that the registration of a salesperson is suspended on the last day of the thirtieth month after the date registration as a salesperson was granted to that salesperson unless the salesperson has completed the Professional Financial Planning Course (the **PFP Course**) or the first course of the Canadian Investment Management Program (the **CIM Program**) and has delivered the prescribed notice to the Director of the Ontario Securities Commission;

**AND WHEREAS** unless otherwise defined or the context otherwise requires, terms used herein have the meaning set out in Ontario Securities Commission Rule 14-501 – *Definitions*;

**AND WHEREAS** the Director has considered the application and the recommendation of staff of the Ontario Securities Commission;

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

1. The Applicant is registered under the Act as a dealer in the category of investment dealer and is a member of the Investment Dealers Association of Canada (the **IDA**);
2. The requirement of the IDA that a registered representative (a **Salesperson**) of an investment

dealer that is a member of the IDA (a **Dealer**) complete the first course of the CIM Program within thirty months of registration (the **IDA Requirement**) first became effective on January 1, 1994 (the **IDA Effective Date**);

3. Salespersons who were registered to trade on behalf of a Dealer in a jurisdiction immediately prior to the IDA Effective Date are exempt from the IDA Requirement;
4. The Rule, which became effective on August 17, 2000 (the **OSC Effective Date**), adopted and expanded the IDA Requirement but did not exempt Salespersons who were registered to trade on behalf of a Dealer in another jurisdiction prior to the IDA Effective Date from the OSC Requirement; and
5. Salespersons of the Applicant who have been registered to trade on behalf of a Dealer under the securities legislation of a jurisdiction other than Ontario immediately prior to the IDA Effective Date and who were first registered to trade on behalf of a Dealer under the Act after the OSC Effective Date are subject to the OSC Requirement;

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

**NOW THEREFORE**, pursuant to section 4.1 of the Rule, Salespersons of the Applicants are not subject to the OSC Requirement;

**PROVIDED THAT:**

- (A) immediately prior to the IDA Effective Date, the particular Salesperson was registered under the securities legislation of one or more jurisdictions other than Ontario as a salesperson of a Dealer that was then registered under such legislation as an investment dealer (or the equivalent) and the registration of the Salesperson was not specifically restricted to the sale of mutual funds or non-retail trades; and
- (B) after the IDA Effective Date, that Salesperson was either registered to trade on behalf of a Dealer continuously in one or more jurisdictions other than Ontario, or any period after the IDA Effective Date in which the Salesperson's registration to trade on behalf of a Dealer was suspended or in which the Salesperson was not so registered does not exceed three years;
- (C) that Salesperson either is first registered under the Act to trade on behalf of a Dealer in Ontario after the date of this exemption order or was first so registered

**Other Information**

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no more than 30 months prior to the date  
hereof.

November 23, 2004.

“David Gilkes”

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